

# EUROPEAN PARLIAMENT

1999



2004

---

*Session document*

FINAL  
**A5-0143/2000**

30 May 2000

## REPORT

on the Commission communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on "The development of the Market for Digital Television in the European Union – Report in the context of Directive 95/47/EC of the European Parliament and of the Council of 24th October 1995 on the use of standards for the transmission of television signals"  
(COM(1999) 540 – C5-0114/2000 – 2000/2074(COS))

Committee on Industry, External Trade, Research and Energy

Rapporteur: Astrid Thors



**CONTENTS**

**Page**

PROCEDURAL PAGE .....4

MOTION FOR A RESOLUTION.....5

EXPLANATORY STATEMENT .....9

## PROCEDURAL PAGE

By letter of 11 November 1999, the Commission forwarded to Parliament a communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on "The development of the Market for Digital Television in the European Union – Report in the context of Directive 95/47/EC of the European Parliament and of the Council of 24th October 1995 on the use of standards for the transmission of television signals" (COM(1999) 540 – 2000/2074(COS)).

At the sitting of 15 May 2000 the President of Parliament announced that she had referred the communication to the Committee on Industry, External Trade, Research and Energy as the committee responsible (C5-0114/2000).

The Committee on Industry, External Trade, Research and Energy had appointed Astrid Thors rapporteur at its meeting of 7 December 1999.

It considered the Commission communication and the draft report at its meetings of 24 February, 18 April and 25 May 2000.

At the last meeting it adopted the motion for a resolution unanimously with 1 abstention.

The following were present for the vote: Carlos Westendorp y Cabeza, chairman, Renato Brunetta, Nuala Ahern, Peter Michael Mombaur, vice-chairmen, Bastiaan Belder (for Yves Butel), Eduard Beysen (for Nicholas Clegg), Felipe Camisón (for Jaime Valdivielso de Cué), Massimo Carraro, Gérard Caudron, Giles Bryan Chichester, Willy C.E.H. De Clercq, Harlem Désir, Raina A. Mercedes Echerer (for Caroline Lucas), Concepció Ferrer, Francesco Fiori (for Guido Bodrato), Christos Folias, Norbert Glante, Alfred Gomolka (for Konrad K. Schwaiger), Lisbeth Grönfeldt Bergman (for Dominique Vlasto), Michel Hansenne, Malcolm Harbour, Rolf Linkohr, Linda McAvan, Eryl Margaret McNally, Nelly Maes, Erika Mann, Marjo Tuulevi Matikainen-Kallström, Angelika Niebler, Neil Parish (for John Purvis, pursuant to Rule 153(2)), Elly Plooi-j-van Gorsel, Samuli Pohjamo (for Astrid Thors), Godelieve Quisthoudt-Rowohl, Alexander Radwan (for Werner Langen), Bernhard Rapkay (for Glyn Ford), Daniela Raschhofer, Imelda Mary Read, Mechtild Rothe, Christian Foldberg Røvsing, Paul Rübig, Marieke Sanders-ten Holte (for Colette Flesch, pursuant to Rule 153(2)), Jacques Santer (for Umberto Scapagnini), Ilka Schröder, Esko Olavi Seppänen, Helle Thorning-Schmidt (for François Zimeray), W.G. van Velzen, Alejo Vidal-Quadras Roca, Anders Wijkman.

The report was tabled on 30 May 2000.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

## MOTION FOR A RESOLUTION

**European Parliament resolution on the Commission communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on "The development of the Market for Digital Television in the European Union – Report in the context of Directive 95/47/EC of the European Parliament and of the Council of 24th October 1995 on the use of standards for the transmission of television signals" (COM(1999) 540 – C5-0114/2000 – 2000/2074(COS))**

