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,

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[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: