

DIRECTIVE 95/47/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 24 October 1995

on the use of standards for the transmission of television signals

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 57 (2), 66 and 100a thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

Acting in accordance with the procedure laid down in Article 189b of the Treaty ⁽³⁾,

Whereas, in Council Decisions 89/337/EEC ⁽⁴⁾ and 89/630/EEC ⁽⁵⁾, the Community recognized the strategic importance of advanced television and of High Definition Television (HDTV) services for the European consumer electronics industry and for the European television and film industries and established the strategy framework for the introduction of advanced television and HDTV services in Europe;

Whereas the objectives of the strategy for the introduction of HDTV in Europe are an integral part of the Community audiovisual policy, in respect of which the importance of Council Directive 89/552/EEC of 3 October 1989 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities ⁽⁶⁾ should be reaffirmed, and whereas they must take into account other objectives of this policy within the perspective of the development of Europe's audiovisual capacity, which comprise structural objectives such as the development of production in countries or regions with more limited audiovisual capacity;

Whereas Council Directive 92/38/EEC of 11 May 1992 on the adoption of standards for satellite broadcasting of

television signals ⁽⁷⁾ set a regulatory framework of standards for advanced television broadcasting services for television programmes based on the HD-MAC standard ⁽⁸⁾ for European satellite and cable transmission for non-fully digital HDTV and the D2-MAC ⁽⁹⁾ standard for other not completely digital satellite and cable transmission in the wide-screen 16:9 aspect ratio format;

Whereas Council Decision 93/424/EEC of 22 July 1993 on an action plan for the introduction of advanced television services in Europe ⁽¹⁰⁾ aims at promoting the wide-screen 16:9 format (625 or 1250 lines), irrespective of the European television standard used and irrespective of the broadcasting mode (terrestrial, satellite or cable);

Whereas Article 7 of Directive 92/38/EEC called on the Commission to report on the effects of the application of that Directive, on the evolution of the market, in particular on market penetration measured by objective criteria, and the use of the Community funding, and to make proposals to the Council to adapt that Directive to these developments if necessary;

Whereas, in order to attain the Community's goals as set out in the abovementioned Decisions and to contribute to the proper functioning of the internal market, as provided for in Article 7a of the Treaty, in the broadcasting of television signals, it is necessary to take steps to adopt a common format for wide-screen transmissions;

Whereas the wide-screen 16:9 aspect ratio has been adopted at world level by the International Telecommunication Union (ITU) ⁽¹¹⁾ for HDTV and it is desirable and possible to develop the market for advanced television services and products having the same wide-screen 16:9 aspect ratio;

Whereas, for the purposes of this Directive, a wide-screen television service must meet the minimum requirements that it uses a transmission system delivering sufficient information to allow a dedicated receiver to display a full frame picture with full vertical resolution and whereas,

⁽¹⁾ OJ No C 341, 18. 12. 1993, p. 18 and OJ No C 321, 18. 11. 1994, p. 4.

⁽²⁾ OJ No C 148, 30. 5. 1994, p. 1.

⁽³⁾ Opinion of the European Parliament of 19 April 1994 (OJ No C 128, 9. 5. 1994, p. 54), common position of the Council of 22 December 1994 (OJ No C 384, 31. 12. 1994, p. 36) and decision of the European Parliament of 13 June 1995 (OJ No C 166, 3. 7. 1995).

⁽⁴⁾ OJ No L 142, 25. 5. 1989, p. 1.

⁽⁵⁾ OJ No L 363, 13. 12. 1989, p. 30.

⁽⁶⁾ OJ No L 298, 17. 10. 1989, p. 23.

⁽⁷⁾ OJ No L 137, 20. 5. 1992, p. 17.

⁽⁸⁾ ETSI standard reference : ETS 300 352.

⁽⁹⁾ ETSI standard reference : ETS 300 250.

⁽¹⁰⁾ OJ No L 196, 5. 8. 1993, p. 48.

