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Institution-driven Competition: The Regulation of Cross-border Broadcasting in the EU

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ABSTRACT

This article examines the deregulation of cross-broader broadcasting to test its impact on strategies pursued by EU member states. It modifies our understanding of regulatory competition through an institutional explanation of the process. The European Union's Television Without Frontiers (1989) Directive provided a framework for regulatory competition in television broadcast markets. Despite a high level of investment flight, member states did not automatically respond with deregulation but were compelled to do so by the European Court of Justice. Therefore national deregulation in this field was not a natural response to the preference of economic actors or an objective of state policy; it was driven by the European institutions.

The European Union's Television Without Frontiers (TWF) Directive[2] facilitated a framework for deregulation in television broadcast markets. European deregulation began in traditional utilities industries such as telecommunications, energy and transport. Now deregulation at the European level is moving to new areas such as broadcasting, the internet, electronic commerce, etc, with digital technology putting an end to spectrum scarcity. Deregulation refers to the removal of state controls on a particular industry activity. In the case of broadcasting, as discussed in this article, it refers to restrictions on the broadcast of content and advertising. Deregulation is additionally meant to reduce the level of government within a particular sector. Accordingly, Television Without Frontiers was seen by some as an opportunity to lessen government control over broadcasting and create a genuine competitive market. As television signals can easily cross borders, companies can continue to profit from home markets if they establish or move headquarters abroad to take advantage of more favourable regulatory environments. For this reason, the case of cross-border broadcasting is well-suited for the observation of regulatory competition in Europe.

In a special issue of the Journal of Public Policy on regulatory competition, Radaelli (2004: 19) suggested that the literature pay less attention to ‘elusive notions of ‘‘races’’, ‘‘top’’, and ‘‘bottom’’, drop the emphasis on ‘‘final directions’’, and pay more attention to the actors and processes of competition’. The articles in the issue took into account intervening variables other than states and companies which affect competition such as legal norms, pressure groups and trade restrictions. This article follows this recommendation. But rather than finding that regulatory competition is governed by a constellation of different intervening variables, one factor is overwhelmingly important: the actions of the European institutions.

Following Bulmer’s definition, institutions are understood to be ‘formal institutions; informal institutions and conventions; the norms and symbols embedded in them; and policy instruments and procedures’ (1998: 370). The article deals specifically with the formal institutions of the European Union, namely the Commission (EC) and the Court of Justice. Under historical institutionalism, the European institutions, particularly the EC, are seen to make active contributions to EU governance. Accordingly, in this article, the European Commission is seen as proactive and cognizant in its use of regulatory competition. It promotes regulatory competition as a tool to remove restrictions on markets. Those who drafted TWF and other internal market initiatives saw deregulation as leading to the establishment of a level playing field, increased competitiveness, and the consolidation of broadcast markets. This is clear from European Commission reports leading up to the Directive and its 1997 revision (Booz-Allen and Hamilton 1992; Sanchez-Tabernero 1993; Vittet-Philip 1996), which echo reports from other national and international institutions, such as International Institute of Communications, the OECD, and UK-based think tanks (Veljanovski 1989; OECD 1992a, 1992b, 1993; BSAC 1995; Poullet 1995; MacLeod 1996; Garnham 1990, 1996; Collins and Murroni 1996). Following economic logic, the idea is that an optimum level of regulation would be reached at national levels as a result of fair competition in a single European market. The TWF Directive followed a political mandate set out in the Single market programme to induce downward pressure on regulation. With TWF, the European Commission produced a policy to promote regulatory com petition which was consistently reinforced by the European Court of Justice.

Getting the concept right: understanding regulatory competition

The literature has traditionally viewed regulatory competition to be either a consequence of the actions of states or the preferences of companies. Conventional theories of the 'race-to-the-bottom' or 'race-to-the-top' assume that governments will engage in regulatory competition when capital is mobile and economic actors are able to engage in regulatory arbitrage. Regulatory arbitrage occurs when a company chooses to relocate to a country with the most favourable regulatory environment away from its home jurisdiction. Other states deregulate in the attempt to re-attract investment.

Regulatory competition can lead states to either relax regulatory standards resulting in a 'race to the bottom' or increase them commencing in a 'race to the top'. The term race-to-the-bottom was coined by Cary in his article on Federalism and Corporate Law (1974: 705). Cary observed how the small US state of Delaware was creating a favourable regulatory environment to attract corporations in order to increase tax revenue. What is significant about the article is that Cary drew our attention to the fact that Delaware had adopted its objective as official *state policy*. Cary quotes the Delaware Corporation Law Revision Commission of 1967 as stating 'the favourable climate which the state of Delaware had traditionally provided for corporations has been a leading source of revenue for the state . . . The General Assembly . . . declares [this] to be the public policy of the State . . .' (Cary 1974: 663). In this case, it was the state that triggered regulation competition. The race-to-the-top phenomenon was first observed by David Vogel in a study of Californian environmental legislation. Vogel (1995) argues that federal market integration can lead to the strengthening of state product standards due to domestic industry pressure for protection. In this case, it is *industry*, not the state, which drives regulatory competition.

Rather than predicting upward or downward trends, US economists have argued that federalism facilitates regulatory competition between companies to aid market efficiency. Economists tend to view competition as emerging naturally as a result of capital mobility in an integrated market (Romano 2005). In this way, regulatory competition is seen to be a natural process driven by market actors. Sun and Pelkmans (1995) argued that, as EU mandates do not find the most efficient solutions to regulatory problems and are often ineffective, regulatory competition could be used as an alternative to harmonisation of national rules by the EU institutions in order to achieve optimal levels of regulation. Following this logic, the European Commission is encouraging regulatory competition as a tool for finding the 'optimum level' of regulation. As Radaelli has pointed out, the European Commission wants *more* not less regulatory competition, as '*smarter* regulation, and *greater* competition are instead considered the pre-conditions for a more dynamic EU' (2004: 4). This, he states, is clear from a number of Competitiveness Reports published by the European Commission and business community in recent years.

