

*“Working for quality  
and diversity in  
British broadcasting”*

Founded in 1983 by Jocelyn Hay CBE



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**RESPONSE BY VOICE OF THE LISTENER & VIEWER (UK)  
TO THE EUROPEAN COMMISSION'S GREEN PAPER**

**PREPARING FOR A FULLY CONVERGED AUDIOVISUAL WORLD:  
GROWTH, CREATION AND VALUES**

Voice of the Listener & Viewer (VLV) is an independent, non-profit-making association, free from political, commercial and sectarian affiliations, working for quality and diversity in British broadcasting. VLV represents the interests of listeners and viewers as citizens and consumers across the full range of broadcasting issues. VLV is concerned with the structures, regulation, funding and institutions that underpin the British broadcasting system. VLV is a charitable company limited by guarantee.

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## TABLE OF CONTENTS

Introduction: VLV's principles and aims	3
Executive Summary	5
1. Consumer choice and access to quality control	5
2. Interoperability and Ease of Access	5
3. Addressing the Fragmented EU Market (Financing Models)	6
4. Protection of minors	6
5. Support for physically impaired users	7
6. Commercial communications	8
Detailed answers to the questions formulated by the Commission	9
Market considerations	
Question 1	9
Question 2	10
Question 3	12
Financing models	
Questions 4, 5	13
Interoperability of connected TV	
Question 6	13
Infrastructure and spectrum	
Questions 7, 8, 9	15
Regulatory Framework	
Questions 10,11, 12, 13, 14, 15	17
Media freedom and pluralism	
Question 16	19
Commercial communications	
Questions 17, 18, 19	21
Protection of minors	
Questions 20, 21, 22, 23, 24, 25	22
Accessibility for persons with disabilities	
Questions 26, 27	24

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**INTRODUCTION: VLV'S PRINCIPLES AND AIMS**

**VLV welcomes the opportunity to comment on the Commission's Green Paper. We understand that at this stage the aim is to explore the need (or not) for new legislation with the details for legislation to be worked out in the medium term.**

**Our view - reflecting what we see as the concerns of consumers and citizens - is that the need exists and that it is urgent. We think that - without advocating an unnecessarily meddlesome 'top down' approach - detailed work should start soon, lest rapid market or technological developments render subsequent regulatory responses outdated or inadequate.**

**There is intensified and increasingly complex commercial competition in the UK marketplace, notably between BSkyB and other consortia such as YouView and Freeview - where BT and other telecommunications players are embarking on content provision through alliances with the BBC and other major broadcasters<sup>1</sup>. These media groupings can produce attractive content and service packages but they carry also the risk of confusing consumers or locking them into the technological system of one competitor or another.<sup>2</sup> This may take place at the platform level, at the broadband level or within the technology of the new generation of connected-TV sets.**

**Developments in the UK - for both linear and non-linear audiovisual services - presage the likely subservience of consumer choice over accessing individual services to higher level decisions taken by vertically integrated telecommunication companies as to which services they are prepared to carry on their broadband distribution platforms.**

**Unregulated competition will not deliver the protection we seek for ordinary users. This demonstrates the ongoing need for the EU to preserve genuine choice to access public service programmes and premium content. Key issues are the future of the 'must carry' provisions for the BBC and other public service channels, along with the scope for a range of (mainly) smaller commercial companies to retail their interactive and other supplementary services via the main platforms.<sup>3</sup>**

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<sup>1</sup> The differences between Freeview (set up in 2002) and YouView (2010) graphically illustrate market developments over a decade. Freeview is a grouping of four major broadcasters (including the BBC and BSkyB) and a transmitter company focused on providing consumers with a cheaply-priced offer of up to 50 television channels. YouView is an Internet-based TV service driven by major telecoms companies allied with major broadcasters (NOT including BSkyB) which aspires ultimately to absorb the Freeview service and to compete with BSkyB as a multi-media multi-platform provider

<sup>2</sup> The current Ofcom consultation on BSkyB's control access obligations, and BSkyB's recent launch of a new set-top-box for Freeview users to access sports and movies over the Internet demonstrates the cutting edge nature and complexity of the debate.

<sup>3</sup> See below pp. 3, 7, 12, and 17.

**Against this competitive market we see the current public consultation by the EU and potential subsequent legislative response as an opportunity to confirm and reinforce core principles, notably those of media pluralism and freedom of expression, quality and diversity in audiovisual content, and easy convenient access for Europe's public at large.**

- ✓ Notwithstanding the recent Ofcom research, indicating that a combination of connected TV sets and smart mobile devices may be bringing people back into the family living room<sup>4</sup>, VLV remains focused on the fact that the consumers we represent are primarily interested in guaranteed, affordable and easy access to good quality and diverse programming. Convergent technology and legal frameworks should therefore aim to facilitate such access. Consumers want an open European market in which they can access audiovisual programmes and services without obstacles arising from technological limitations and legal restrictions, in particular:
  - New proprietary technological systems,
  - Hybrid television systems which allow the overlay of third party content or commercial communications
  - Restrictions imposed by national copyright laws
  - Parental access and, where necessary, control over programmes with questionable content
- ✓ VLV's view is that a potential revision of the AVMSD (which seems to be the primary focus of the Commission's Green Paper) is a necessary but not sufficient answer to the issues that matter to users. We welcome the fact the Commission's Green Paper addresses some of the fundamental principles including media freedom and pluralism, content diversity, protection of minors and vulnerable groups. In our view, the new media environment makes it more important to reinforce and underpin these fundamental principles.

Beyond this, there is a range of relevant issues involving network neutrality, consumer protection, competition law and copyright which need to be addressed. There are also two topics - - data protection and tax harmonisation - which are not specifically covered in this Response.

- ✓ While appreciating the Commission's readiness to take account of our views, via our responses to their questions, we are concerned that the questions reflect, not exclusively but predominantly, a market and technology influenced view rather than one for which content quality and choice is absolutely central as it is for citizen-user groups such as ours. A putative revision of the AVMS Directive cannot possibly address all issues surrounding connected TV and the information landscape linked to it.
- ✓ We endorse the idea expressed by the Council of Europe [Recommendations CM/Rec (2007)3 and CM/Rec (2012)1] the European Parliament Resolution of July 4, 2013 - sponsored by Euro MP Petra Kammerer - on the need for, and importance, of public service media. This means that the principles and practices embraced by the Amsterdam Protocol on Public Service Broadcasting need to be extended from public service *broadcasting* to public service *media*, precisely to take account of convergence and related technological change across all platforms.