⁽¹¹⁾ ITU-R recommendation 709 defines 'picture characteristics' including the wide-screen 16:9 aspect ratio.

for the same purposes, a television service using letterbox transmission in 4:3 frame which does not meet the abovementioned minimum criterion should not be considered as a wide-screen television service;

Whereas television services are currently delivered to the home by terrestrial systems, by satellite systems and by cable systems and it is essential that advanced wide-screen services should be made available to the largest possible number of viewers;

Whereas cable TV networks and their technical capabilities as defined by the Member States are an important feature in the television infrastructure of many Member States and will be crucial to the future of advanced television services;

Whereas master antenna systems as defined by Member States are not affected by this Directive;

Whereas it is essential to establish common standards for the digital transmission of television signals whether by cable or by satellite or by terrestrial means as an enabling element for effective free-market competition and this is best achieved by mandating a recognized European standardization body taking account, as appropriate, of the outcome of the consensus processes under way among market parties;

Whereas such standards should be drawn up in good time, before the introduction to the market of services linked to digital television;

Whereas conditional access is an important matter for the consumers and providers of pay television services and for the rights holders of programmes;

Whereas a widely based consultation process involving the relevant economic actors in the European market has resulted in agreements on a number of issues concerning conditional access to digital pay-television services;

Whereas the operators of conditional access services should be entitled to earn a return on their investments and for the provision of services to broadcasters as an incentive to continue to invest;

Whereas it is necessary to make compulsory the inclusion of the common European scrambling algorithm in appropriate consumer equipment in the Community in order to ensure that all pay-television service providers can, in principle, provide all digital pay-television consumers in the European Community with their programmes;

Whereas it is appropriate, furthermore, to make provision for transcontrol of conditional access at cable television network head-ends and for the licensing of conditional access technology to manufacturers;

Whereas in the European audiovisual digital environment, the scope for piracy will increase, with negative consequences for operators and programme providers, and whereas the introduction and enforcement of efficient anti-piracy legislation at European level will become increasingly necessary;

Whereas it is appropriate to repeal Directive 92/38/EEC and to issue a new Directive in the light of these developments in the market and technology;

Whereas technologies for advanced television services are developing rapidly and a common approach to their development is necessary; whereas separate and multiple action by the Member States could lead to undesirable fragmentation of the market for products and services and to duplication of effort; whereas consequently such action could be better achieved at Community level;

Whereas the Presidency's conclusions at the G7 Conference on the Information Society held in Brussels on 25 to 26 February 1995 highlighted the need for a regulatory framework ensuring open access networks and respect for competition rules,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Member States shall take appropriate measures to promote the accelerated development of advanced television services including wide-screen television services, high definition television services and television services using fully digital transmission systems.

Member States shall see to it that the transfer of wide-screen television services already in operation to digital transmission networks open to the public is made easier, in particular pursuant to Directive 92/38/EEC and Decision 93/424/EEC, in order to protect the interests of operators and television viewers who have invested to produce or receive such services.

Article 2

All television services transmitted to viewers in the Community whether by cable, satellite or terrestrial means shall:

- (a) if they are in wide-screen format and 625 lines, and are not fully digital, use the 16:9 D2-MAC transmission system, or a 16:9 transmission system which is fully compatible with PAL or SECAM.

A wide-screen television service consists of programmes produced and edited to be displayed on a wide-screen format.

The 16:9 format is the reference format for wide-format television services;

- (b) if they are in high definition, and are not fully digital, use the HD-MAC transmission system;
- (c) if they are fully digital, use a transmission system which has been standardized by a recognized European standardization body. In this context, a transmission system comprises the following elements: formation of programme signals (source coding of audio signals, source coding of video signals, multiplexing of signals) and adaptation for transmission media (channel coding, modulation and, if appropriate, energy dispersal).

Fully digital transmission networks open to the public for the distribution of television services must be capable of distributing wide-format services.

