

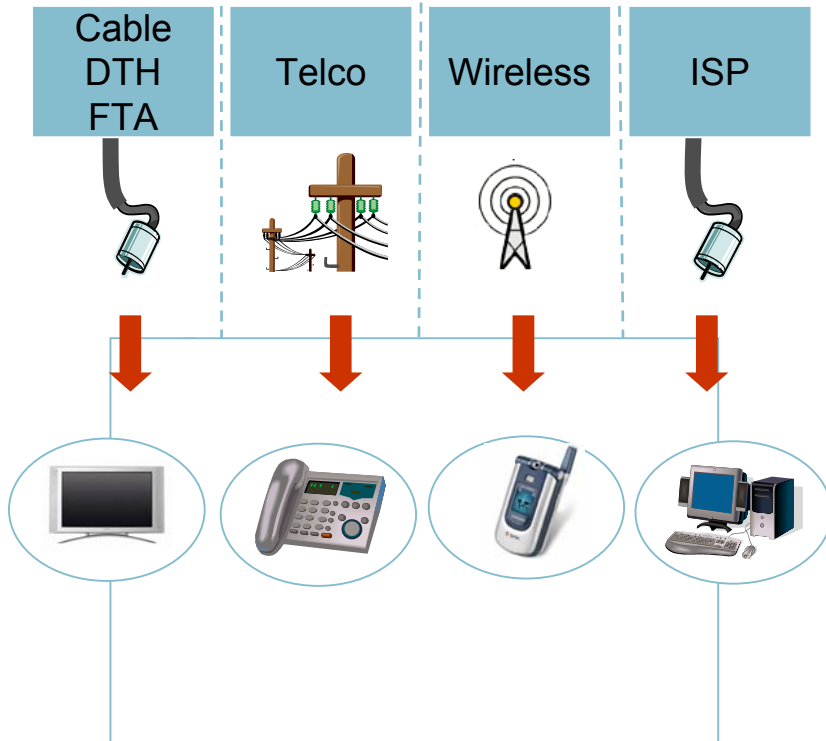


EU rules on the distribution of audiovisual services

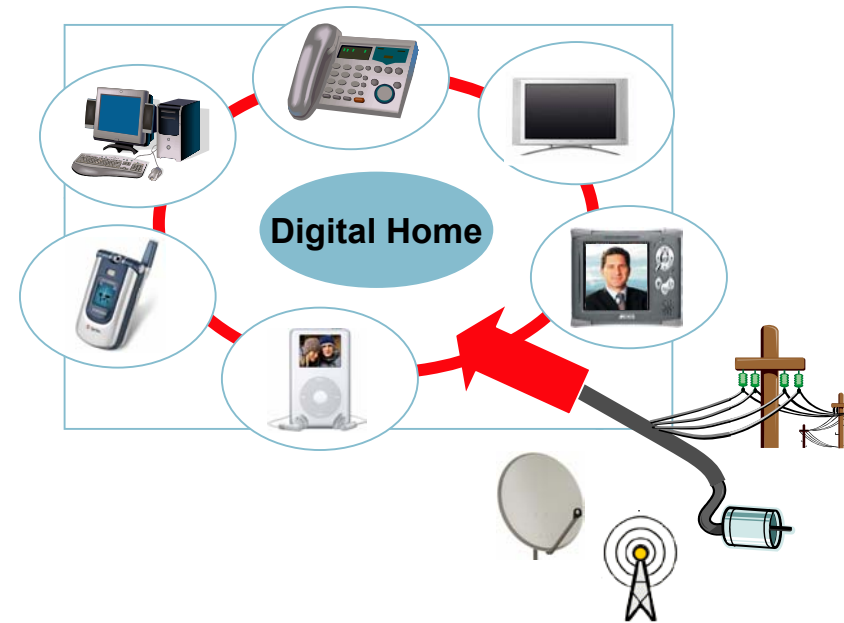
Michael Bryan-Brown, 18 January 2007

Multiple layers of convergence

Yesterday *Silos into the Home*



Today *Convergence of Services, Networks & Devices*



Multiple layers of divergence

TVWF/
AV media services directive

2003 package

E-commerce Directive

The 2003 package

- **To what degree are audiovisual services included?**
- **Various aspects are clear from Article 2 of the Framework Directive**
 - All networks, even those used for broadcasting, are Electronic Communications Networks
 - The majority of “traditional;” telecommunications services, voice telephony, internet access and so on fall squarely within this definition of Electronic Communications Services and, so, within the 2003 directives
 - The distribution of broadcasting signals within an Electronic Communications Network, referred to as “*transmission services in networks used for broadcasting*” is within the scope
 - The regulation of content is not within the harmonizing regime of the 2003 since Electronic Communication Services do not include, “*services.... exercising editorial control over, content transmitted using electronic communications networks and services*”.

Ambiguities of the 2003 Package

- **Recital 20 of the Authorisation Directive:**
 - *The same undertaking, for example a cable operator, can offer both an electronic communications service, such as the conveyance of television signals, and services not covered under this Directive, such as the commercialisation of an offer of sound or television broadcasting content services*
- **Seems consistent with the Television Without Frontiers Directive**
- **But:**
 - Must carry
 - Conditional access
 - Accessibility of digital tv
- **Even in a “traditional” area the boundaries are blurred....**

The position of cable tv operators

- **The basic service of a cable operator**
 - It installs and maintains the cable network.
 - It distributes tv programming within that network
 - It allows the customers to watch tv
- **Normally (although not always) against a single-part tariff**
- **How are these activities regulated? Does this accord with the physical reality?**
- **Will these issues be the same for mobile and IPTV?**
- **Technology neutral regulation but:**
 - Copyright
 - Must carry

Towards new services

- **Mobile tv and IPTV**
 - Do new distribution technologies raise new issues?
 - Is the key change new services?
- **VOD and NVOD: *Mediakabel* case**
 - Very similar services; very different regulation
 - Some inconsistent application across the community
- **Interactive services**
 - What is a portal?
 - When are services “on demand”
- **Liability Issues**
 - Mere conduit
 - New intermediaries
- **Linear channels in an on-demand world**