*The European Parliament,*

- having regard to the Commission communication (COM(1999) 540 – C5-0114/2000<sup>1</sup>),
- having regard to its resolution of 22 October 1998 on the communication from the Commission: "Green Paper on the convergence of the telecommunications, media and information technology sectors, and the implications for regulation" <sup>2</sup>;
- having regard to its resolution of 18 May 2000 on the Commission communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on the Fifth Report on the Implementation of the Telecommunications Regulatory Package <sup>3</sup>;
- having regard to the Commission communication to the European Parliament, the Council, the Economic and Social Committee and the Committee of the Regions on "A new framework for electronic communications and associated services: 1999 review" (COM(99)0539 – C5-0141/00)<sup>4</sup>;
- having regard to the Commission's Communication to the Council, the Parliament, the Ecocos, the Committee of the Regions on " Principles and guidelines for the Community's audiovisual policy in the digital Age" (COM (1999) 657 – C5-0144/2000)<sup>5</sup>;
- having regard to the protocol 32 to the Amsterdam treaty on the system of public service broadcasting;
- having regard to Rule 47(1) of its Rules of Procedure,
- having regard to the report of the Committee on Industry, External Trade, Research and Energy, (A5-0143/2000),

A. Whereas, although the penetration of digital TV in Europe lags behind that in the USA,

---

<sup>1</sup> OJ C not yet published

<sup>2</sup> OJ C341, 9.11.98, p. 106 + 136

<sup>3</sup> A5-0094/2000 - OJ C not yet published

<sup>4</sup> OJ C not yet published

<sup>5</sup> OJ C not yet published

the growth rate is now encouragingly high in Europe,

- B. Whereas Directive 95/47/EC has helped, in some of the European markets, to create an environment in which it is advantageous for investors to invest in digital TV services,
- C. Whereas the work of the Digital Video Broadcasting (DVB) group has been important in establishing the standards needed to guarantee a high quality of transmissions and in gaining global acceptance to such standards,
- D. Whereas a “television without frontiers” i.e. an internal market for television services does not exist in Europe, owing to restrictions resulting from copyright agreements and differences in the technical standards used for transmissions,
- E. Whereas digital TV will contribute significantly to convergence by offering access to networks (including interactive access) - whether by conventional broadcasting, satellites, cable or other terrestrial networks, including eventually telecoms networks - and will therefore become one of the main entry-points to the 'digital super-highway', and will help to spread high-capacity networks to all parts of Europe, including remote areas,
- F. Whereas the late delivery of the present report by the Commission provides evidence that difficulties have been encountered in the implementation of Directive 95/47/EC, given that the Directive, which came into force in 1995, called on the Commission to deliver biannual reports, starting with the first by July 1997 at the latest, and that the present document is the first that the Commission has issued,
- G. Whereas the Commission, in the 1999 Communications review, stated its intention not only to uphold the present Directive, but also to include principles on digital TV in the future access and ONP-Directive,
  - 1. Notes that some provisions in the Directive, such as the dispute resolution mechanism in case of disputes over conditional access licences, have been very poorly implemented;
  - 2. Supports the Commission in its vigilant work as guardian of the Treaties with responsibility for the pursuit of infringement proceedings, and accepts the reasons stated by the commission for not having presented a report earlier, but asks the Commission, when starting such proceedings, to take due account of the differences in the markets of the Member States, making due allowance for cases where a country applies on open standard, or where there is hardly any actor providing conditional access, or where the infringement does not otherwise touch future bottlenecks;
  - 3. Considers that, as the technology and markets have evolved beyond the scope of the present Directive and its principles, it should be adapted so as to cover in particular the new bottlenecks/gateways in the distribution of digital TV such as new software introduced in multimedia platforms and give national regulators the power to define ex ante what these bottlenecks are;