Reporting on the evidence: regulatory competition in the EU

A number of studies were conducted in regulatory competition in the EU. Scharpf (1994) and Streeck (1996, 1997), predicted a race-to-the-bottom in regulatory standards arguing that European economic integration would strengthen capital interests vis-à-vis societal and labour interests. Streeck (1996: 85–90) anticipated competitive deregulation leading to a race to the bottom in labour standards and social policy. By contrast, the early legal literature on the EU theorised that regulatory competition could spur mutual recognition and closer European integration (Reich 1992) and even lead to a race-to-the-top (Padoa-Schioppa 1987).

Following these theoretical forecasts, a number of empirical studies were published the foci of which were the functioning of integrated markets, company preferences and the role of the state. Despite predictions of negative integration by Scharpf and Streeck, most empirical studies find little evidence of downward pressures on regulation, but point to harmonisation or race-to-the-top movements. An issue of the Journal of European Public Policy edited by Scharpf (1997) tackled a number of policy areas and found downward pressure on national regulation to be negligible. In this issue, Vogel (1997) found that in Europe 'fears about a ''Delaware effect'' regulatory race to the bottom are unwarranted'. In particular, the EU played a salient role in 'both co-ordinating and strengthening environmental standards among its fifteen member states' leading to a race to the top. Eichener (1997) found in his study of occupational safety that the threat of downward pressure can be overcome through European regulation in which 'the highest regulatory level can be achieved' through EU decisionmaking. Joerges and Neyer (1997) similarly argue that race to the bottom scenarios are overcome by 'administrative supranationalism', which they see occurring in EU comitology committees. Heritier's conclusion is that European policy was a mere 'invitation' to revise domestic policies in regulating road haulage, but did not compel states to deregulate. Deregulation, she argues, was a response to domestic pressure upon which European influence was inconsequentional. An edited book by lawyers (Bratton, McCahery, Picciotto, and Scott 1997) found similar results.

Woolcock argues that there is no evidence of downward pressure due to regulatory competition in the EU. This is because rules are set at the European level, through Directives and Regulations, at the point when markets are integrated. Woolcock makes the case that the existence of a 'blocking minority of certain key member states' maintains regulation at a relatively high level (1997: 317). Further studies in the book demonstrate the complexities in generating regulatory competition. Moffat (1997) shows that regulatory competition does not occur in the private pension market because national regulation is very complex with a high number of interests involved. In waste packaging, Paul (1997) argues that EU harmonisation through the 1994 Directive on Packaging halted the danger of a race to the bottom by allowing for a stricter level of regulation in some Member States and preventing regulatory competition amongst others. Colin Scott (1997) argues that regulatory competition has not been present in telecommunications policy, because the policies are either 'new' or constitute re-regulation at the national level. Since telecommunications policy is made, in the first instance by the European Commission, there is no opportunity for Member States to develop distinctive regulatory regimes.

Similarly, on the phenomenon of regulatory arbitrage, Romano finds that 'reincorporation costs in Europe make corporations immobile' (1997: 21) due to the complications of tax and human capital. In her study, Barnard (2000) argues that relocation in the EU is low due to the dissimilarity in European legal systems, which have a greater bearing on a company's choice than regulation. McCahery and Vermeulen (2005) argue that arbitrage is little changed since the EU was established because the Member states 'were determined to prevent the "Delaware-effect" '.

Contrary to the studies outlined above, this article finds that both downward pressure on and regulatory arbitrage in broadcasting markets are high. This pressure is not driven by the state or industry but by the actions of the European institutions. There is little evidence of harmonization or a race to the top in EU broadcasting regulation. Rather, the political mandate of the European institutions is one of deregulation. It is precisely those rules made through Directives and Regulations, which are the subject of competition.

Television Without Frontiers as a case study

The 1989 European Union Television Without Frontiers (TWF) Directive provided a framework for capital mobility within the EU for firms which were previously confined to national markets – television broadcasters. The goal was chiefly to encourage (via deregulation) the exploitation of new technologies (initially cable and satellite broadcasting) and create strong European companies able to compete globally. By defining television signals as services which required free movement within the internal market, TWF paved the way for cross-border transmission via satellite and cable. According to TWF, a broadcaster could only be regulated by the country of origin and not by the country of reception. This principle was derived from European Court of Justice (ECJ) rulings in the 1970s and 1980s.

The TWF Directive created the preconditions for market-driven regulatory competition between EU Member States. But how did states react? In light of the literature on regulatory competition, this section discusses (1) whether states engage in regulatory competition when an internal market is created (2) whether states are reacting to preferences of economic actors when deregulating (3) whether broadcasting companies respond to deregulation by relocating their headquarters (4) whether further states enter the game when faced with regulatory competition and (5) whether a perception of a 'race to the bottom' has triggered harmonisation in the form of EU regulation or regulatory cooperation between states outside the EU legal framework.

In the presence of near ideal pre-conditions for aggressive regulatory competition, only two EU Member States, the UK and Luxembourg responded with deregulation. These two states did not (initially) deregulate to attract companies from abroad, but rather to promote domestic companies which had close political ties to domestic governments. Since the TWF Directive's enactment, 'investment flight' towards these two jurisdictions is shown to be high. This is directly linked to the attractiveness of those states with reduced regulatory requirements. This adheres to the original theory on regulatory arbitrage. Hence, in contrast to existing empirical studies in other sectors, this article finds that there is a relatively high degree of company relocation in the EU.