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<sup>4</sup> <http://consumers.ofcom.org.uk/2013/07/the-reinvention-of-the-1950s-living-room/>

## EXECUTIVE SUMMARY

### 1. Consumer choice and access to quality content

- ✓ The AVMSD market should confirm and reinforce the core principles of media freedom and pluralism, content diversity, protection of minors and vulnerable groups. To this end, we call upon the Commission to develop proposals to revise the AVMSD and extend its scope, as soon as possible.
- ✓ Given the contribution made by public service and other broadcasters to meet popular demand by investing in original European content, and overall maintaining programme quality standards, we recommend on both cultural and economic grounds that the European Union ensures that its regulatory framework allows power public service broadcasters to continue to develop their roles across all platforms in the converged audiovisual world. (See our answers to questions 1 and 2).
- ✓ We think that public service broadcasters, operating with secure funding in a democratic context, - through the breadth of their creative remit and the range of available skills - make a distinctive contribution to sustaining media pluralism
- ✓ The Commission and national regulators should incentivize public service content through, for example, priority listing on EPGs and a flexible application of the state aid rules, where funds serve to promote public service purposes
- ✓ Furthermore, the EU should ensure, in line with points 1-3 of the Kammerer Resolution of the European Parliament of 4<sup>th</sup> July 2013, that receiving devices will permit consumers to access a full range of third party (including public service) legally available content. (*See our answer to question 3*).

### 2. Interoperability and Ease of Access

- ✓ In the same spirit of easy and convenient access, VLV recommends that there should be open non-proprietary standards to facilitate interoperability between different devices (*see our answers to question 6*).
- ✓ We emphasise this because of the presence of ‘closed environments’ (including ‘walled gardens’) enabling manufacturers or suppliers to assume a gate-keeping role to the potential disadvantage of consumers. Indeed the public interest may well demand that an independent public regulator can require a platform operator to keep open the electronic gateway for content and service offers from rival companies<sup>5</sup>.

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<sup>5</sup> This issue is brought into sharp focus by the current dilemma facing the UK Regulator Ofcom in responding to BSkyB's request for removal of their long-standing obligation to provide their customers, via Sky set top boxes (STBs), access to various services retailed by other suppliers. Sky based its request on (i) the existence of alternative access capability, through massively expanded broadband in the home over the past decade and widespread

Indeed the public interest may well demand that an independent public regulator can require a platform operator to keep open the electronic gateway for new content and service offers from rival companies.

- ✓ Where interoperability is lacking, we would request on consumers'/citizens' behalf clear information about extraneous jurisdiction or product specification, simple and well-guided technical crossover, along with privacy protection in those situations where user details are genuinely necessary to access any external system or source.
- ✓ Must carry provisions should be extended for all public media services by guaranteeing consumers access to them, via a prominent position on all platforms. (See our answers to question 6 and 16).

### 3. Addressing the Fragmented EU Market (Financing Models)

The current regime only encourages private investment in the creation, distribution, availability and market appeal of European works. The Amsterdam Protocol, on the other hand, which covers state/public funds, permits investment in them for domestic consumption only.

- ✓ VLV recommends – given the free movement of people across the EU – that public service broadcasters should be authorised in principle to make co-financing arrangements with partners from other European countries, including providers of on-demand services, enabling them to respond to changing viewer behaviour.

### 4. Protection of minors (*see our answers to Questions 14 and 20-24*)

VLV, whilst recognizing the reality of varying cultural standards and regulatory capacity across 28 Member States, proposes that the EU should progressively introduce a regime which will deliver:-

- ✓ classification of online audiovisual content by its suitability for different age groups
- ✓ progressive harmonisation by member states of their respective age bands and classification criteria, in order to make acceptance of the country of origin principle easier
- ✓ clarity and transparency, for users, about content origin and jurisdiction
- ✓ a European Certificate of Media Literacy for parents and 'relevant' adults

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availability of 'second screen' devices (smart phones, iPads, tablets etc) - operating either independently or in conjunction with a main TV set, (ii) the consequent reduction in demand from customers for APIs (Application Programme Interfaces) which require the Sky STB and (iii) the burdensome nature to SKY itself - of the Access Control Notice being continued. <http://stakeholders.ofcom.org.uk/binaries/consultations/review-access-control/summary/review-sky-access-control.pdf>

With regard to the effective verification of age, the responsibility should lie with the parent or relevant adults (e.g. teachers). We also consider that parents or responsible adults who take the proposed European Certificate of Media Literacy need to know both where and how they can comment or complain about different types of content, and how public authorities in individual member states can provide adequate feedback to each other about harmful or allegedly illegal content.

## 5. **Support for physically impaired users** (see answers to Questions 26 & 27)

We see this as an area of growing need.

The multi-device nature of the Connected TV environment exposes users with any physical disability to increased risk of being left behind, unable to participate fully and comfortably in the benefits of modern European media.

At the same time the means to solve these problems reside in much of that same technology (as recent research work shows - see our full response, below pp. 22-23)

The issue *will* become more important as greater numbers of Europe's citizen survive into old age, able to enjoy life but still needing support to draw the full and varied benefits of the new media landscape. The EU institutions need to "raise their game" in this field.

- ✓ VLV would argue strongly for actions to accelerate the "gradually" improved access for physically impaired people which is envisaged in Article 7 of the AVMSD by replacing "gradually" by "progressively on the basis of suitable criteria ....reviewed on a biennial basis"
- ✓ We hope that pressure will be brought on national regulators to bring a greater proportion of their broadcasters within the scope of precise access obligation (along the lines adopted by the UK's Ofcom).
- ✓ We expect that these obligations be applied not only to traditional appliances such as TV sets and platforms but also to the new devices now linked up with them; and in the video-on-demand field as well as to traditional television broadcasting.
- ✓ The Commission should engage with the latest European and global research - having in mind standardization and simplification - on digital codes in TV sets and other linked devices, the codes in EU-licensed services for sub-titling, captioning, audio-description and electronic programme guides.
- ✓ Since achievement of objectives in this area presupposes resources as well as regulation, we would favour incentives, by tax or other means, to business and research institutes exploring and developing technologies to meet the needs of the physically less able.

- ✓ Furthermore the application of public money should become practical through support for these specific objectives being classified as permissible under the State Aid rules
- ✓ This approach makes economic as well as social sense. Many millions are handicapped by no more than the fact of not belonging to the digitally educated generation. Alternatively they may have specific but limited physical impairments; such that, those freed from them by innovative technical help, could not only enjoy the benefits of an open European media landscape but also contribute hugely more than would otherwise be the case.
- ✓ In submitting these recommendations, we appreciate that, when the level and timing of access obligations are reviewed, there needs to be an awareness of possible risk to the rapid development of the single market.

