



The AVMS Directive: Key features

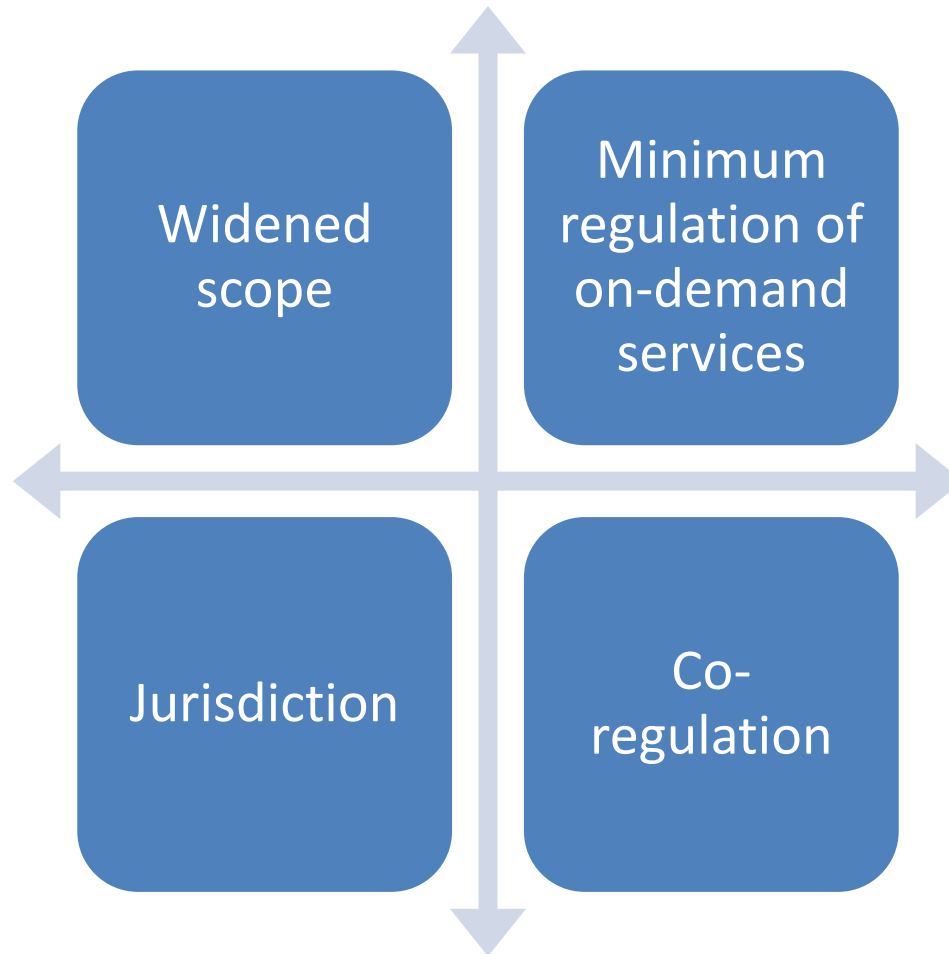
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Outline