However, regulatory arbitrage did not drive regulatory competition beyond the UK and Luxembourg. Member States have resisted downward pressures on regulation. However, it is argued, deregulation and regulatory competition is a core objective of the European institutions. The key finding is that additional Member States were compelled to deregulate following a series of European Court of Justice Decisions which reinforced competitive pressures on domestic legislations. The dismantling of national restrictions was sustained through the ECJ rulings in the 1990s and 2000s which reinforced the TWF principle that broadcasting be governed by the laws stemming from the state of transmission and not the state of reception. Those rules named in the directive are those singled out for deregulatory competition. National deregulation was not a natural response to the preference of economic actors, but governed by the EU institutions.

Regulatory instruments subject to European competition

Before 1989, broadcasting policy was exclusively the domain of the Member State. In many states, public service broadcasters held national monopolies. In those states with emerging private markets, spectrum scarcity restricted the market to a small number of broadcasters which were strictly regulated. Regulatory instruments were similar throughout Western European states based on principles discussed and established within the Council of Europe. Regulatory instruments such as rules on advertising, content and the protection of minors, were designed to protect the public interest. The regulation of television was seen to aid the functioning of a democratic system through the guarantee of a 'plurality of voices.' The latter has been the chief rationale for the maintenance of a public service broadcaster (PSB) which is meant to contribute to the quality of public discourse, promote societal integration, and emphasise news and education, as opposed to entertainment (Voltmer 2000).

New technologies, satellite and cable in the 1980s and digital in the 1990s, were meant to put an end to spectrum scarcity. This was seen as an opportunity by some in the European Commission to break political heavy-handedness in broadcasting and create a genuine competitive market. However, European governments clung to traditional modes of control when defining satellite and digital policies. Even though they agreed upon a Directive facilitating cross-border broadcasting, national governments did not relinquish media/cultural policy to the European level. The EC was unable to harmonise rules on broadcasting content as it was viewed to be encroaching on 'public interest' and 'cultural' policies (exempt by subsidiarity).

Member states have an extensive menu of national regulatory instruments used to protect both the public interest and national culture in broadcasting. These fall broadly under the following categories: restrictions on media ownership, the number of licences issued to national broadcasters, rules on media content, percentage requirements for news and documentary programming, minimum quotas for European and national content, time devoted to minority audience programming, right of reply rules, prohibition of pornography, limitation of television violence, prohibition of incitement to racial hatred, youth protection, copyright, advertising standards, advertising time, advertising breaks, and programme sponsorship rules.

Examples of such content rules are: watersheds (i.e. after 9 p.m.) for the showing of programming containing violence and sexual behaviour, rules on the portrayal of sexual conduct, crime reporting, rules and limitations on 'phone-in' programmes, chatshows, religious programming, rules on the use of hidden microphones, to name a few. TWF did not handle politically sensitive areas such as PSB funding, media ownership or the licensing of private broadcasters.

But a number of rules were made under TWF. According to the 1997 version of the Directive, these are namely: the majority proportion of transmission time should be reserved for European works (originating from Member States) excluding the time appointed to news, sports events, games, advertising, teletext services and teleshopping; 10 per cent of transmission time or alternatively 10 per cent of programming budget should be reserved for European works created by producers who are independent of broadcasters; interruption of films by advertising should be limited to once every 45 minutes; the exclusion of advertising during news, current affairs programmes, documentaries, religious programmes and children's programmes (when the duration is less than 30 minutes); the prohibition of advertising cigarettes, and other tobacco products; prescription medicines, and medical treatment; the limitation of advertising time to 20 per cent of the daily transmission time and 20 per cent within a given clock hour; the protection of minors; and prohibition of incitement to hatred on grounds of race, sex, religion or nationality. These are precisely the rules which have been subject to downward pressure. By naming them in the Directive, the European Commission opened them to regulatory competition. This was ensured by rulings of the Court of Justice.

In order to promote cross-border transmission, the Directive contained the typical 'single market' clause that stipulated that a broadcasting company may only be regulated in the country of transmission, not reception. The reasoning behind this was that a company would not be subject to many different laws in countries of reception and would only have to deal with one regulatory authority. It was this clause that triggered regulatory arbitrage as it rendered national law ineffective vis-à-vis foreign broadcasts. It had the consequence of companies moving their headquarters abroad to Member States with less restrictions to avoid national media regulation. In practice, national laws covered in TWF were the most prone to downward pressure.

Luxembourg: from zero-regulation to a tailor-made regime for foreign companies

Regulatory competition theory assumes that states relax legislation in order to attract companies from abroad. The cases of UK and Luxembourg do not confirm this assumption as both states deregulated in favour of domestic economic actors. The advent of satellite broadcasting simply increased the domestic pressure on governments to deregulate.

Although small in population and size (and hence media market), Luxembourg was allocated an equal number of satellite frequencies as the rest of Europe. As Luxembourg did not have a PSB, the government granted its entire allocation of satellite frequencies to the Astra satellite in 1983 with which Européen des Satellites (SES), Europe's first partly privately-owned satellite television system, was created (the government retained 20 per cent). At the same time, implementation of the *TWF*

Directive required that a media law be introduced in Luxembourg. Up until 1991, Luxembourg had no media law to speak of.[3] When Luxembourg introduced its *Electronic Media Law of 27 July 1991*, it introduced restrictions on media markets for the first time. These rules were limited to the *domestic* market only[4] and did not apply to television or radio broadcast to other Member States (i.e. from the *Astra* satellite). Luxembourg therefore set up a different regulatory regime for satellite companies broadcasting abroad. This enabled Luxembourg to retain control over its domestic market while allowing companies based in Luxembourg to broadcast abroad with very few restrictions.

This policy sparked regulatory arbitrage. As the 1989 *TWF* Directive stipulates that a broadcaster can only be regulated by the country of origin and not by the country of reception, a number of foreign companies were able to bypass their national legislators by transmitting from Luxembourg using the Astra satellite. Companies established themselves in Luxembourg to broadcast to other Member States (some to circumvent national legislations, some simply due to domestic spectrum scarcity). Indeed, *Astra* has proved the most popular satellite for European broadcasters, hosting both analogue and digital channels which broadcast in almost all EU Member States, and an increasing number of non-EU states. Chalaby notes that Astra hosts over 1000 television and radio channels to 87 million European households (2002: 7).

Significantly, large national players in France (Canalsatellite), Germany (DF1), the Netherlands (NetHold), Spain (Sogecable) and the UK (BSkyB) chose to launch satellite platforms from Luxembourg. The Luxembourg company CLT (now controlled by Bertelsmann) developed into a multi-national company active in French, Belgian, Dutch, German, UK, Spanish and Eastern European television and radio markets via the Astra satellite. CLT owns the channels RTL-4 and RTL-5 which target the Netherlands and RTL9 which targets France and Switzerland. Astra hosts digital platforms for Canal Plus in the French, Polish, Spanish and Dutch markets and provides further capacity for Kirch, ARD, ZDF, and ORF-SRG. NetHold (which is based in Amsterdam) transmits too much of northern Europe (e.g. FilmNet broadcasts to Belgium, the Netherlands, Denmark, Norway, Sweden and Finland). A number of single stations are hosted on *Astra* which broadcast to most of Europe. Significantly, many stations contain content which is strictly regulated at national levels (e.g. chatshow channels, music channels, religious stations, fashion channels, regional channels and 'adult film' channels). The policy has proved lucrative for Luxembourg. The broadcasting sector quickly became a prominent sector of the Luxembourg economy and the biggest tax contributor from 1997 onwards.[5]

United Kingdom: domestic pressure and regulatory arbitrage

Did Luxembourg's policy trigger regulatory competition in Europe? The availability of channel capacity and transnational transmission from Luxembourg certainly had its effect on the evolution of media regulation in other Member States. However, other Member States did not counter with deregulation to re-attract investment from abroad. In the UK, domestic factors were keys to regulatory change. The UK case arose out of a domestic political dispute over media ownership. Prime Minister Thatcher supported the expansion of Murdoch's News International in both press and broadcasting markets (for detail on Murdoch's press expansion see Doyle 1995; Hooper 1996). Press expansion was dependent upon ministerial decision, so this was easily attained. However, allowing expansion in the broadcasting market meant a change to national broadcasting law, which required parliamentary approval. This was more politically challenging. There were two prime legal obstacles for Murdoch. British law forbade foreign ownership of broadcasters and contained strict cross-ownership rules (i.e. Murdoch had extensive press interests, so could not own broadcasters outright). The Conservative government did not want to relax cross-media ownership limits at the national level, as that would have meant allowing expansion by the (Labour-supporting) Mirror Group in broadcasting.

The implementation of TWF in 1990 provided the Thatcher government with a window of opportunity. The enactment of the 1990 UK Broadcasting Act added requirements for satellite licences. Section 43 of the 1990 Broadcasting Act applied a *different* regulatory regime to non-domestic satellite services as that applicable to domestic satellite services. Companies whose headquarters were in the UK but broadcasting from abroad (i.e. Sky) were only required to obtain a *non-domestic* satellite licence.[6] Non-domestic satellite licences were exempt from both foreign ownership and cross-media ownership rules and a whole host of other domestic rules.

At the national level, this meant that Sky did not have to respect domestic rules, even, as Lord David Puttnam put it, its 'programmes were put together in West London and went up from a BT uplink in East London; because for a millisecond it hit a foreign piece of metal before being bounced back down to Britain, it qualified as a 'non-domestic' broadcaster – thereby not subject to any of the rules and regulations which BSB laboured under' (Puttnam 2002). By contrast, the BSB company broadcasting from the UK satellite Marco Polo, was subject to the UK's stricter domestic regulation. This rendered BSB less competitive and subject to take-over – by Sky with which BSkyB was formed.[7]

At the European level, the provision triggered regulatory arbitrage. Not only was BSkyB exempt from national regulation, but so of course was every other company granted a non-domestic satellite licence by the UK. In practice, the 1990 Broadcasting Act allowed the UK to issue licences to any company that wanted to broadcast abroad via satellite.[8] The UK was highly effective in attracting foreign media investment. As the prerequisite to obtaining a UK satellite licence is that a company's headquarters need to be UK-based, a large number of companies set up shop in the UK. By the end of 2000, 325 non-domestic satellite licences were issued by the UK regulatory authority, the ITC. By 2006, 460 satellite licences had been issued. Hence, in contrast to the studies by Barnard (2000) and McCahery and Vermeulen (2005) regulatory arbitrage has clearly been at work in this case.

The policy became controversial for obvious reasons particularly as the ITC provided non-domestic satellite licences to a number of broadcasters which had been denied licences in their home countries. In particular, a number of US groups (e.g. UPC and CME) with multichannel packages applied for UK licences in order to gain a foothold in the European market. Many companies evaded national advertising restrictions in this way. For example, satellite channels were sponsoring alcohol and tobacco products in France, bypassing advertising rules in Germany, and inserting advertising spots into children's programming hours in Sweden and Norway – contrary to those states' broadcasting rules. In addition to national rules, many UK-based satellite channels did not observe TWF advertising rules. Williams (2002) observed that over 40 European media companies broadcasting from the UK did not observe TWF provisions on advertising in 2002.