## 6. Commercial communications

VLV has always been opposed to the introduction of product placement. We have consequently considered the relevant provisions [i.e. Article 11] of the AVMSD to be even more permissive and unsatisfactory than those in the E-Commerce directive [i.e., The Electronic Commerce Directive (00/31/EC) & The Electronic Commerce (EC Directive) Regulations 2002 (SI 2002 No. 2013)]

The argument that that AVMSD sets only minimum conditions, on which individual states may impose more stringent controls, carries little weight in a media environment where consumers may find themselves watching content segments from different jurisdictions interwoven seamlessly with each other.

Frank recognition of this situation offers a welcome opportunity to harmonise the consumer protection provisions of the two directives.

- ✓ We contend that consumers must be informed about the presence of product placement in audiovisual media products, including those shown in secondary markets in which the programme in question has neither been produced nor commissioned by the media producer itself, or a company affiliated to the media service provider. (*see our answer to Question 4*)

## DETAILED ANSWERS TO THE QUESTIONS FORMULATED BY THE COMMISSION

### Market considerations

#### Question 1

**What are the factors that enable US companies to establish a successful presence in the fragmented EU market despite language and cultural barriers, while many EU companies struggle? What are the factors hindering EU companies?**

VLV recognizes that the competitive strength of US firms is underpinned by available economies of scale and the worldwide marketing appeal of English-language content. Nevertheless the evidence around American penetration of the EU market does not seem to justify as bleak a view as the Green paper's first question implies.

Europe's own television broadcasters, and especially public service broadcasters, continue to make a major contribution to Europe's audiovisual landscape. In 2011, the latest year for which figures are available, the market amounted to 131,920 million Euros, of which 55% (73,134 million) went to broadcasters; 25.6% (33,738 million) was spent by consumers on AVMS distribution services (including taxes); and a further 5.7% (7,538 million) on DVDs and Blu-ray. Only 4.9% (6,431 million) of revenues came from the cinema box office.

Moreover, not only do broadcasters account for the largest share of the EU audiovisual market, but public broadcasters (including radio) received the largest share, namely 46% (33,650 million Euros), of broadcasters' net revenues.<sup>6</sup> Moreover, a close study of the market shares of the four leading television groups in each member states showed that, in half of the EU's 28 member states, public broadcasting groups had captured the largest audience share. (Nine of the member states where they failed to do so were former communist countries.<sup>7</sup>)

- ✓ VLV believes, therefore, in light of the choice of programming offered by publicly-funded broadcasters, which espouse public service values, that our members and audiences overall have a major stake in ensuring that access to public service channels and related catch-up services is guaranteed on all platforms.<sup>8</sup>

An in-depth analysis of TV programming policies, in fifteen European countries, showed that public service channels programmed 61% of EU-originated fictional programmes. It was the advertising channels, the pay-TV channels, and the

<sup>6</sup> European Audiovisual Observatory, *2012 Yearbook Vol. 2*, Table 2.3

<sup>7</sup> Ibid., Table 5.5 There are no data for Malta, and separate data for French and Flemish-speaking Belgium. Other member states where public broadcasters failed to capture the major market share were Spain, French-speaking Belgium, Luxembourg, Greece and Cyprus.

<sup>8</sup> Ofcom in the UK, moreover, has noted: "...From a platform operator's perspective, ....recent developments ....have focussed on improving discoverability of TV content and providing access to it on multiple devices both inside and outside the home. There has been less noticeable development of the technologies to support enhanced TV and commercial services". Review of Sky's Access Control Services Regulation p.41.

thematic channels which relied most heavily on non-EU products. They also relied more heavily on non-domestic programmes - i.e. produced elsewhere in the EU - than did the public broadcasters.<sup>9</sup>

- ✓ Again, the data clearly shows that public broadcasters offered their viewers a higher proportion of EU films than did the private channels. It also appears that the public broadcasters invested more heavily in domestic production.

Within the UK, for instance, the proportions of EU series and soaps programmed by BBC1, BBC2, BBC3 and BBC4 were 97%, 70%, 96% and 81% respectively. The corresponding proportions of EU television films programmed by the BBC were 67%, 35% and 91% for BBC1, BBC2 and BBC4 (there are no published data for BBC3). On the other hand the corresponding proportions of EU series and soaps programmed by the advertising-funded ITV, Channel 4 and Five were 81%, 23% and 2%; whilst those for television films were 67%, 49% and 8%.<sup>10</sup>

It is clear therefore, that broadcast television not only offers EU consumers a choice of both EU and non-EU programmes, but that public service programming (which to a large extent is publicly-funded) plays a major role in airing EU-originated content, thereby promoting European culture and creativity. In summary public service broadcasters certainly make the largest financial investment in the EU audiovisual market, thereby promoting quality programming

- ✓ VLV therefore considers that any analysis which focuses on the implications of TV being connected to the Internet should not divert or distract the EU from its long-standing objective; namely to sustain, on viewers' and consumers' behalf, the provision and distribution of a choice of EU programmes.

## **Question 2**

**What are the factors affecting the availability of premium content? Are there currently practices relating to premium content at wholesale level which affect market access and sustainable business operations? If so, what is the impact on consumers? Is there a need for regulatory intervention beyond the application of existing competition rules?**

A range of factors affect the availability of premium content to viewers. As the data show, many TV companies, especially the advertising, pay-TV and thematic channels, offer their viewers or subscribers only a modest proportion of EU programmes. This may be because they find it easier and cheaper to broadcast non-EU films or TV series, many of which have already recouped all, or most, of their production costs in the North American market. Moreover, as can be seen from the growth of advertising-funded channels which rely on repeat programming, TV companies can still make money from advertisers by re-screening old programmes to their viewers.

<sup>9</sup> Ibid., Table 6.2

<sup>10</sup> Ibid., Tables 6.6 and 6.7

A further factor, which affects both publicly-funded and commercially-funded broadcasters is the sheer volume of hours which most broadcasters now have to fill in a 24/7 world. Even public broadcasters, with a substantial record of investing in premium content, frequently have to programme non-EU films in order to fill up their extensive programme schedules. Moreover, the traditional patterns of channel loyalty are breaking down among consumers, who can switch between channels with ease, or catch up with a missed programme, either by using an on-line catch-up service, or by recording it on their personal video recorder.

At the same time, many commercial broadcasters are seeking *to* acquire premium content, either from the coverage of popular sports events or by acquiring the rights to premium product from the North American market, and then to restrict consumer choice in the audiovisual marketplace by only making their premium content programmes available on particular platforms, via specific broadband packages, or even linked to particular converged television sets. Their aim is to move the European audiovisual market from one of open access to all consumers, to a ‘vertically integrated chain’ of programme packaging, platform restriction, and broadband limitation.