Widened scope

Member States
required to
regulate by
December 2009

All audiovisual
services

Transmitted by
media service
providers in their
jurisdiction

Television broadcasts

- Rules on advertising relaxed
- New rules on short news reports

On demand audiovisual services

- Covered for the first time

Before the AVMS Directive

On-demand services not covered by TWF

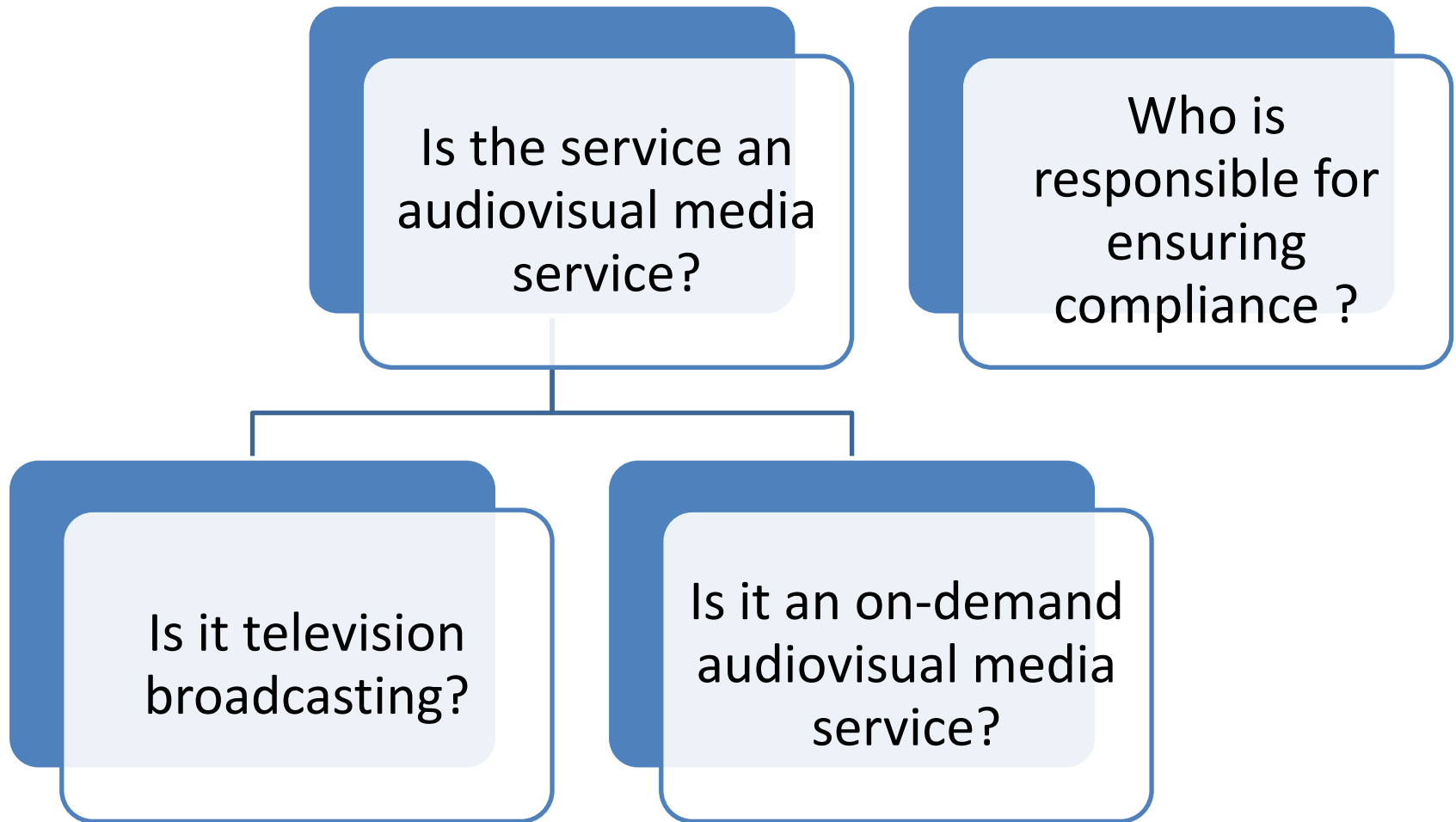


Clearly an information society service (regulated under the Electronic Commerce Directive)



No market access requirement but country of origin principle

Thought process



Audiovisual media service ?

Service consisting principally in the provision of programmes



Under the editorial responsibility of a media service provider



Mainly intended to inform, entertain or educate the general public



Transmitted by electronic communications networks

Television broadcasting?

Audiovisual media service



Provided by media service provider



For simultaneous viewing of programmes on the basis of a programme schedule

On-demand service ?

If viewing of programmes at moment chosen by user and at his individual request

If on basis of catalogue of programmes selected by media service provider

On-demand service ?