Most satellite channels tend to be pan-European. There are single-language pan-European channels e.g. *Arte*, *BBC World*, *BBC Prime*, *BVN*, *CNN International*, *MTV Europe*, *TV5 Europe*, *3sat*, *TV5 Europe*, and *VH-2*. For example, BBC World broadcasts across Europe in English, TV5 Europe broadcasts in French and Arte broadcasts in both French and German. Then there are pan-European channels with distinct language versions – something that is now possible with digital technology – e.g. *Discovery Channel*, *Discovery Networks Europe* (*Discovery Channel*, *Animal Planet Europe*, etc), *Euronews*, *Eurosport*, *Eurosport News*, *National Geographic*, *Turner Broadcasting* (*TCM*, *Cartoon Network*), *Fox* (*Fox Kids*), *Hallmark* (*Hallmark Channel*), *TV1000*, *UPC/chellomedia* (*Club*, *Reality TV*, *Romantica*) and *Viacom* (*MTV*, *Nickelodeon*). This is the format that most US channels use to broadcast channels from the UK to the rest of Europe. Interestingly, they have advertising windows dedicated to specific national markets. For example, children watching Lilo and Stitch on the Disney Channel in France will watch advertising targeted towards the French market, whereas children watching the same programme in Germany will see a different commercial break. Then there are channels broadcasting in one language, but which divide advertising for different national markets. For example, when Sky News breaks for advertising, it shows different commercials in Ireland than it does in the UK. Pro7 shows different advertising in Germany as it does in Austria. SAT1, RTL, Pro7 and Kabel1 show different advertising in Switzerland and Austria than they do in Germany. Then there are channels established outside Europe but relayed through European satellites like TV Globo International and HBN Herbalife Broadcasting Network (Europe). Finally, there are those channels which have physically relocated their headquarters to the UK, many to bypass national restrictions. For example, it is clear that the Swedish channels TV3, 3+, and Kanal 5 were licenced in the UK to bypass Scandinavian advertising laws.

Under its rules, the UK is able to license channels broadcasting from any satellite. An increasing number of satellites have 'European' footprints (Astra, Hot Bird, EuroBird, Sirius, Thor/Intelsat, W1, AtlanticBird). At a rough count, this author estimated in 2005, that that these satellites hosted circa 188 chat channels, 80 teleshopping channels, 36 music channels, 35 religious stations, 13 fashion stations, and 7 (continuous broadcast) 'adult film' channels (this does not count those channels that include 'adult content' as a part of daily programming).

Since 1998, there have no longer been 'non-domestic satellite licences' in the UK, as such, merely 'satellite licences'. However, the UK continues to apply different regulatory regimes to satellite broadcasters than to terrestrial broadcasters. Hence, only terrestrial broadcasters are subject to stricter content requirements. Deregulation continued in the UK most recently with the 2003 Communications Act which opened the whole of the UK market to foreign owners (including non-EU owners). UK deregulation, particularly of ownership rules, was mostly the result of domestic lobbying. The latest deregulatory move reflects, again, an attempt to solve a domestic problem. By allowing non-EU players into the market under the Communications Act, the UK sought to attract outside investment to rescue a failed venture (the bankrupt ITV companies) in digital broadcasting, thereby presenting potential competition to the digital monopoly BSkyB. Deregulation of foreign ownership applies to terrestrial and digital services. There are already quite a number of US players in British press and cable markets (Collins 2003). This deregulatory move is expected to attract further investment from abroad. Even though each deregulatory move was the result of domestic pressures, the effect upon regulatory arbitrage is clear. The satellite policies of the UK and Luxembourg had a knock-on effect for the rest of Europe.

Entering ECJ action

The existence of light-touch regulatory regimes in the UK and Luxembourg did not automatically lead to a removal of rules in other Member States. This was brought about through challenges to national policies brought to the European Court of Justice. Rather than recognising arguments of 'cultural policy' (an area protected by subsidiarity), the Court mandated further deregulation in Member States through a series of rulings. In its rulings, the Court legitimised the right of broadcasting companies to move abroad to take advantage of less restrictive regulatory frameworks. The Court proclaimed that the rules named in the TWF were subject to deregulation. Therewith, this European institution reinforced regulatory competition.

The initial ECJ cases dealing with cross border broadcasting came before TWF. The 1974 *Sacchi* case declared that broadcasting be considered a tradable service. Therewith the Court claimed the sector as within jurisdiction of the Treaty of Rome. The 1980 *Debauve* case[9] ensured that broadcasting from one Member State to another was legal. The European Court of Justice established that any discrimination by a Member State against a broadcasting signal due to national origin cannot be justified under the European Treaties. The ruling related to three French cable broadcasters which were transmitting advertising to cable subscribers in Belgium. Belgian legislation at the time banned advertising,[10] but French law did not. The Court established that the companies transmitting from abroad were to heed domestic legislation, but were not liable to laws in countries of reception.

Based precisely upon these two ECJ rulings the EU passed its *Television Without Frontiers* (TWF) Directive in 1989. From this time onwards, there was a dramatic increase in ECJ court cases dealing with cross-border broadcasting. In every case wherein Member States claimed cross-border broadcasters violated domestic media rules, the ECJ ruled against them. Member States argued that media policy (as cultural policy) was a domain belonging exclusively to the Member State. The Court did not recognise this even following the introduction of subsidiarity in the 1992 Maastricht Treaty.

