

Effective functioning of Regulatory Authority in Sweden

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Introduction

I have been asked to give a brief presentation on the monitoring system in Sweden and put focus on the monitoring of on-demand services.

Before diving into the core issues of this session, I would like to start by giving you an idea of the nowadays quite immense amount of audiovisual material which our authority is expected to monitor. I will then move on and say a few words about what resources we have available in order to fulfill our mission. (I can reveal to you already right from the start that it is by no means possible for us to examine all audiovisual content available out there.) One of the problems we face is how to prioritize. I will explain how we are thinking in this regard. Finally I will say just a few words about our Memorandum of Understanding with Ofcom and how it has ensured that UK registered channels targeting Sweden, which have nearly 20 percent of the viewers, are subject to better control.

The audience and the market

Sweden is a rather small country with a population of 9.4 million people. In nearly all Swedish homes there is at least one TV-set. It is however becoming more and more common to watch TV in other ways. In 2010, 23 percent of the population between 9 and 79 years had access to - and the possibility to - watch TV via internet and 9 percent were able to watch TV on their mobile phone or iPod. In average, people between 9 and 79 spend more than 1,5 hours and 1 hour and 15 minutes on the Internet. However, young people between 15 and 25 clearly favor the Internet.

As regards linear services there are six public service channels, subject to more restrictive content requirements. The number of Swedish commercial services

amounts to around 20 in the terrestrial network. There are also several local channels.

Non-linear services

Providers of non-linear services are obliged to register at the Broadcasting Authority. Two days ago a total of 13 operators had notified that they were providers of non-linear services. The Authority has not yet examined whether or not they indeed are providers of non-linear services in meaning of the Directive, but we have reasons to believe that at least some of these 13 should not be registered at all.

One of the problems we have faced - and I understand that we are not alone - is to find all the non-linear service providers. Last year we ordered a report from an analyzing and consulting company specialized in IT, Telecom and Media, Stelacon AB. We commissioned them to make a survey of the players of the Swedish market for non-linear services, describe the services provided and evaluate whether these services were indeed non-linear services in the meaning of the Directive. Stelacon observed that it was impossible to overlook the number of on-demand services available. If focus should be put on TV-like services the services could however be numbered. But it was of course difficult to decide which services were TV-like and which were not. Stelacon did however conclude that the number of media service providers were considerably more than 13. When interviewing the operators on the market it was clear that the knowledge about the requirement of registration and the AV-directive was very low. The Broadcasting Authority do need to inform about the new regulation.

Stelacon provided us with a list of services that they believed fell under the scope of the Directive. The list contained services from traditional broadcasters, film distributors and cable distributors. Stelacon also identified that audiovisual services were offered by newspapers, but was of the opinion that these services were not on-demand services because audiovisual material were not the newspaper companies' main service.

The authority is however not convinced that the audiovisual content provided on the some of the newspapers should not be registered, so we have written letters to these companies explaining the regulation and the obligation to register should they regard themselves as providing on-demand services. In case they do not regard themselves as on-demand media service providers we ask them to explain why. In total we have been contacting around 50 operators.

It is too early to evaluate the result. But as a curiosity I can mention that not all operators have been willing to cooperate.

Under the Swedish domain www.webbtv.se someone offers a catch-up service portal where it is possible to watch the most popular programs from SVT and TV4 as well as from the UK registered TV3, Kanal 5, TV6 and TV8. When the authority contacted them at the only address available, info@webbtv.se, we got the sole reply: "Are you kidding?" So there is still a lot of work to do.

Monitoring and resources

The Swedish Broadcasting Authority consists of 3 departments. Content regulation is handled by the Department of Supervision, which consists of eight people, that is the head of the department, one legal adviser and six administrative officials. A rough estimation is that the cost for the staff in the department dealing with content regulation – both linear and non-linear – would amount to around 800 000 euro a year.

The Swedish monitoring system is based on complaints. The Swedish public is rather well informed and active in that regard. Between 1 August 2010 - when the authority was established – and 4 October the Authority received 2057 complaints. Five of those regarded on-demand-TV. The Authority may also take initiatives and decide on ad hoc examinations. This is done especially for areas of monitoring where there are fewer complaints, for example sponsoring and advertising.

Before the merger, the Broadcasting Commission was more or less obliged to make a statement on all programs that were subject to a complaint. This took, of course, a lot of our time and resources. Also in almost 95 percent of the decisions, the program complaints were not upheld. In the meantime, we had little resources left to take own initiatives and monitor programs which were more likely to be in conflict with the code.

We feared that it would be impossible to continue this system where we at least in practice monitored programs following complaints only, especially taken into account the challenges we faced due to the AV-directive.

The solution was to obtain new instructions from the Ministry. We now have received clear instructions that monitoring following complaints from the public shall in the first place regard those complaints which examination will contribute to an effective control and observance of the law. This means that a complaint does not have to lead to an examination of the program, if it is clear

that there has been no violation of the rules or if an examination is not of importance for the application of the law or of principal importance. A complaint must however always lead to an examination of the program if it concerns privacy issues or of direct interest to a featured company.

If the complaint is not examined, the complainant is informed in a letter. Approximately one third of the complaints are handled this way.

This new procedure will, hopefully, enable us to concentrate on such examination which is of greater importance.

Among other things we intend to take initiatives to examine on-demand-services and see how they respect the rules on undue prominence, advertising and protection of children.

Memorandum of understanding

Finally a few word about our cooperation with Ofcom. As I mentioned earlier, the UK registered channels have nearly 20 percent of the audience market. In 2007 we managed to make an agreement with Ofcom on how to cooperate and handle complaints towards these channels. The procedures are very simple, at least for us. We do not examine the complaints at all, we simply forward them to Ofcom and the complaints are then handled in accordance with Ofcoms procedures. When Ofcom decides on the complaint we are informed about the decision. I would estimate the number of complaints forwarded per year to around 20. It is our experience that it all runs very smoothly and that we have obtained results. At times Ofcom agrees with the complainant and asks the broadcaster for an explanation. Viasat has been warned a few times, but there have to my knowledge been no sanctions yet.

We are very glad that we can offer the viewers in Sweden this service. Also, commercial channels in Sweden who competes on the same viewer market are satisfied, since it may distort the competition if only the Swedish channels are subject to monitoring.