‘Mass media’ element (intended for reception by and which could have a clear impact on a significant proportion of the general public)

‘Television like’ (competes for same audience as television broadcasts and nature/means of access implies that users would expect protection)

Classification

Linear service	Non-linear service	Uncertain or depends	Clearly not an AVMS
Live broadcasts received on IP TV or mobile handsets	Video-on-demand (Recital 20)	YouTube type websites	Search engines with video clips
Near video on demand	Catch-up TV	EPGs	Online computer games
Live webcasting/ streaming			Pure user-generated content
			Newspaper websites with video elements

Some national developments

UK

- Government [consultation](#) until end Oct. 08
- Very similar to television broadcasting (v. important element)
- Mainly VOD services (extend to a narrow scope of services)
- Ancillary services covered if general control
- Catch-up services not mentioned specifically but would seem that covered

NL

- Bill expected to be presented before Parliament soon
- Pragmatic approach, give the regulator the power to assess

Some national developments

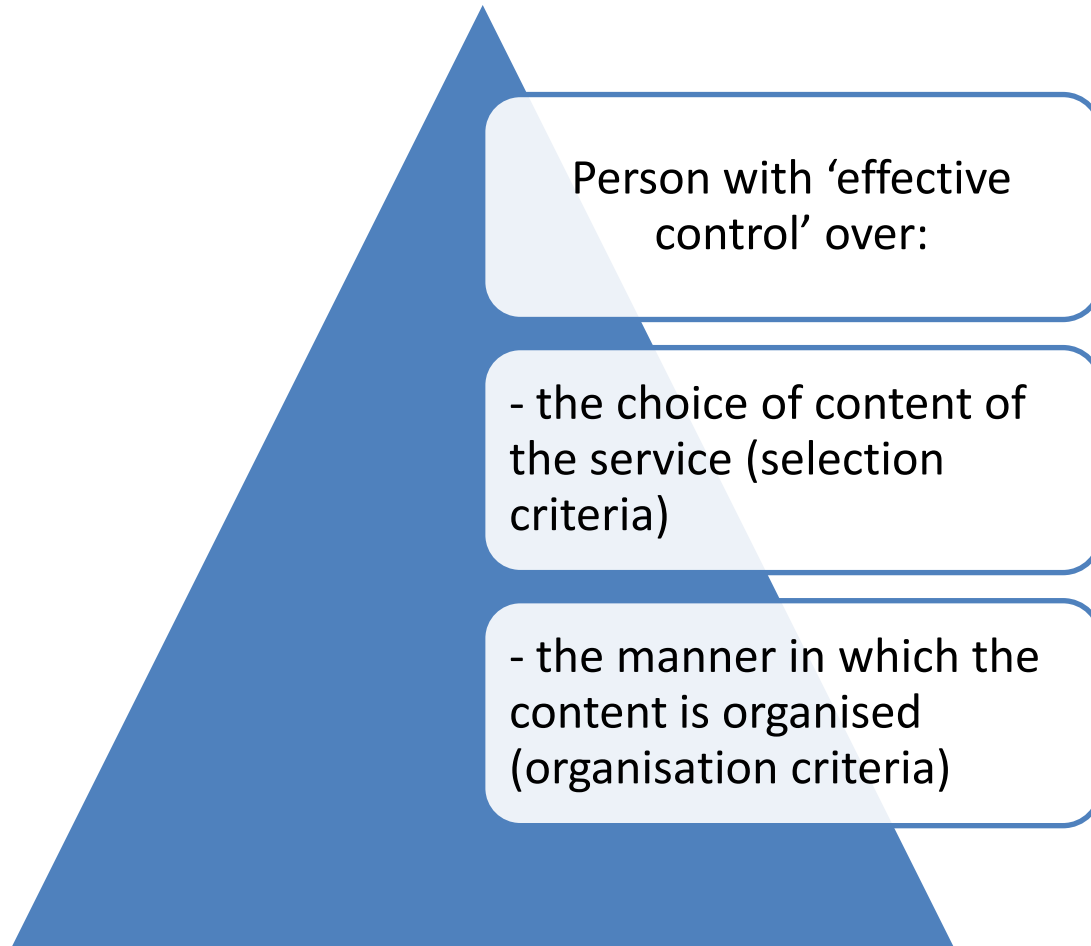
Finland

- Working group [proposal](#) to amend the [Act on radio and television operations 744/1998](#) (bill to be submitted to Parliament in Feb. 09)
- Not websites with user generated content, despite ability to exercise control