The first of these cases was the *Commission of the European Communities v Kingdom of the Netherlands* case of 1991.[11] When the first case was brought to the ECJ in 1989, Dutch cable regulation, stipulated that 'broadcasters in foreign countries were prohibited from broadcasting programmes with Dutch advertisements to the Dutch audience' (Korthals Altes 1993: 32). The Court's decision overrode Dutch cable regulation, stating that:

> Even if such a restriction forms part of a cultural policy intended to safeguard the freedom of expression of the various social, cultural, religious and philosophical

components of society by ensuring the survival of an undertaking which provides them with technical resources, it goes beyond the objective pursued, since pluralism in the audio-visual sector of a Member State cannot be affected in any way by allowing the national bodies operating in that sector to make use of providers of services established in other Member States.

Television Without Frontiers rendered Dutch regulation ineffective against broadcast from abroad, even those in the Dutch language. At present, over forty per cent of audience share in the Netherlands comes from foreign broadcasts, a large proportion of which goes to the Luxembourg-based channels, RTL 4 and 5 (Stichting KijkOnderzoek 2006). The Netherlands was subsequently required to make changes to its national law which provoked a greater sector deregulation than had been envisioned by the Dutch authorities.

The next cross-border case came in 1992, when the ECJ ruled against the Belgian state in *European Communities v Kingdom of Belgium*. The Court decided that Belgium had failed to fulfil its obligations under Articles 52, 59, 60 and 221 of the EEC Treaty on four counts: by prohibiting cable programmes from other Member States where the programme was not in the language stipulated by Belgian law; by subjecting cable commercial broadcasters from other Member States to prior authorisation, to which conditions might have been attached; by reserving 51 per cent of the capital of the Flemish commercial broadcaster for publishers of Dutch-language daily and weekly newspapers; and by compelling commercial broadcasters to constitute a compulsory part of their programming to cultural interest. The ruling states the 'Belgian government, however, relies upon cultural policy objectives to justify the legislation in question, namely the maintenance of pluralism [. . .] Those arguments cannot be accepted.' Accordingly, the Court compelled Belgium to deregulate in order to allow cross-border transmission.

As stated, a number of companies have located headquarters to the UK to bypass national rules. Some of these were challenged in the European Court of Justice. In the 1980s, Belgian law stipulated that the Flemish Executive could only licence one commercial television broadcaster at a time. In 1987 this licence was granted to Vlaamse Televisie Maatschappij NV ('VTM') to broadcast for a term of 18 years. Under the same provisions, only one broadcaster (radio or television) for the Flemish Community could be licensed to transmit advertising. This licence was also issued to VTM for a term of 18 years in 1987. Therewith VTM held a legal monopoly in commercial television and television advertising in Flanders. In 1994, the Scandinavian Broadcasting SA (registered in Luxembourg) established the Flemish channel VT4. VT4 secured a non-domestic satellite service licence from the UK permitting it to broadcast to Flanders under UK regulation (pertaining to non-domestic satellite broadcasts) from Luxembourg. The Flemish *Minister of Culture and Brussels Affairs* reacted by prohibiting the transmission of VT4 to Flanders from 16 January 1995 through a declaration of the Raad van State (State Council). The case was brought to the ECJ, which, as in similar cases, decided *against* the Flemish Minister for Culture and ruled that the broadcast of VT4 to Flanders was legitimate. Following the ruling, the State Council lifted its prohibition on cable retransmission of VT4. In 2002, the channel was eventually licensed by the Flemish Executive following a change in national rules.

In a similar case, the Court ruled against Belgium a second time. The UK had this time issued one of its non-domestic satellite licences to Turner International which planned to broadcast satellite channels via cable from Germany to Brussels. As there was no legislation at that time governing cable television in Brussels, a Royal Decree was issued the day before the agreement (on 16 September 1993) prohibiting the channels 'TNT' and 'Cartoon Network.' Turner International challenged the Decree in a Belgian Court and won the right to broadcast. However, the Belgian state had meanwhile begun a separate case against Paul Denuit, the managing director of Coditel cable, for ignoring the Royal Decree of 16 September 1993. The Tribunal de Première Instance referred the case to the ECJ which ruled in favour of Denuit in 1997.[12] The interesting thing about this case is that the Belgium authority argued that TNT was violating the quota rules of the TWF Directive. The Court avoided a ruling on quota rules stating instead that Belgium had a right to pursue action against the UK following procedural rules. However, the core ruling referred only to the right of the company to broadcast to Belgium from the UK – the fact that broadcast was in French and aimed directly at Belgian audiences was inconsequential.

In 1995, the Court ruled against the Swedish authority, the *Konsumentombudsmannen*. In a decision on two joint cases *KO* v. *De Agostini* and *TVShop*,[13] the Court interpreted European advertising rules. Sweden has strict rules on advertising. It prohibits teleshopping and the targeting of advertising to children under the age of 12. The first Agostini case dealt with children's advertising. The Italian group *De Agostini*, which transmits the channels TV3 to Denmark, Sweden and Norway and TV4 to Sweden via satellite, is licensed in the UK. On channel TV4 it advertised its children's magazine 'Everything about Dinosaurs' to Sweden. The magazine was printed in Italy and distributed in several languages across Europe. Each issue of the magazine was accompanied with a constituent part of a model dinosaur. The Swedish consumer's ombudsman, the *Konsumentombudsmannen* (KO), brought the case to the Marknadsdomstol (Swedish Market Court) claiming that advertising to children contravened Article 11 of the Swedish Broadcasting Act. In the second case, the company TVShop Europe was broadcasting teleshopping and 'info-mercials' for skincare products and detergent on TV3 and the Home-shopping Channel to Sweden. The KO accused TV3 of misleading advertising under Sweden's Marketing Practices Law. The Marknadsdomstol referred both cases to the ECJ querying whether such advertising could be restricted under the rules on advertising and the protection of minors in the 1997 TWF Directive.

