



# How far should we regulate new media services?

## Some introductory thoughts

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# Why regulate? Reasons from the past

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## Regulation of broadcasting...

- National Regulation pursued a variety of *policy objectives*
- Television without Frontiers Directive (Convention on Transfrontier Television) to address *cross-border* issues



# Why regulate? Past reasons to expand regulation

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## **...via AVMS Directive to include TV-like services**

- Level playing field
- Relax scheme for TV
- Accommodate future (technological) developments
- Promote self-/co-regulation



# Why regulate?

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**...and why should we go further today?**

Policy reasons?

Cross-border issues?

Other?

## Example: Pornography

<b>Pornography</b>	AVMS Directive audiovisual media services	Rules that apply to all media?
Illegal content	Banned	Several Conventions ban child pornography
Violent and extreme	banned on <b>TV</b> on <b>TV-like</b> media OK if minors normally can't see/hear	
Other	on <b>TV</b> OK, if minors normally can't see/hear	

# Horizontal interests argument

## More/different regulation?

THINK OF	Pro	Contra
Protection of <ul style="list-style-type: none"><li>•minors</li><li>•consumers</li><li>•minorities</li></ul>	Reasons for content regulation apply to all media	
Promotion of <ul style="list-style-type: none"><li>•Media as forum for democracy</li><li>•European works</li></ul>	Public goals should be fostered irrespective of the media	
Regulation as setting content standards	Different content regulation is a result of monitoring/ enforcement problems not of regulatory goals	<b>But if you can't monitor/enforce why would you regulate?</b>

# Constitutional / Fundamental Rights Debate

## More/different regulation?

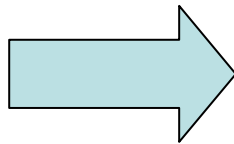
THINK OF	Pro	Contra
Scope: linear/non-linear/other av services	Chance to achieve equal treatment for all av services that enjoy the same rights and may be subjected to the same limits	Pandora's box, all mass media must then be included (eg. e-newsletters, radio, non-commercial)
Regulatory intensity (so far graduated)	If you accept need for regulation, simplify the system, get rid of "arbitrary" categories	You can't because of the proportionality requirement



# Testing the need and concluding

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1. Many traditional reasons for regulation persist
  - Technological neutrality remains a challenge
  - Transfrontier nature of new media is harder to address because many services are established outside of Europe
2. More focus on consumers/users
3. Other areas of law are of limited use for addressing specific media issues.



Will Fundamental Rights  
stop the regulator?



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For further information:  
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