France


- [Draft law](#) (Oct. 22, 2008)
- Mainly catch-up TV and VOD
- Not user generated content
- Not content selected and organised by a third party
- Not the storage of audiovisual signals sent by recipients of services
- If parts of the service are not AVMS services, they will not be regulated

Audiovisual media providers

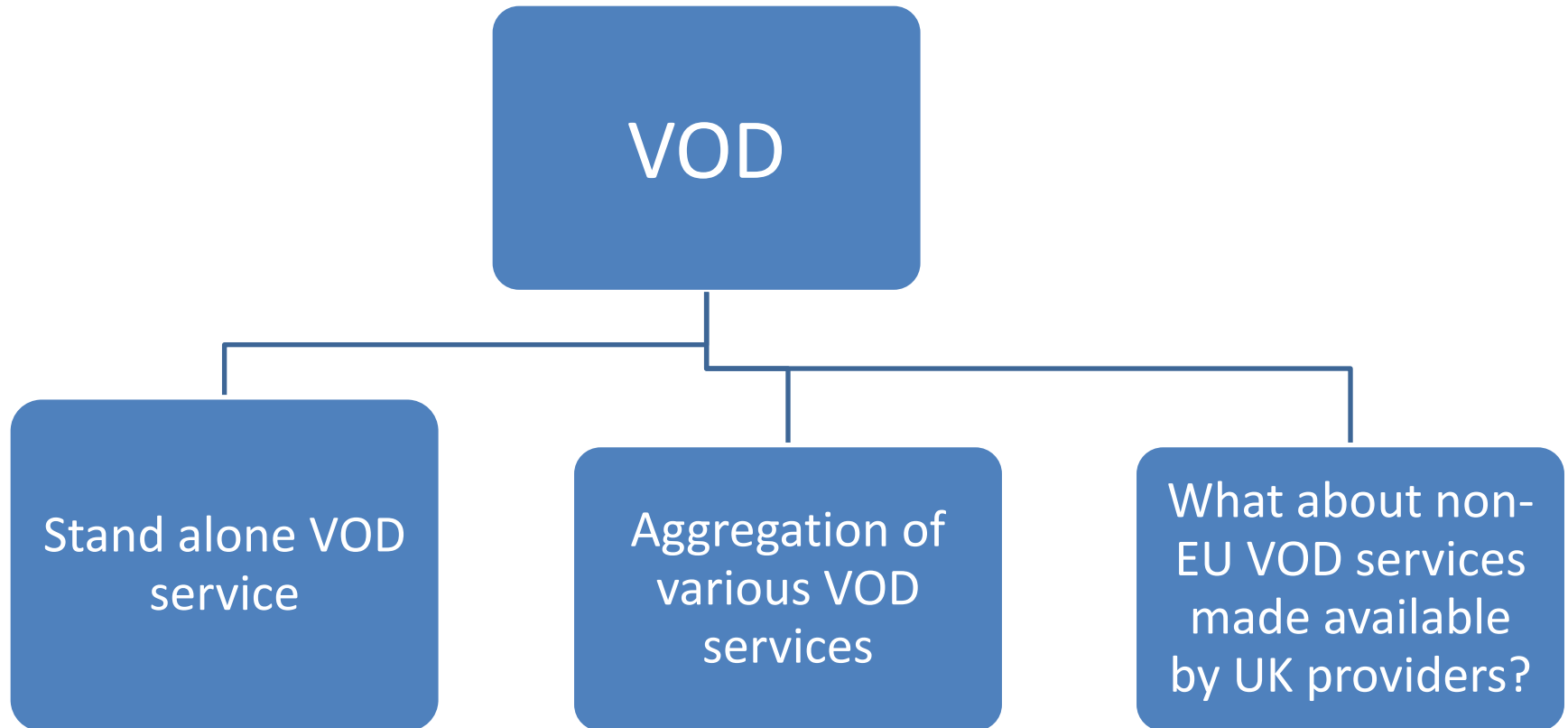


Who are they?

Certainly	Probably not	Uncertain
Broadcasters	Cable transmission	YouTube type platforms
Providers of VOD services (broadcasters, content aggregators, telecom operators)	Mobile transmission	EPG providers
	Satellite transmission	
	DTT transmission	
	Hosting service providers	

 Recital 19 specifies that the definition of media service provider excludes those that only transmit programmes for which editorial responsibility lies with others.

VOD services (UK consultation document)



VOD industry

(based on research of European Audiovisual
Observatory)

Very sharp increase (82% in less than one year)

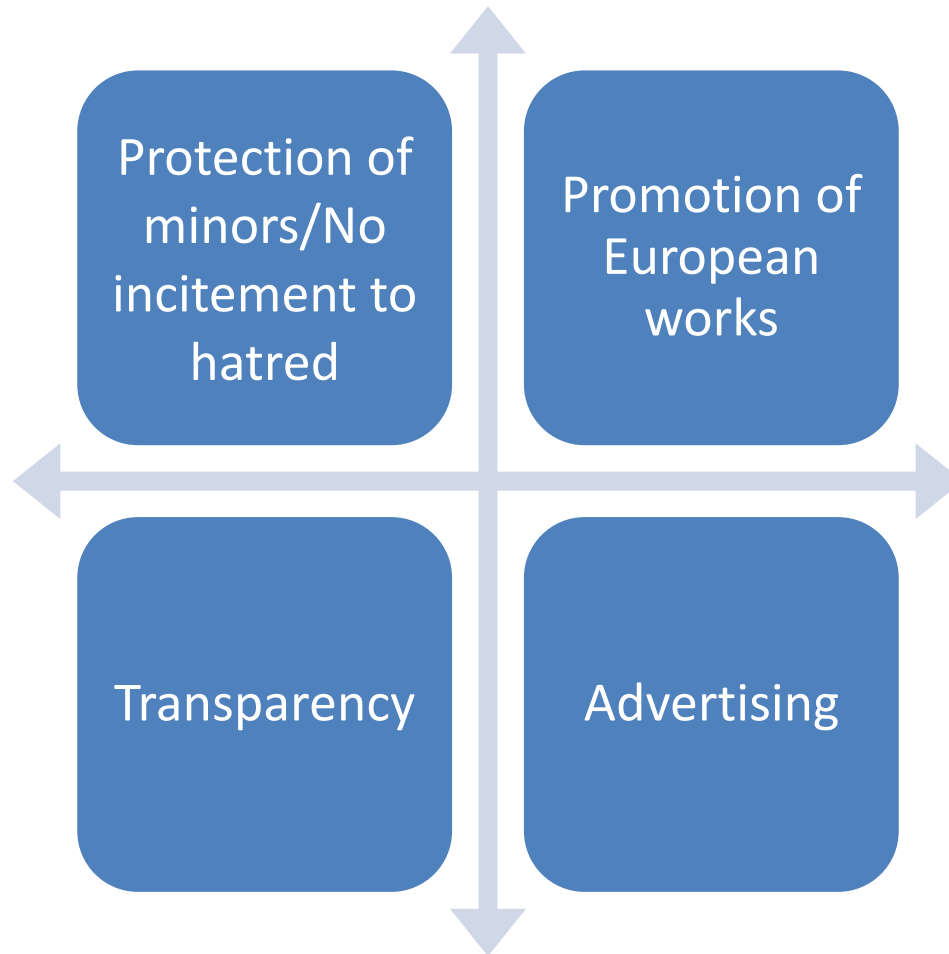
Start 2007: 142 VOD services

End 2007: 258 VOD services

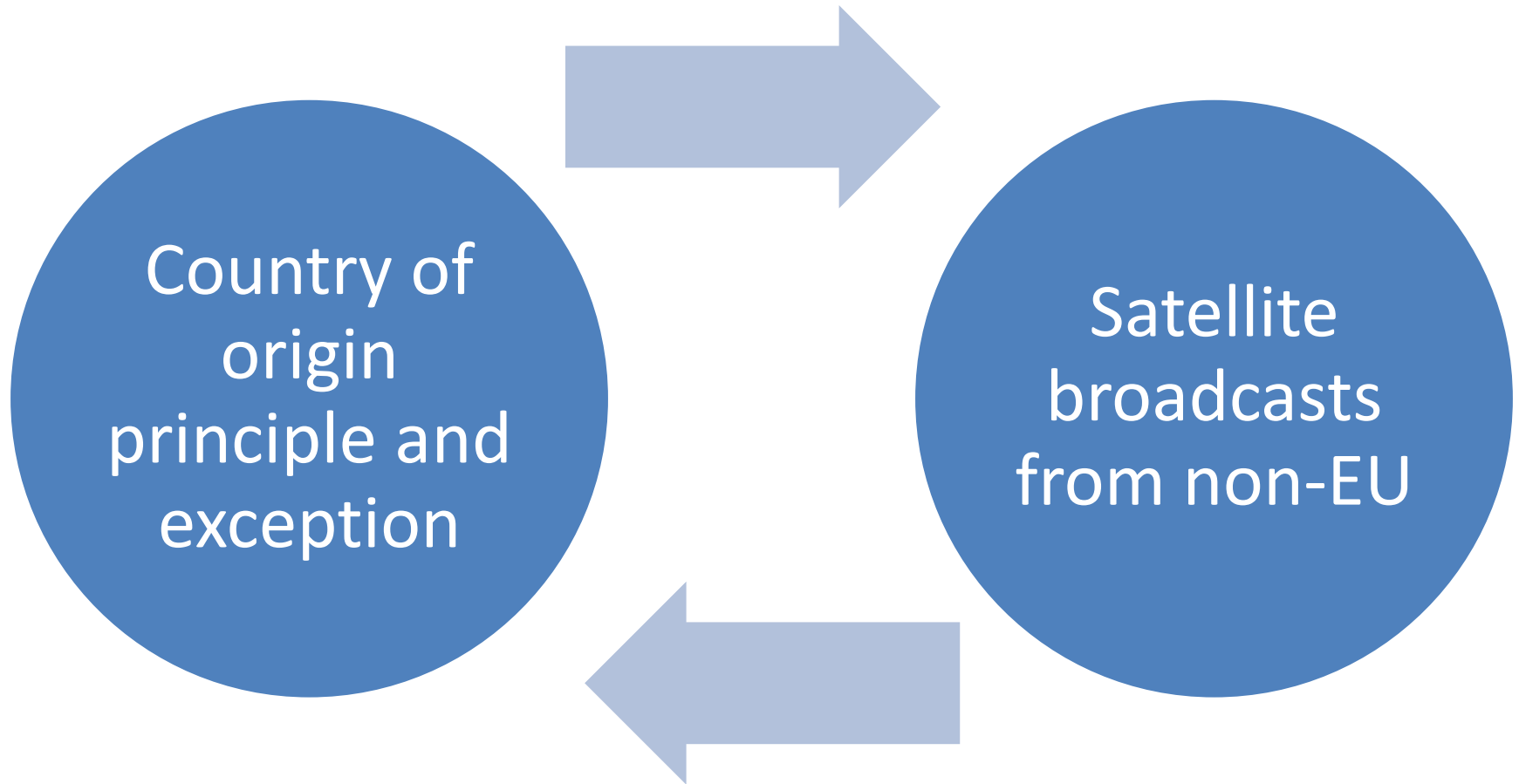
Mainly delivered on the Internet and through IPTV

More than half of the 142 services were offered in NL, France, Germany
and the UK

Minimum level of regulation for on-demand services



Jurisdiction



Country of origin

Freedom of reception and retransmission principle



Extended to on-demand services



Exceptions

Exceptions

Grounds under which MS can restrict AVMS services from other MS vary:

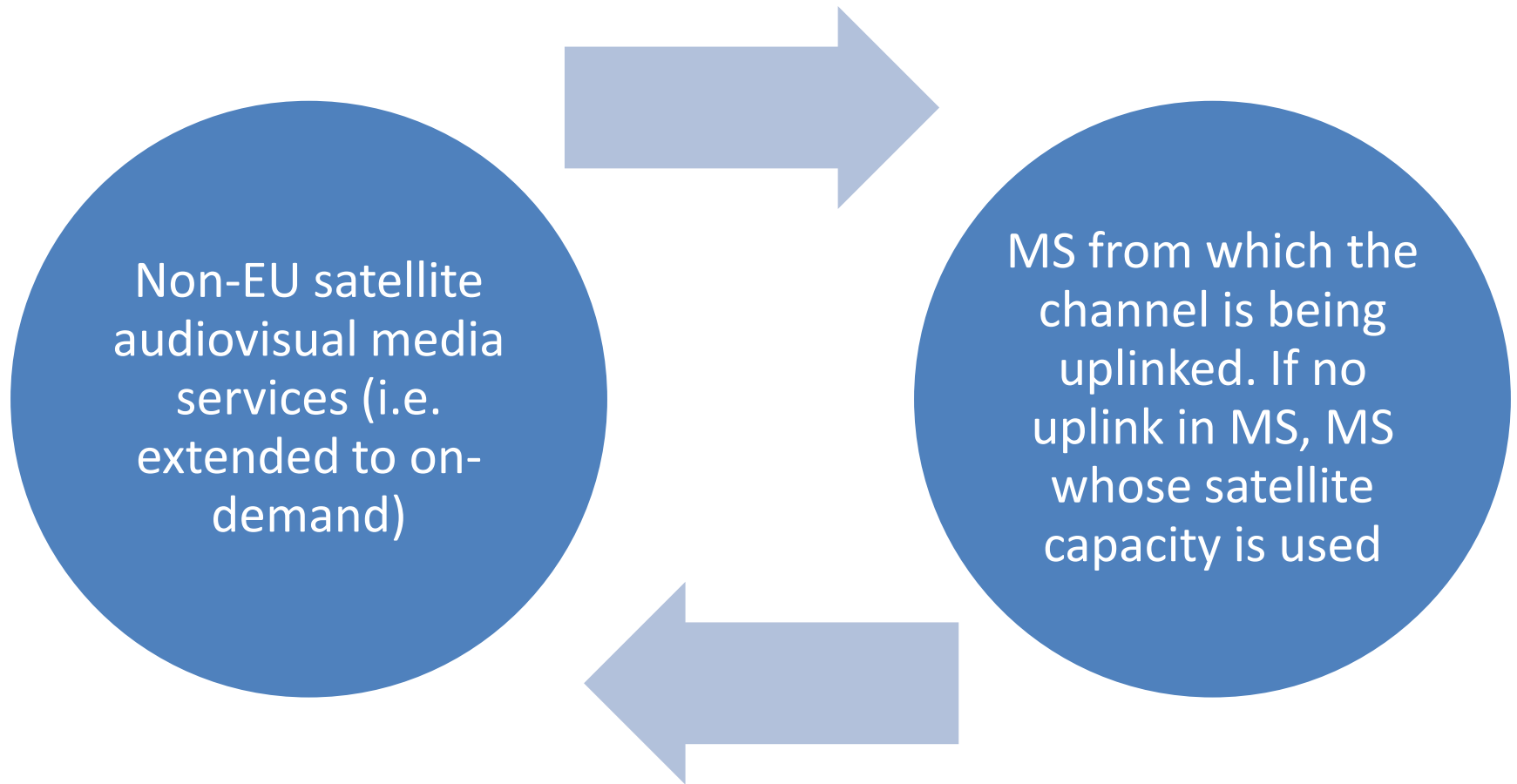
For linear services: Less grounds

If service seriously infringes rules on the protection of minors and prohibition of incitement to hatred.