In both cases, the European Court of Justice ruled that Sweden was in its rights to apply more stringent rules on advertising but it could only apply them to *domestic* broadcasters – and *not to those broadcasting from other Member States*. The KO argued that the channels should be considered 'Swedish' because 'the announcers all speak Swedish, . . . the advertisements are exclusively for the Swedish market given the language in which they are prepared and the products which are marketed.' However, the Court found this position untenable. The ruling concentrated on the importance of establishment. As the companies had been established in the UK, they were therefore considered 'British' governed by British media regulation. This ruling is important because the Court opened up rules on protection of minors to regulatory competition.[14] Sweden was prohibited from applying Article 11 to TV3 broadcasts precisely because the protection of minors was covered under the TWF Directive and therefore subject to competition rules. Hence, it is exactly those provisions named under the Directive, such as the protection of minors, which are subject to competition. The Directive does not ensure the protection of minors as such – nor does it permit Member States to apply their own rules – it simply opens up the possibility for competition of rules on the protection of minors. The ruling is particularly salient considering OFCOM's recent efforts to restrict junk-food advertising to children in the UK.

The ECJ ruled similarly in a case on alcohol advertising in 2000. In Konsumentombudsmannen (KO) v Gourmet International Products Aktiebolag (GIP), the ECJ ruled against the Swedish law banning alcohol advertising stating that 'a ban which extends to commercial advertisings in periodicals a significant part of whose subject-matter is lawfully devoted to alcoholic beverages is in principle unnecessary and ineffective in that regard, and thus incapable of such justification'. The Advertising Information Group welcomed the EC's ruling and staged that 'The Single Market for advertising has yet to be created, as too many national bans or restrictions continue to exist, as DG MARKT rightly noted in its ''Communication on an Internal Market Strategy for Services'', in January 2001' (http://www.aig.org/). This is significant considering the EC's challenge to France's 'Loi Evin' law. All of these rulings have consequences for the revision of the TWF Directive (renamed the

Audiovisual Media Services Directive (AMSD) which is ongoing at the time of writing.

In another 1995 case, the ECJ took a stab at national advertising restrictions, this time in Italy. Although this was not a cross-border case, it shows how the European institutions promoted deregulation at the national level. In 1994, the Italian Ministry for Post and Telecommunications challenged Italian broadcasters on 'telepromozione' which it claimed violated Television Without Frontiers rules on advertising. 'Telepromozione' is advertising conducted within a television programme by the television announcers thereby overstepping legal advertising limits (within the clock hour). Italy is notorious for innovative advertising techniques and the Italian regulatory authorities had for some time been trying to get a grip on national evasion of both domestic and European advertising restrictions. However, rather than ruling in favour of the Italian regulatory authority, the European Court chose to overturn rather than enforce, not only national rules on advertising, but even those set out in the TWF Directive.

The RTI case[15] dealt with the violation of TWF advertising rules by the use of '*telepromozione*' by Italian broadcasters. The case was brought by the Italian Ministry for the Post and Telecommunications against the Italian broadcasters Reti Televisive Italiane SpA (RTI) (C-320/94), Radio Torre, Rete A Srl, Vallau Italiana Promomarket Srl (C-337/94), Radio Italia Solo Musica Srl and Others (C-338/94) and GETE Srl (C-339/94). The Italian regional court of Lazio referred the case to the European Court. The Italian Ministry argued that domestic broadcasters were violating not only national law, but European law on advertising as set out in the TWF Directive. The Court overruled TWF provisions with the statement:

> 'the provision by the Community legislature for an increase in the maximum transmission time for direct offers to the public is due to the fact that that type of sales promotion requires more transmission time than spot advertisements, and not to the fact that such offers present products which may be directly ordered by telephone, mail or videotext and are intended to be delivered to viewers at home, since the ordering of products by the viewer is a wholly separate operation from the televised presentation with which the directive is concerned. It is therefore normal that other forms of advertising, which also require more time than spot advertisements, should be able to benefit from the increase that is expressly, but not exclusively, provided for in respect of direct offers to the public.'

In his analysis of the case, Mastroianni explains, the Court did this by 'equat(ing) '*telepromozione*' with advertising in the form of a direct offer to the public. It held that there is no limitation on the number of times a sponsor may be mentioned during sponsored programmes' (1999: 5). This ruling had consequences for the 2007 revision of the TWF Directive which loosens advertising rules accordingly.

This loosening of TWF rules was trumped only by the Court's overturning of the Tobacco Advertising Directive in 1998. In Case C-376/98 Federal Republic of Germany v European Parliament and Council of the European Union, Directive 98/43, which was adopted to prevent the advertising and sponsorship of tobacco products within the EU, was annulled. Following lobbying by a number of UK and German tobacco companies, the ECJ found that the Directive prohibited trade in goods and services and thus was contrary to provisions in the Treaties.

Clearly, the European Court has compelled downward pressure on national legislation in its rulings. What is interesting is the interpretation of TWF provisions by the national regulatory authorities (NRAs). Whereas the NRAs viewed provisions in the Directive to protect or enhance national laws on broadcasting, the reality is that TWF simply opened these rules to competition – this being the key aim of the Directive. This was a political mandate of the EU institutions based upon the Single Market project which is one of deregulation, not harmonisation.