Article 31 of the Universal Service Directive allows member states to impose reasonable ‘must carry’ obligations on electronic communications networks under their jurisdiction for the transmission of specified broadcast channels and services. ‘where a significant number of end users of such networks use them as their principal means to receive radio and television broadcasts.’ Article 31(2) also allows member states to determine the appropriate remuneration. In the UK, Ofcom, whose principal regulatory duties are:

- To further the interest of citizens in relation to communication matters; and
- To further the interest of consumers in relevant markets, where appropriate by promoting competition.

has extended ‘must carry’ obligations to all the UK’s public service channels, which comprise the BBC services, and Channels 3(ITV), 4 and 5.

On the other hand, in order to try to ensure a plurality of providers in the subscription marketplace, Ofcom has been forced to impose a ‘wholesale must offer’ obligation on BSkyB in order to allow viewers to access its premium sports channels through other providers of linear audiovisual media services, such as Virgin Media Inc. Although the UK’s Competition Appeal Tribunal supported Ofcom’s ruling, it also appears that many parties involved have obtained permission to appeal the ruling.<sup>11</sup> The struggle between BSkyB and the regulator, Ofcom, appears to be an unfinished story therefore. Moreover, on 1 July 2013, BSkyB’s premium sports channels were removed from the digital terrestrial Freeview Platform. Furthermore, BSkyB only distributes its Sky Atlantic channel via the BSkyB satellite platform which is broadcast from the Luxembourg-registered Astra satellite, and is only available on-demand via the BSkyB broadband network.

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<sup>11</sup> Lorna M Woods, ‘Rules on Market Access, Media Concentration, Competition and other Approaches to Limiting Market Power in Selected Countries: United Kingdom’, in Susanne Nikoltchev (ed.), *IRIS Special: Converged Markets – Converged Power? Regulation and Case Law* (Strasbourg: European Audiovisual Observatory, 2012), pp. 87-96, at p. 92.

Given, the tendencies towards vertical integration in the EU's VoD marketplace,

- ✓ VLV submits that in order to develop a genuinely competitive EU internal market, the EU should seek to rebalance the relations between the right of an owner in the intellectual property right of an audiovisual work to authorise the distribution of the work in the European VoD market, and the right to receive equitable remuneration from the exploitation of that work.
- ✓ VLV suggests - in order to provide viewers with the maximum opportunity to view an individual work on any video-on-demand service - that, although the ability of a rights owner to authorize the distribution of an audiovisual work should continue for the full term of copyright, the right to authorize the distribution of the work in the European video-on-demand market should be drastically shortened.

The EU could, for example, follow the example of the Transfrontier Broadcasting Directive, which limited the right of authorisation to the first transfrontier satellite broadcast in the EU.<sup>12</sup>

### **Question 3**

**Are there obstacles on access to platforms which require remedial regulatory action?**

If we now turn to the on-demand audiovisual market, once again television plays an important role. Over 35% of the on-demand audiovisual services in the European Union are 'catch-up TV services', which only target audiences in the country of origin, whereas only 23% are branded channels on open platforms, and a mere 14% show VOD films.<sup>13</sup> As the VoD marketplace is dominated by catch-up TV services which only target the domestic audience, the possibility of building a unified EU-wide demand for VoD programmes seems remote. This conclusion is reinforced by the fact *that* nearly half of the of the EU's 1305 film VOD services are directed at domestic audiences, while a further third, most of them established in Great Britain, Ireland and France, are directed at audiences living outside the EU. A mere 17.5% of VoD services are directed at audiences in other EU member states.<sup>14</sup>

Given the growing internationalisation of the market in on-demand audio-visual services, and bearing in mind the reluctance of many EU member states to include audiovisual goods and services in the forthcoming US-EU trade negotiations,

- ✓ VLV considers the time has now surely come for the EU to remove the regulatory restrictions on state-aided public broadcasters, in order to allow them to compete, should they so wish, in non-domestic EU markets as well as their own domestic ones and also in video-on-demand markets outside the EU.

<sup>12</sup> Council Directive 93/83/EEC of 27 September 1993

<sup>13</sup> European Audiovisual Observatory, *op. cit.*, Table 7.1

<sup>14</sup> *Ibid.*, Table 7.3

## Financing models

### **Question 4**

**Do the current AVMSD requirements provide the best way to promote the creation, distribution, availability and market appeal of European works?**

- ✓ As consumer representatives we must observe that the Audiovisual Media Services Directive (2010) was not primarily designed to promote the creation, distribution, availability, and market appeal of European works, as can be seen from a careful reading of the 68 recitals to the Directive. One of the principal purposes of the TV without Frontiers Directive, which preceded the Audiovisual Media Services Directive, was to protect viewers from surreptitious audiovisual commercial communication.
- ✓ Regrettably, the latter directive reduced these protections, both by allowing product placement and by removing the requirement to notify viewers of its presence, when the programme had neither been produced nor commissioned by the media provider itself, or by a company affiliated to the media service provider. Thus the AVMSD denied the viewer any guarantee of notification about product placement in any programme screened in a secondary video-on-demand market.
- ✓ We submit that viewers should always be notified about the presence of product placement in any European work, regardless of whether or not the programme had been produced or commissioned by the media provider itself, or by an affiliated company.

### **Question 5**

**How will convergence and changing consumer behaviour influence the current system of content financing? How are different actors in the new value chain contributing to financing?**

The financing of European audiovisual works is highly complex. Commercial investment policies, both American and European, are intricately linked with subsidy provision and there is no consistent pattern across European countries.

## Interoperability of connected TV

### **Question 6**

**Is there a need for EU action to overcome actual or potential fragmentation and ensure operability across borders? Is there a need to develop new or updated standards in the market?**

Open standards and interoperability remain core priorities for users. Platforms and portals should be interoperable.

We note that there is already a significant proliferation of technical standards (both open and proprietary) within and across borders. We also note that - as with the analogue and digital media environments, so also in the hybrid television environment - technical solutions are closely linked to business models with, broadly speaking, commercial players showing a strong preference for closed proprietary systems.

We also note that device manufacturers and broadcasters do not always share the same requirements and thus do not necessarily support the same technical solutions. These differing views on the part of market players are likely to delay the introduction of common standards, fragment the market and confuse users.