Article 3

Any television set with an integral viewing screen of visible diagonal greater than 42 cm which is put on the market for sale or rent in the Community shall be fitted with at least one open interface socket (as standardized by a recognized European standardization body) permitting simple connection of peripherals, especially additional decoders and digital receivers.

Article 4

In relation to conditional access to digital television services broadcast to viewers in the Community, irrespective of the means of transmission, the following conditions shall apply:

- (a) all consumer equipment, for sale or rent or otherwise made available in the Community, capable of descrambling digital television signals, shall possess the capability:
- to allow the descrambling of such signals according to the common European scrambling algorithm as administered by a recognized European standardization body,

- to display signals that have been transmitted in clear provided that, in the event that such equipment is rented, the rentee is in compliance with the relevant rental agreement;

- (b) conditional access systems operated on the market in the Community shall have the necessary technical capability for cost-effective transcontrol at cable head-ends allowing the possibility for full control by cable television operators at local or regional level of the services using such conditional access systems;

- (c) Member States shall take all the necessary measures to ensure that the operators of conditional access services, irrespective of the means of transmission, who produce and market access services to digital television services:

- offer to all broadcasters, on a fair, reasonable and non-discriminatory basis, technical services enabling the broadcasters' digitally-transmitted services to be received by viewers authorized by means of decoders administered by the service operators, and comply with Community competition law, in particular if a dominant position appears,
- keep separate financial accounts regarding their activity as conditional access providers.

Broadcasters shall publish a list of tariffs for the viewer which takes into account whether associated equipment is supplied or not.

A digital television service may take advantage of these provisions only if the services offered comply with the European legislation in force;

- (d) when granting licences to manufacturers of consumer equipment, holders of industrial property rights to conditional access products and systems shall ensure that this is done on fair, reasonable and non-discriminatory terms. Taking into account technical and commercial factors, holders of rights shall not subject the granting of licences to conditions prohibiting, deterring or discouraging the inclusion in the same product of:

- a common interface allowing connection with several other access systems, or
- means specific to another access system, provided that the licensee complies with the relevant and

reasonable conditions ensuring, as far as he is concerned, the security of transactions of conditional access system operators.

Where television sets contain an integrated digital decoder such sets must allow for the option of fitting at least one standardized socket permitting connection of conditional access and other elements of a digital television system of the digital decoder;

- (e) without prejudice to any action that the Commission or any Member State may take pursuant to the Treaty, Member States shall ensure that any party having an unresolved dispute concerning the application of the provisions established in this Article shall have easy, and in principle inexpensive, access to appropriate dispute resolution procedures with the objective of resolving such disputes in a fair, timely and transparent manner.

This procedure shall not preclude action for damages from either side. If the Commission is asked to give its opinion on the application of the Treaty, it shall do so at the earliest opportunity.

Article 5

Wide-screen 16:9 television services, within the meaning of Article 2, which are received by, and redistributed on, cable television systems shall be redistributed on such systems at least in the wide-screen 16:9 format.

Article 6

Before 1 July 1997, and every two years thereafter, the Commission shall examine the implementation of this Directive and the development of the market for digital television services throughout the European Union and submit a report to the European Parliament, to the Council and to the Economic and Social Committee. This report shall cover market developments, in particular relating to developments in digital technology and services and also to technical and commercial market developments on conditional access to digital television services.

If necessary the Commission shall make a proposal to the Council to adapt this Directive to these developments.

Article 7

Directive 92/38/EEC is hereby repealed with effect nine months after the date of the entry into force of this Directive.

Article 8

1. Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with this Directive within nine months of its entry into force. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field governed by this Directive.

Article 9

This Directive shall enter into force on the date of its publication in the *Official Journal of the European Communities*.

Article 10

This Directive is addressed to the Member States.

Done at Luxembourg, 24 October 1995.

For the European Parliament

The President

K. HÄNSCH

For the Council

The President

L. ATIENZA SERNA