

Future Models of Media Regulation

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TBILISI



Setting the scene

- Budva, June 2014: key players + regulators
 - Secure fair access to both content and access platforms
 - Level playing field between different market stakeholders and global non-EU players
- Tbilisi: exchanges only between regulators on expected responses to practical issues + experience with new forms of media distribution
- Context
 - a wealth of questions, cfr. ERGA scoping paper on material jurisdiction
 - Current challenges for regulators
 - Do public policy goals still remain valid in the digital environment?
 - Linear vs. non linear
 - Consumers' expectations: protecting vulnerable groups (children) + rely on trustworthy information - see Ipsos Mori study commissioned by Ofcom, *Protecting audiences in a converged world*



Practical examples

- ❑ AVMS criteria in the qualification of new services: persistent interpretation issues with concepts of editorial responsibility and principal purpose
- ❑ Commercial communications - monitoring on VoD platforms (CSA Be)
- ❑ Product placement in VoD services (FICORA FI)
- ❑ Competence issues owing to the principle of country of origin – OTT players
- ❑ Human dignity – beheading scenes – status of hosting platforms (mere conduit) claimed by video sharing platforms

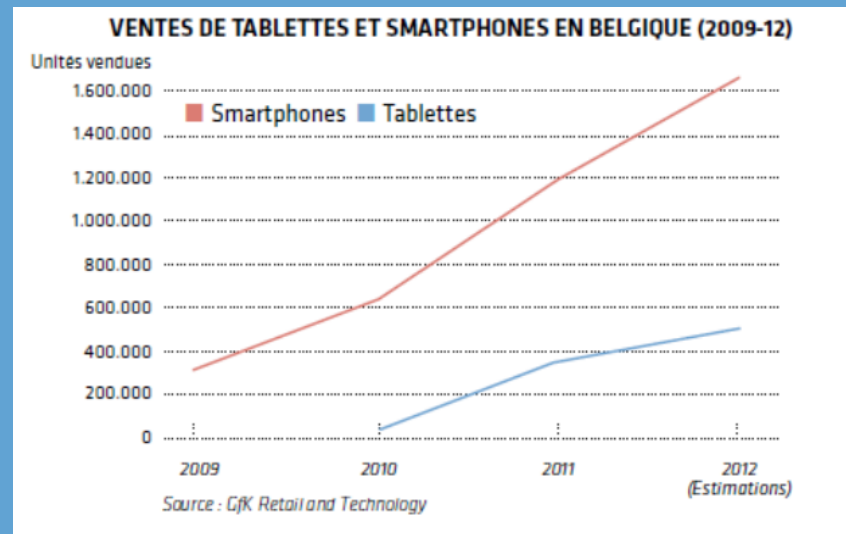


A Belgian story



3 cultural communities – 3 governments for cultural matters – 3 ministers for culture
4 regulators - 11 millions inhabitants

Use of catch-up and VoD services: **200%** increase during the years 2010-2012 in Bel.



Netflix story in Be

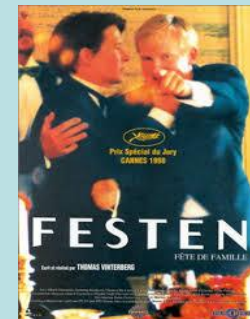
Sept. 19th, the launch, the party



Oct. 1 - one stop shop meeting



What about the promotion of European works?



Belgian top 20 of smart TV apps

Top 20 listing for BE – 2013 (all year) *			
Position	App name	Position	App name
1	You Tube	11	MovieMe
2	Web Browser	12	Spotify
3	Skype	13	Moviemax Online
4	RTBF	14	Angry Birds
5	Fitness videos	15	La Dernière Heure
6	Facebook	16	7 sur 7
7	Explore 3D videos	17	The Football app
8	Kids videos	18	Verkeersinfo
9	Buienradar	19	vTuner radio
10	Het Laatste Nieuws	20	De Morgen

Source: Samsung report, April 2014



Towards a graduated editorial responsibility for video sharing platforms?



- Do video sharing platforms still play a passive role when:
 - they actively promote (user generated) content depending on their users' profiles?
 - make recommendations based on their customer preferences?
 - hold the right to modify these contents?
 - derive advertising revenues from the views?

- Terminals increasingly offer equivalent viewing experience to consumers who can hardly notice the source of the content, whether being provided through a TV channel or through the internet.
- Customers expectations as regards protection rules tend to be similar in the non linear environment



Next steps - IF

IF regulators & legislators ...keep promoting values embedded in the AVMSD – kind reminder: culture is part of our European identity; what happens without cultural diversity?

...Want an equivalent protection system in the digital environment

....Foster a non discriminatory approach of regulation towards players providing similar services, regardless of their distribution mode

.....Want to ease customers' access to content



The Review should...

- ✓ Create a new category of distributors which would include all players distributing AVMS through any platform
- ✓ Empower NRAs to act in case of gate keeping behaviour through Art. 5,1, b) Access Directive
- ✓ Consider incorporating the German approach which allows regulating access to dominant platforms
- ✓ Reconsider the exemption from liability for hosting platforms established in the E-commerce Directive – Articles 12 to 15 - and Recitals 21 and 25 of the AVMS Directive
- ✓ Adapt the concept of editorial responsibility so that it would be more flexible, taking into account the degree of editorial intervention by digital intermediaries
- ✓ Harmonise the regulatory regime for linear and non linear services
- ✓ Adapt or provide for a derogation to the country of origin principle, at least for culture – this principle is not applied for VAT and copyright licences either
- ✓ Explore the concept of virtual head office