4. Recalls that, in the new regulatory framework, a balance must be struck between the need to assure the diversity of culture and of content in television networks and the risk that regulation might hamper the will to invest in digital TV and thus the development of digital TV as an important means of spreading access to the network society to many households;
6. 5. Asks for a principle of open access for digital TV, similar to the open network provision (ONP) in the telecoms sector and broader than Article 4c of the current Directive, adopting the principle that decoders for digital TV should in the future be regarded as part of the information infrastructure; Reaffirms that, while it is vital to separate the regulation of content in TV from regulation of the infrastructure, the obligation for cable operators to broadcast certain channels must continue, as it is important in order to secure the distribution of public service and, inter alia, minority language channels, but that these 'must carry' rules remain justified in the digital broadcasting environment, provided that they are proportionate and limited to those channels covered by a public service broadcast remit as defined in Protocol 32 of the EC Treaty, and that operators subject to these rules receive reasonable remuneration, taking into account the non-profit nature of public service broadcasting and the value of these broadcast channels to operators;
7. Supports the continuation and intensification, within the new framework, of a policy guaranteeing that different systems of access to the digital TV world are interoperable at consumer level, given that the new generation of decoders rely heavily on: (1) control over access, (2) software such as the Applications Programme Interface (API), and (3) Electronic Programme Guides (EPG), and that enhancing the opportunities for interoperability between different digital TV platforms and services will be paramount;
8. Considers that interoperability can be achieved through different approaches to standards, either making them open and mandatory or installing a system where the proprietary standards are subject to licensing; whilst the present Directive opted for two different techniques, the simulcrypt technique and common interfaces, in the future it is advisable that under certain conditions the national authorities are mandated to impose the application of open standards adopted by European standardisation authorities.
9. Asks the Commission to ensure that, as it carries forward the existing regulatory scheme for conditional access, the latter is updated rapidly to include associated gateway technologies that can prevent interoperability and fair, reasonable and non-discriminatory access to consumers.
10. Welcomes in particular the recent recommendation in the DVB group on the specifications of the Multimedia Home Platform (MHP) and awaits the decision in ETSI of its approval; the MHP is an example of an open standard which could be made mandatory, if the markets fail to achieve the standardisation or interoperability of decoders;
11. Considers that there is a clear link between competition, market shares and standards, and that open standards, developed after some experience has been gained from the first generation of a certain product, can prevent abuse of a dominant position; notes with interest a recent decision by the Commission to accept a merger on the condition that an open standard be used and encourages the Commission to adopt a similar attitude to other cases;

12. Notes with regret that rights to broadcast are today sold on a purely national basis, and therefore persons living outside a country cannot subscribe to TV services from another Member state than the one they are living in, whether in the case of free-to-air broadcasters or of pay-TV operators;
13. Considers therefore that this non-existence of an internal market in digital TV must be the focus of action for the Commission, as rigid national systems of agreements of copyright must not be obstacles to a "television without frontiers";
14. Insists that a single internal market must be implemented for digital television, which will make it possible for residents throughout the EU to subscribe to services available in any Member State, subject only to the limits of transmission footprints;
15. Notes the Commission's recent decision to accept company mergers provided that open, transparent and uniform standards which are flexible and respect competition laws apply at European level; urges the Commission to adopt the same approach in other instances, so as to facilitate the growth of digital TV in Europe and develop the ability to compete at international level;
16. Instructs its President to forward this resolution to the Council, the Commission, the Economic and Social Committee and the Committee of the Regions.



## **EXPLANATORY STATEMENT**

### The objective of the Directive

The main objective of the Directive 95/47 was to be a framework that would allow the market to define its own structures rather than to establish too detailed a regulation and to give certainty for investments while guaranteeing key public interests and market entry in a proportionate manner.

As is shown by the Commission Communication COM (1999) 540 the implementation has been difficult for Member States (see table on page 3-4 of the Commission Communication).

### The development of Digital-TV

It is to be noted that Digital-TV can be distributed by satellite, cable and terrestrial broadcasting. The development has been influenced by the conditions of distribution and their operation in Member States.