Greater coordination amongst all players in the value chain over standardisation is therefore needed

VLV's position is:

- ✓ Users benefit from interoperability between devices, within and across borders, so the Commission should make every effort should be made to promote it.
- ✓ It is imperative that users have clear, easy to understand, timely and accurate information about interoperability and functionality limitations.<sup>15</sup> This information should be readily available to users in order to help them reach an informed decision whether or not to take up a service and without the need to register any personal details unless this is absolutely necessary in order to get detailed and accurate information about the service offer, - in which case it should be clearly stated as such.

*Interoperability limitations* relate to the products and services users can access using a device. The set of services and content that one can access depends directly on the choice of platform (e.g. terrestrial, cable, satellite, and Internet) and device (e.g. television, set-top-box, connected TV, tablet, smartphone, game console).<sup>16</sup>

- ✓ Particular attention should be paid to '*closed environments*' which often rely on proprietary standards and *in which* the manufacturer assumes a 'gate-keeping' role and pre-approves content, services and applications which then become available to users (e.g. Apple Inc. devices, game consoles, and many connected TV and IPTV solutions).
- ✓ Precise transparency requirements should be enforced as it is often unclear to users who is the exact supplier of a service.<sup>17</sup>

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<sup>15</sup> See OECD (2013) "Protecting and Empowering Consumers in the Purchase of Digital Content Products", *OECD Digital Economy Papers*, No. 219, OECD Publishing, pp. 24-26 <http://dx.doi.org/10.1787/5k49czlc7wd3-en>.

<sup>16</sup> See our earlier reference (p. 3) to the considerations raised in Ofcom's Review of Sky's Access Control Services Regulation.

<sup>17</sup> For instance, it is not sufficient to know that, say, Walt Disney is the provider of a service. This should be precise as, to continue with the same example, Walt Disney France.

- ✓ This is crucial as over **52%** of VoD offers available in EU member states have their legal establishment in another and **32%** are established in the USA and so outside the EU.<sup>18</sup>

**Equally important and related are so-called *functionality limitations* (commonly known as Digital Rights Management) implemented through technical means and referring to restrictions in the use, copying, and sharing of content. In relation to these, in the consumers' interest, we would request:-**

- ✓ **Firstly, information about associated tracking and monitoring methods used to implement such (notably functionality) limitations needs to be made clearly available in advance, since it directly relates to consumer and privacy rights.**
- ✓ **Secondly, users should have clear explanations about the need to have functional limitations, as these apparently run counter to the single market and user interests, in addition to adversely affecting accessibility and portability of content, creativity, and innovation and economic growth opportunities on the part of users.**
- ✓ **In particular, users should be shown evidence that such limitations improve investment in original content and promote content diversity, both of which are paramount issues for users.**

**In other words, the assumed benefits of interoperability and functionality limitations need to be assessed against potential costs with regard to lock-in effects, market entry barriers, privacy rights, pluralism and content diversity, accessibility and portability of content, creativity and innovation incentives.**

### **Infrastructure and spectrum**

#### **Question 7**

**How relevant are the differences between individual platforms delivering content (e.g. terrestrial and satellite broadcasting, wired broadband including cable, mobile broadband) in terms of consumer experience and of public interest obligations?**

Very relevant!

VLV's view is that free competition between platforms does not guarantee consumer access. The availability of general or niche public service content is patchy and unpredictable.

<sup>18</sup> EAO (2013) 'More than 3,000 on-demand services in Europe.' EAO Press Release, 16 May <[http://www.obs.coe.int/about/oea/pr/mavise2\\_2013mai.html](http://www.obs.coe.int/about/oea/pr/mavise2_2013mai.html)>

The situation is aggravated by the ‘vertical integration’ between broadband services, platforms, AVMS channels, and programmes.

- ✓ VLV recommends that European and national regulators ensure that network management by broadband providers does not disadvantage ordinary consumers.

#### **Questions 8 and 9**

**What frequency allocations and sharing models can facilitate development opportunities for broadcasting, mobile broadband and other applications (such as programme-making equipment) carried in the same frequency bands?**

**What specific research needs with regard to spectrum have to be addressed to facilitate such development?**

VLV in the UK has become aware of this issue primarily because of concerns that viewers of digital terrestrial television will have their TV reception interfered with by allocations (following auctions) to mobile operators in the 600/700 MHz band. We are aware that the UK, along with Spain and Italy, is one of the few countries where DTT access is a main ingredient of television reception capacity, and we are seeking action in the UK whereby the problems can be addressed without excessive cost to ordinary users who had been assured of non-problematic service after the analogue switch-off and the recently completed (2012) transition to digital.

#### **VLV in the UK has asked the consumer panel to:**

- (i) seek assurances that the needs of UK viewers using DTT are protected, when the mobile technology companies buy more spectrum,
  - (ii) assist households financially in adapting their TV reception to coexist with the newly allocated mobile frequencies,
  - (iii) ask the government to make public its long-term strategy for spectrum use, and
  - (iv) to ensure that any lessons learnt from the impact of the current 800 MHz exercise are deployed in developing future spectrum plans.
- (see also our response to question 12 below)*

From our specialist contacts in the spectrum field we understand negotiations on a Euro-wide basis are well advanced for the 700MHz and possibly also the 600MHz bands being made co-primary for broadcasting and thereby meeting the reception needs of users across most audiovisual platforms.

- ✓ In so far as realization of this plan will lead to a reliable, consistent, predictable, uncomplicated and interoperable reception pattern, we support it. But the European Commission and relevant Member States must also ensure that the EU avoids any un-serviced areas, and any incompatibility issues which may arise
- ✓ We shall monitor developments in terms of their impact on the universal service obligation (USO) expected from public service broadcasters, and the implications for audiences and users of the convergence of broadcast networks and mobile networks, with the latter seemingly offering new and exciting scope to broadcast direct to standard television sets

- ✓ We would expect the Commission to bear consumer concerns in mind when reviewing the spectrum scene on a Europe-wide basis, and to provide timely information about developments.

### Regulatory Framework

#### **Question 10**

**Given the convergence between media, is there evidence of market distortion caused by the regulatory differentiation between linear and non-linear services? If yes, what would be the best way to tackle these distortions while protecting the values underpinning the EU regulatory framework for audiovisual media services?**

- ✓ Yes. VLV advocates an extension of broadcast TV regulation to on-demand TV services. This must include both must-carry and must-offer content, in order to avoid market distortion at consumer level.
- ✓ Consumer choice is being adversely affected by decisions by national courts on competition grounds preventing state-aided public service broadcasters from offering so-called 'press-like' content on-line.

