

## Legal Regulation & Education: Doing the Right Thing?

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### The Audiovisual Media Services Directive as implemented by national regulatory authorities - Testing the criteria defining audiovisual media services in a converged media environment

The EU Audiovisual Media Services Directive (AVMSD) of 2007 sets out the legal framework for the regulation of broadcasting and on-demand services. At its basis is the distinction between linear and non-linear audiovisual media services. This distinction, however, has been called into question by the continued convergence of media which blends different types of content in ever new forms. A powerful expression of such blending is the growth of 'smart devices', in particular Smart TVs which allow for simultaneous consumption of Internet services next to linear and non-linear audiovisual media services. Absurdly, similar audiovisual content displayed in one part of the screen could be more heavily regulated than the other depending on its classification as linear, non-linear or as falling outside the scope of the Directive. Above all, the linear/non-linear typology is difficult to comprehend from the perspective of the user who is primarily interested in the availability and immediacy of content using whatever device. Thus, this paper will review the current EU legal framework for audiovisual media services focusing on the relevant definitions as outlined by Art. 1 AVMSD. It will draw attention to the deficiencies of the typologies in a converged online environment by taking into account the practice and activities of regulatory authorities of different EU Member States. To this end, this paper will apply a two-pronged analysis.

Firstly, recourse will be had to several practical cases relating to the criteria set out by the AVMSD such as the principle purpose test or the notion of editorial responsibility. In this respect, the question whether and to what extent the national regulatory regime for audiovisual media services applies to electronic versions of newspapers or other platforms offering various types of (audiovisual and other) content will be discussed. Secondly, the paper will examine some of the guidelines adopted by national regulatory authorities in view of clarifying the criteria stipulated in the AVMSD including recent activities and policy documents. The aim of this paper is to draw attention to the way the rules of the AVMSD are implemented and applied at the grassroots, particularly in light of the challenges accompanying convergence of media.