France and Spain have been the strongest markets so far, with 1.7 million and 1 million decoders respectively at the end of 1998. They accounted for 75 % of digital pay-TV subscriptions in the Union. The United Kingdom has also seen a strong growth in digital television with 10 % household penetration in 18 months. The reason for the success of Digital-TV lies in the previous well-established analogue pay-TV in both markets and in competition between broadcasters. These provided an essential basis for launching Digital-TV. Typically up to 2/3 of the subscribers to Digital-TV pay services are a form of endogenous growth out of analogue pay-TV. The opportunity offered by Digital-TV has encouraged other operators to launch competing Digital-TV platforms in these mature pay-TV markets. Platform competition has benefited the consumer by reducing prices and widening the range of services on offer. However, there have been merger talks between competing operators.

The year 2010 appears to emerge as a possible target date in a number of Member States for switch-over to Digital-TV, with most Member States proposing to review entry into force when the development of the market becomes clearer.

### Importance of interoperability for open access to Digital-TV

With the rapid convergence there is a need for a broader approach to infrastructure, transmission and access than before. In order to guarantee open access to Digital pay-TV the new decoders will play an increasing role.

- Access to cable television networks has been a significant bottleneck for pay television operators in markets where cable is the dominant means of delivery.
- More potential bottlenecks are emerging within decoders, such as APIs.
- Network gatekeeper functions outside decoders, notably cable networks and terrestrial multiplex operators, need to be considered as well.

In order for open access in digital pay television to become reality decoders have to be interoperable. Interoperability in the legal sense of the word can be achieved through making standards open and mandatory or installing a system where the proprietary standards are subject to licensing. In the technical sense of the word it means that application program interfaces, program guides and service information have to speak the same language in the

digital environment.

The API is a software suite that mediates between the operating system and the applications/services run on the decoder. Interoperability between existing APIs (Application Program Interfaces) barely exists. Most satellite and cable platforms are able to migrate to digital by gradually making decoders available to their PAY-subscribers.

As each of the APIs is optimised for one business model by a single operator, DVB (Digital Video Broadcasting Project) has decided it would be better to develop a new open API with a set of user requirements embracing all potential users, rather than try to develop interoperability procedures between existing APIs.

The DVB has developed MHP (Multimedia Home Platform) with backwards compatibility of existing API applications and services and MHP in mind. It is possible for all API environments to migrate to MHP. MHP uses the Java language which has the great advantage of allowing any operating system to be used thereby preventing any company from imposing a single operating system.

The incentives for migration towards MHP are that Digital-TV will reach bigger markets if open standards are used and that there will be less supervision necessary from regulators and competition authorities. The drawback of proprietary solutions is that they hit a growth ceiling in the market sooner or later.

#### Key APIs used in Europe:

MHEG2:       Open standard.

Beta Nova:    Proprietary.

Open TV:       Proprietary.

Broadcasters and regulators have preferred open standards historically. Broadcasting standards were agreed in advance of services by engineers. This was easy when the services were simple like colour TV, implemented in hardware rather than software.

Digital-TV transmission standards are stable. ETSI (European Telecommunications Standardisation Institute) has standardised all DVB transmission systems. Problem lies with new computer-based functionality like APIs which are evolving very rapidly.

#### Television with frontiers – copyright questions

The directive 89/552/EEC on television without frontiers has been one of the important goals for the European parliament during past years. The commission has found that copyright rules in practice create certain tensions with regard to this directive.

Citizens' in other Member States (also citizens' working outside their country of origin) cannot legally subscribe to foreign platforms as these do not own the right for the Member States in question. Members of the European parliament have raised this issue following

complaints. The rapporteur agrees with this, while drawing attention also to the problem as it presents itself in border regions, where linguistic minorities live on the other side of the border.

### The consumers' perspective

Today's liberal market place has increased consumer choice, thereby increasing consumer freedom. But the increased choice also means that the consumer has to be able to make informed decisions on his/her own.

With the rapid development of the market the public authorities have to decide whether to protect the consumer by establishing rigid rules for operators for interoperability or by letting consumers take minor risks and at the same time letting the market develop through competition and not by limiting choice beforehand. Too rigid a protection might hamper innovation and the development of good standards. Too free a market again might result in the emergence of several proprietary standards that are not interoperable.