#### **Question 11**

**How relevant are the differences between individual platforms delivering content (e.g. terrestrial and satellite broadcasting, wired broadband including cable, mobile broadband) in terms of consumer experience and of public interest obligations?**

**Very relevant!** Free competition does not guarantee consumer access. The availability of general or niche public service content is patchy and unpredictable. The problem is aggravated by '**vertical integration**' between broadband services and platforms, AVMS channels, and programmes.

- ✓ **VLV sees a need for (a) adequate capacity to guarantee consumer access to 'must carry' content and (b) a time-limit on copyright owners' authorization rights, which nevertheless preserves their entitlement to equitable remuneration.**

#### **Question 12**

**What frequency allocations and sharing models can facilitate development opportunities for broadcasting, mobile broadband and other applications (such as programme-making equipment) carried in the same frequency bands?**

This is a complex issue, many aspects of which can only be solved by national governments. However, as representatives of viewers, we perceive three interlocking aspects.

- ✓ In some member states (including the UK), there is competing demand for electromagnetic frequencies between traditional television broadcasters and mobile phone operators. We submit, the EU needs to ensure that any TV viewers affected are given sufficient warning of any changes in TV broadcasting frequencies – we suggest at least seven years – before they are required to buy a new television set.
- ✓ Second, the Commission needs to take steps to persuade individual member states to harmonise television and mobile downlinks in different countries in the 600MHz band.
- ✓ And thirdly, in order to ensure more efficient use of the spectrum, the European Commission should encourage the development of standardised models whereby both television broadcasters (including public service broadcasters) and mobile phone operators can sub-lease spectrum.

**Question 13**

**What specific research needs with regard to spectrum have to be addressed to facilitate such development?**

- ✓ VLV considers that national consumer panels should have a brief to review proposed spectrum usage; this may well involve authorities at the EU level, and possibly also the ITU in so far as wider factors, beyond the EU come into play

**Question 14**

**What initiatives at European level could contribute to improve the level of media literacy across Europe?**

- ✓ VLV considers that there are strong arguments for introducing Certificate in European Media Literacy. This would be voluntary, but like the Advanced Driving test in the UK, it would both educate and empower parents to navigate their way through the increasingly complex world of the global on-line audiovisual marketplace.

Beyond that, we would like parallel European-wide arrangements. The elements of these would be:-

- ✓ Firstly, a notification from the regulator in the country of origin about the classification of, and the recommended suitability for younger people of the programme.
- ✓ Secondly, a progressive standardisation by member states of their domestic age classifications.
- ✓ Thirdly, for content coming from outside the EU, a requirement for all internet access providers to offer consumers a choice, either to opt-in, or to opt-out, of all content which they may deem unsuitable for their children or their family.

**Question 15**

**Should the possibility of pre-defining choice through filtering mechanisms, including in search facilities, be subject to intervention at EU level?**

Yes. The issues here relate to data protection and privacy as well as visibility and findability of European content (see also our responses to Questions 6 and 16).

- ✓ While without a degree of filtering, it would be impossible to navigate the plethora of content and service offers available, personalisation needs to be balanced and fully transparent. Users need to know exactly what data are being collected, by who, who has access to them, and how these data are being used.<sup>19</sup>  
Moreover, users should be able to specify the degree of personalisation they wish to get and they should also be able to opt-out of personalisation mechanisms. Finally users need to have access to an easy and accessible complaints procedure.
- ✓ Filtering and personalisation mechanisms should fully respect fair competition (for instance, providers shouldn't favour and promote own services) and they should still allow users to easily find and access European (public service) content (see our response to Question 16).

**Media Freedom and Pluralism**

**Question 16**

**Should the possibility of pre-defining choice through filtering mechanisms, including in search facilities, be subject to intervention at EU level? What should be the scope of existing regulation on access (Art 6. Access Directive), and universal service (Art 31 Universal Service Directive) in view of increasing convergence of linear and non-linear services. on common platforms? In a convergent broadcast/broadband environment, are there specific needs to ensure the accessibility and the convenience to find and enjoy general interest content?**

The converging media environment is characterised by a plethora of platforms. In addition, television is increasingly becoming an application which can be accessed on any Internet-enabled device.<sup>20</sup>

- ✓ It is therefore essential that Article 31 USD ('must carry' rules for public service broadcast content) is extended explicitly to include access to all the main audiovisual platforms be they terrestrial, cable, satellite or Internet based.

<sup>19</sup> See also Consumer Focus [Lucy Hopkins] (2012) All that's digital isn't gold. The challenges and risks of the digital age. London: Consumer Focus, pp. 12.

<sup>20</sup> OECD (2013) OECD Communications Outlook 2013, Paris: OECD, p. 186.

- ✓ They should also be covered by regulations which guarantee a suitably prominent position on EPGs and network neutrality rules so that individual consumers are assured of adequate reception quality.
- ✓ We welcome the recent expression of intent by European Commission Vice-President for Digital Agenda Neelie Kroes to legislate in support of network neutrality by spring 2014.<sup>21</sup>
- ✓ We think this is in the spirit of Recital 10 of the Access Directive and Articles 17(2) and 18 of the Framework Directive which cite the relevance of media pluralism, the free flow of information and cultural diversity.
  - ✓ In order to promote those values VLV calls for a regulated and cooperative relationship between proprietors of specific Application Programme Interfaces (APIs) and providers of digitally interactive television services, as advocated by the European Broadcasting Union (EBU)<sup>22</sup>.

Although it might make commercial sense for platform owners to carry public service and European content since these are still very popular in domestic markets, users should have the regulatory support enabling them to easily find such content and services.

- ✓ Put differently, the ease with which viewers can find public service and European content will be even more important in the connected TV environment which is saturated with content and service offers. Due prominence of public service and European content remains relevant in the connected TV world and needs to be extended from Electronic Programme Guides to similar listing and navigation facilities, adequately monitored and enforced. Concrete action is required at European level (*art. 6 Access Directive*).

As an example, the rules for Electronic Programme Guides in digital television whereby the main public service TV channels are required to be placed first in the listings should be extended to the connected TV landscape so that public service and European content/channels/services continue to be listed at the top of the relevant sections of the main application stores, platforms and so on.