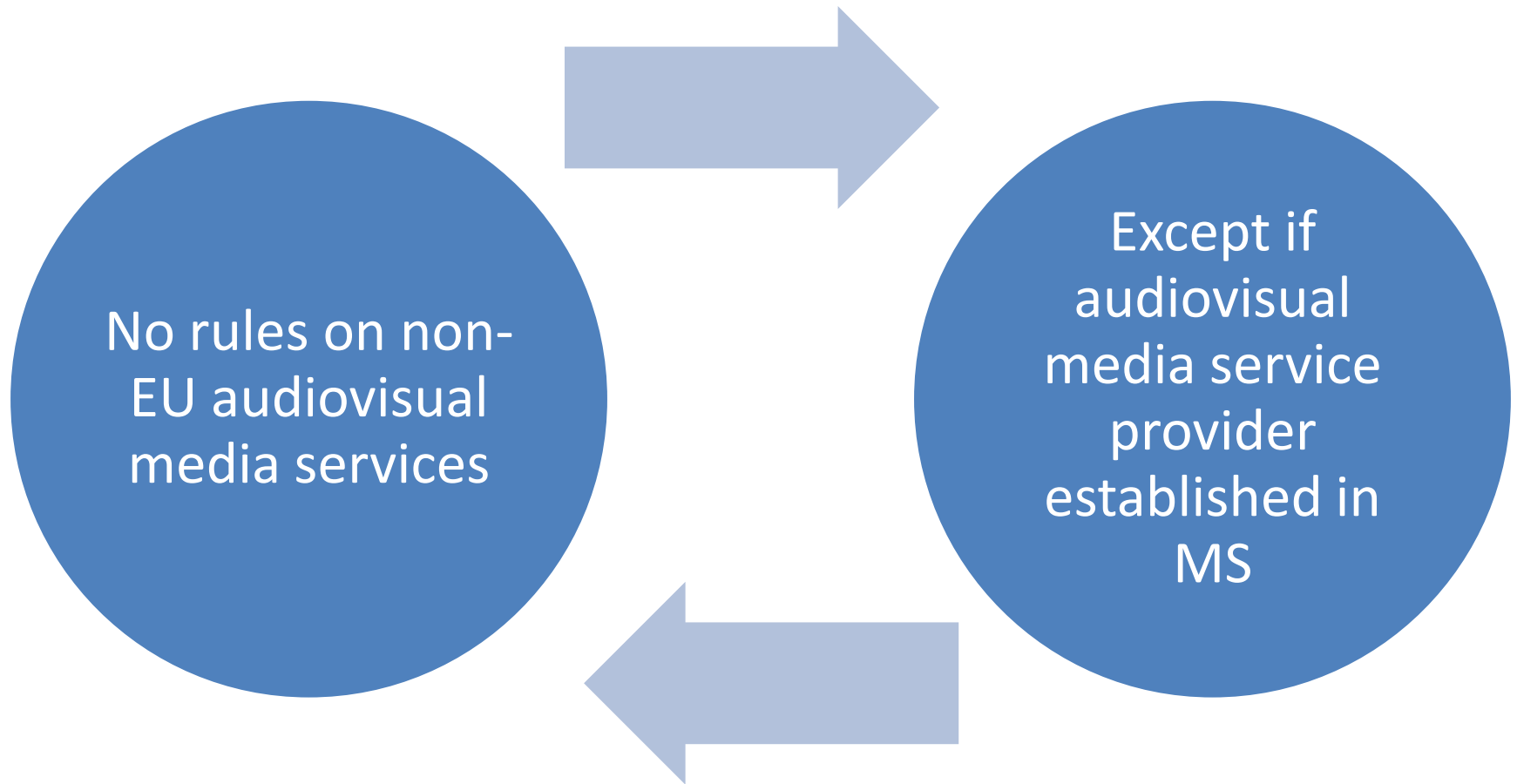
For non-linear services: More grounds

If service seriously infringes public policy, public health, public security or protection of consumers objectives

Non-EU services



Non-EU services



Co-regulation

What the directive says:

Formal system of regulation

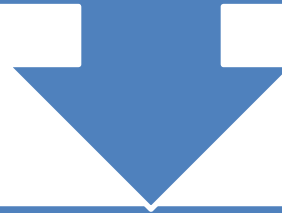
Co-regulation

Co-regulation exists if legal link between self-regulation
and legislation

Should allow state intervention if does not work

The UK consultation

Membership requirement? Funding? Legitimacy?
Offences?



Three possible models

Gov. designates co-regulator and assigns powers

Regulator designates co-regulator and assigns powers: preferred option

Ofcom is the regulator (not really co-regulation)

Member States' room for manoeuvre