This would facilitate users' ability to find such content (which, as already pointed up in our Response), is the most popular) and it would also act as a strong incentive for content providers to increase investment in domestic content. This relates to the 'must found' principle expressed by the European Parliament's Resolution of July 4<sup>th</sup>, 2013.<sup>23</sup>

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<sup>21</sup> Neelie Kroes' Speech: *The politics of the completing the telecoms single market* (30.05.2013) [http://europa.eu/rapid/press-release\\_SPEECH-13-484\\_en.htm](http://europa.eu/rapid/press-release_SPEECH-13-484_en.htm). And Neelie Kroes' Blog post: 'Safeguarding the open internet for all.' (18.07.2013) <http://blogs.ec.europa.eu/neelie-kroes/open-internet/>

<sup>22</sup> EBU Document Principles for Internet-Connected and Hybrid Television in Europe; 15.04.2011 [http://www3.ebu.ch/files/live/sites/ebu/files/Knowledge/Media%20Law/EBU%20Positions/20110415\\_EBU%20Principles%20for%20Internet%20Connected%20and%20Hybrid%20TV](http://www3.ebu.ch/files/live/sites/ebu/files/Knowledge/Media%20Law/EBU%20Positions/20110415_EBU%20Principles%20for%20Internet%20Connected%20and%20Hybrid%20TV).

<sup>23</sup> European Parliament (4 July 2013) *European Parliament Resolution of 4 July 2013 on Connected TV*, P7\_TA (2013), point 21.

VLV points up here an additional factor - the consumer's need **for content integrity**: this means that no overlay (e.g. Twitter feed) or scaling of content and services should take place without prior and explicit authorisation by the content provider in question or an explicit request from the user.

### Commercial communications

#### **Question 17**

**Will the current rules of the AVMSD regarding commercial communication still be appropriate when a converged experience progressively becomes reality? Could you provide some concrete examples?**

It follows from our view of the increasing integration between the linear and non-linear audiovisual media services that VLV sees a need to broaden the remit and scope of the AVMS to inform all Europe's consumers about the presence of commercial communications from any source.

Bearing in mind the advent of a seamless online audiovisual environment, and the increasing scope for disguised commercial communications, VLV recommends:.

- ✓ A tightening and co-ordination at the EU level of the provisions to protect consumers within the e-commerce Directive, the Unfair Commercial Practices Directive as amended in 2009, and the Audiovisual Media Services Directive; and
- ✓ The restoration to consumers of the right to be informed about the presence of product placement in all audiovisual media programmes, including those programmes shown in secondary markets, in which the programme in question has neither been produced nor commissioned by the media producer itself, or a company affiliated to the media service provider.
- ✓ Beyond this, audiovisual media services now expose consumers to the risk of being transferred, by the click of a button, from an audiovisual programme which has originated in one member state, to a website which is regulated either in another EU member state, or indeed completely outside the EU. The AVMS Directive in its current forms takes no account of the fact that consumers can be transferred almost seamlessly from one jurisdiction to another.
- ✓ VLV urges a requirement on service providers to provide the user of a connected TV set with a full and proper on-screen and audio disclosure of any change of jurisdiction affecting their access to television programming including a video-on-demand service, or a link to the purchase of associated goods or services.
- ✓ In addition, any link to a commercial communication or pop-up located within a programme or an online game should only lead to advertisements appropriate to the classification of that particular programme.

**Question 18**

**What regulatory instruments would be most appropriate to address the rapidly changing advertising techniques? Is there scope for more effective self-regulation?**

As indicated above, VLV considers that consumers should be told in advance of the presence of any commercial communication in a programme. We consider that the presence of commercial overlays or other innovative on-screen techniques should be banned unless they are specifically sanctioned by the programme maker.

- ✓ The potential for constructive and effective self-regulation is illustrated by **the UK Advertising Standards Authority [ASA]** which is funded entirely by, but crucially at arm's length from, the advertising industry through a levy on advertising space. It works almost exclusively through standards embodied in Codes of Advertising Practice accepted through mutual respect and peer group pressure within the advertising industry (although ASA can, for broadcast content only, call upon statutory reserve powers under the 2003 Communications Act resting with the media regulator Ofcom). The Authority's rulings are published [<http://www.asa.org.uk/Rulings/Adjudications.aspx>]
- ✓ We draw the Commission's attention to the fact of ASA's reputation being such that **the extension of its role into online advertising** came about quite naturally and un-controversially. One section of the ASA website lists some sixty traders who continue to make claims which fall foul of the Advertising Code, despite repeated requests to bring their sales material into compliance.

**Question 19**

**Who should have the final say whether or not to accept commercial overlays or other novel techniques on screen?**

Failing appropriate action by the country of origin of the audiovisual media service, we consider that in order to protect consumers, the country of reception should have the authority to ban programmes which, surreptitiously or otherwise, include commercial communications of this nature, even though this contradicts the country of origin principle.

**Protection of minors**

**Questions 20-24**

**(20) Are the current rules of the AVMSD appropriate to address the challenges of protecting minors in a converging media world?**

**(21) Although being increasingly available on devices and platforms used to access content, take-up of parental control tools appears limited so far. Which mechanisms would be desirable to make parents aware of such tools?**

**(22) What measures would be available for the effective age verification of users of online audiovisual content?**

- (23) Should the AVMSD be modified to address, in particular, content rating, content classification and parental control across transmission channels?
- (24) Should user be better informed and empowered as to where and how they can comment or complain concerning different types of content? Are current complaints handling mechanisms appropriate?

VLV considers that viewers and their families should be protected from material that is unsuitable for family viewing, and has become progressively more easily accessible through the advent both of a converged audiovisual market in general and of connected TV in particular.

These factors lend a new urgency to consider the continued fitness of Article 12 AVMSD, which addressed the regulation of material via the on-demand route.

- ✓ **VLV considers that parents have the right to be informed adequately and in a timely manner**, about factors which may affect a judgment about suitability for children of programmes or any programme content available on-demand, so that if necessary, they can take preventive action.
  
- ✓ **VLV notes that this will involve a careful analysis of the pathway of the on-demand audiovisual programme**, which may start from a programme service authorised in member state A, by way of a distribution system located in either the country of origin or the country of reception B (or both), via a connected TV receiver, or a computer or a mobile application, and into the receiver's home.
  
- ✓ While recognising that the protection of minors will inevitably be a shared responsibility - between programme makers, equipment manufacturers, network distributors and families – **VLV would like to make a specific suggestion**: that EU member states - with the aim of ensuring for viewers adequate pre-information about programmes within their national jurisdiction:
  - (a) **guarantee that all programmes are accompanied by a clear identification of regulatory responsibility,**
  - (b) **develop a common set of (national) age divisions for classifying the programme – available before payment is required from a consumer to watch the programme.** In this context, we are pleased to note that the British Board of Film Classification is working with the Dutch media regulator NICAM to create a “traffic light warning system”, in order to classify user-generated online material that might normally be unclassified, and which Mediaset, the Italian commercial broadcaster, has agreed to try out.<sup>24</sup>
  
- ✓ **Alongside this, the European Union should develop a certificate of audiovisual media literacy** which would equip parents and families to understand and appreciate the values and standards employed by classification boards in the principal – or indeed all - European member states.

Both of these measures would help to build a more mature approach the practical and cultural importance of media decision-making by consumers.

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<sup>24</sup> [http://www.guardian.co.uk/uk-news/2013/jul/11/british-board-of-film-classification?CMP=tw\\_t\\_gu](http://www.guardian.co.uk/uk-news/2013/jul/11/british-board-of-film-classification?CMP=tw_t_gu)

### Questions 25

**Are the means by which complaints are handled (funding, regulatory or other means) appropriate to provide adequate feedback following reports about harmful or illegal content, in particular involving children? What should be the respective roles/ responsibilities of public authorities, NGO's and providers of products and services in making sure that adequate feed-back is properly delivered to people reporting harmful or illegal content and complaints?**

In the UK, co-regulation – involving statutory elements and various industry associations - generally works quite well. Examples would be the BBFC (for films), ASA (for advertising), and public service television companies. In all these regimes, the findings which follow complaints hearings are made public.

Dissatisfaction is sometimes voiced about the lack of proportionality between the publicity accorded to the original programme or content and the prominence given to either an apology or a regulatory judgment which issues a rebuke or a fine.

- ✓ All regulatory bodies should be expected to provide adequate feedback to people reporting harmful or illegal content and complaints within a fixed period of time (e.g. 3 months).

### Accessibility for persons with disabilities

#### Questions 26 & 27

**(26) Do you think that additional standardisation efforts are needed in this field?  
(27) What incentives could be offered to encourage investment in innovative services for people with disabilities?**

**VLV's answer to Question 26 is "yes"**

The impressive assertions of Recital 46 AVMSD<sup>25</sup> are undercut by Article 7 AVMSD. The latter only requires “*Member States to encourage media service providers under their jurisdiction that their services are gradually made available to people with a visual or hearing disability.*” Although the words which we have highlighted may have some relevance for the regulation of television services, they are inappropriate for a converged world. The approach implicit in the Green Paper with their emphases on “additional standardisation” in Question 26 and “incentives” in Question 27 could easily deepen the problem.

We accept that Article 7 AVMSD has already been partially successful in achieving the aims of Recital 46 AVMSD. For example Ofcom, the UK media regulator, now requires that from 2014, 76 television channels, which currently account for 90% of the total UK audience share, will be required to make specialized access provision -

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<sup>25</sup>"The right of persons with a disability and of the elderly to participate and be integrated in the social and cultural life of the Union is inextricably linked to the provision of accessible audiovisual media services. The means to achieve accessibility should include, but need not be limited to, sign language, subtitling, audio-description and easily understandable menu navigation".

sub-titling, signing and audio description. So far, so good! But this development, it should be noted, will be a regulatory requirement, not an encouragement. More seriously, it does not cover television services, accessible to UK users but originating from other EU countries which can be accessed by disabled and elderly UK viewers. Nor, within in the UK itself, will it extend to non-linear video-on-demand services, apart from those which are catch-up TV services.

The crucial difference between linear and non-linear services is that when disabled and elderly viewers use the latter, they are interested in watching individual programmes, not just in receiving a service. Moreover, the problem will be global, and not just European. We have been advised, for instance, that none of the three biggest suppliers of on-line movies to UK audiences – Netflix, Lovefilm and Tesco’s Blinkbox – provide subtitles, or what is called captioning in some countries.

The global challenge of the online delivery of audiovisual programmes requires the European Union to raise its game, and to develop an international approach. For instance, the Federal Communications Commission (FCC) in the USA has proposed new rules which will require televisions and other devices to have talking on-screen menus. The International Telecommunications Union (ITU) Focus Group on Audiovisual Accessibility has gone further, and differentiated four areas for improvement:

- The access services accompanying programmes
- The prominence which electronic programme guides give to access services
- The refinements to television receivers themselves
- Modifications to connected devices, especially remote controls.<sup>26</sup>

How will these affect the EU marketplace? As Recital 46 AVMSD correctly points out “The means to achieve accessibility should include, but not necessarily be limited to, sign language, audio-description, and easily understood menu navigation”. [VLV’s emphasis]

Similar requirements to those highlighted by the ITU Focus Group will obviously extend to those viewers wishing to exercise the parental/adult controls which we advocated in our answers to Questions 20-24. Furthermore, as facility with keyboards, keypads and remote control devices becomes increasingly indispensable, the EU will also need to ensure that their design does not raise serious problems for the visually impaired and those who have limited manual dexterity.

***In response to Question 26*** therefore, in order to ensure accessibility for disabled and elderly viewers to programmes in video-on-demand services,

- ✓ the European Commission should pay close attention at a global level to the standardisation of
  - The digital codes included in connected television receivers and to linked devices, such as remote controls

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<sup>26</sup> Making Television Accessible (ed: Peter Olav Looms) (ITU, 2011) [http://www.itu.int/ITU-D/sis/PwDs/Documents/ITU-G3ict%20Making\\_TV\\_Accessible\\_Report\\_November\\_2011.pdf](http://www.itu.int/ITU-D/sis/PwDs/Documents/ITU-G3ict%20Making_TV_Accessible_Report_November_2011.pdf). See also, Accessibility for Social Media Platforms (New South Wales Disability Education Association, 2013) <http://www.slideshare.net/AccessiQ/accessibility-for-social-media-platforms>.

- The physical design of remote control devices
- The digital codes, which are used in EU-licensed services to access subtitling and audio-description services for all programmes from whatever source, including US programmes.
- The prominence given to access services in electronic programme guides in all EU non-linear audiovisual services

**In response to Question 27,**

We consider that incentives designed to encourage investment should be established at both EU and national levels.

- ✓ At an EU level, the Commission should establish global-wide discussions on standardisation, that both encourage investment in innovative services by EU programme producers in relation to programmes designed for export to Anglophone, francophone, hispanophone, and lusophone markets; and which simplify access by disabled and elderly viewers to audiovisual programmes and services coming into the EU from those markets.
- ✓ At a national level, the Commission should specifically include in a future Communication on State Aid for Public Service Media, the freedom for member states to allow (within permitted State Aid) investment by those service media providers in innovative services for people with disabilities. This could also include tax incentives for firms and research institutes investing in the four areas outlined above.
- ✓ The governing documents should be amended to support these steps. In Article 7 AVMSD the word “gradually” should be replaced by the words “progressively, on the basis of suitable criteria”, which are used (for other objectives) in article 16 and 17 AVMSD; to which should be added the words “such criteria shall be laid down and reviewed on biennial basis.”

August 2013