Perceptions of a 'Race to the Bottom' and Political Mobilisation: comparative analysis

Deregulation in the media field prompted fears of a 'race to the bottom' in broadcasting standards and mobilised Member States towards regulatory co-operation in Europe. This began with high level political discussion of evasion of public interest regulation presented by cross-border broadcasting at the national level. Political mobilisation began to emerge at the national level not only through Court action (as detailed in the last section) but also in national attempts to fortify existing legislation. Examples of national political mobilisation, outlined below, come from France and the UK. It is not the purpose of this article to judge whether governments were justified in these efforts. The approach is not normative, but aimed at understanding what effect an integrated European market is having on a Member State's capacity to regulate itself.

France: perceived degradation of content

In 2002, a campaign by teachers' unions and the press targeted the problem of the accessibility of pornography in France. A study conducted by Mediamétrie found French audiences now have access to 900 pornography films a month via satellite.[16] The regulatory authority carried out a survey and found that 89.6 per cent of boys aged 16 or 17 had seen one or more pornographic films, and 50 per cent of children under 11. The study also looked at content of pornography which was found to be increasingly violent. It quoted sociological studies that linked the present increase in sexually violent crime by teenagers (also seen as a problem in Italy) to exposure to such content. The claim is that adolescents reconstruct these acts. An opinion poll showed that 64 per cent of French viewers were in favour of direct censorship. The French regulatory authority (CSA) targeted satellite channels broadcasting pornographic films. It drew up changes to national media law, evoking Article 22.1 of the Television Without Frontiers Directive, according to which broadcasts may not 'include any programmes which might seriously impair the physical, mental or moral development of minors, in particular programmes that involve pornography or gratuitous violence.' The CSA also proposed a modification of Article 15 of the Broadcasting law of 30 September 1986 to achieve an explicit ban on programmes that involved pornography or gratuitous violence. However, the proposals were dropped. Interviews with CSA officials revealed that if the law were passed, media groups threatened to relocate their headquarters abroad to circumvent French law. The concern was less that these groups would engage increasingly in the broadcast of adult content, but that companies would bypass French content quota requirements.

United Kingdom: the issue of smartcards

Although the UK has been keen to encourage cross-border broadcasting to continental Europe, it has been less open to receiving signals from abroad. Rather than imposing a direct ban, the UK indirectly banned transmission through the illegalisation of smartcards. Under Section 177 of the Broadcasting Act 1990 (still in force) the ITC could recommend to the Secretary of State for Culture that a foreign channel be made the subject of a proscription order if it is satisfied the channel repeatedly 'offends against good taste and decency'. A proscription order makes it a criminal offence in the UK to sell smartcards and decoders or subscriptions, to publish programme information or to advertise designated services. The UK banned the selling of smartcards for a number of channels broadcasting what is termed 'hardcore pornography' (namely, Red Hot Television, Red Hot Dutch, Eros TV, TV Erotica (also known as xxxTV), Channel Bizzare, Rendezvous Channel, Satisfaction Channel, Satisfaction Club, Television Eurotica, Rendez Vous, and Adult X). The UK consulted both the European Commission and the country of origin (e.g. Denmark in the case of Eurotica Rendez-Vous) to reach 'amicable settlements' before proscription orders were issued.

European-level mobilisation

Political mobilisation reached the European level with numerous complaints about cross-border broadcasting submitted to the European institutions. One could argue that the European institutions are not deaf to the political preferences of Member States and interest groups, but they are limited by the Treaties of the European Union, which do not deal with matters of public interest regulation or cultural policy. For their part, Member States do not wish to relinquish one of the last bastions of national policy (cultural policy) to the European Union. One could surmise that this is the reason why race-to-the-top scenarios through EU have not been possible. However, the more compelling case is that that there is little political will on behalf of the European institutions to head in this direction, as the key policy goal is deregulation and the removal of market restrictions. For this reason, actors have had to search for alternative ways to enable cooperation at the European level.

In a formal context, political mobilisation has led to little regulatory cooperation. The European Parliament has been the leader in promoting public interest goals in a number of its reports (Harcourt 2004: 62–66). This led to debate at the European level which in turn has led to some changes in European regulation. One of these changes was to the updated 1997 TWF directive that recognises that companies must be regulated in the country of establishment (i.e. legitimising the UK principle). The revised TWF also recognises the right of Member States to challenge broadcasts from abroad in the ECJ (but it does not dictate the outcome). Changes have also been made to the EU Treaties: specifically the inclusion of the 'Culture' articles (Articles 151 and Article 3q) in the 1992 Treaty of Maastricht and Protocol 30 on public service broadcasting in 1996 Treaty of Amsterdam. This was followed up by the 2001 European Union Charter of Fundamental Rights which recommends that 'the Union shall respect cultural, religious and linguistic diversity.' These changes have been flanked by the recent UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions (approved October 2005). However, the only tangible change at the European level could come if the clause for the protection of media pluralism in the emerging European 'Constitution' were empowered. Article II-11 on freedom of expression and information states that 'The freedom and pluralism of the media shall be respected'. This Article in its present state would require a unanimous vote within the Council which is politically impossible.

Most attempts at regulatory cooperation at the European level are the result of national efforts: the encouragement of industry self-regulation and the promotion of co-operation and information exchange between national regulatory authorities and courts. This can be seen in a number of fora, but most importantly within EPRA, a regulatory platform for media authorities. The European Advertising Standards Alliance (EASA) has established a complaints committee for cross-border advertising complaints. To which extent regulatory cooperation can be attained through these 'soft' forums is debatable as soft measures are a weaker form of governance and have not shown promise at national levels (Prosser 2007).

Conclusion

This article found that the creation of an internal market in broadcasting with an EU Directive (*Television Without Frontiers*) did not induce Member States to engage in regulatory competition. Only two EU Member States, the UK and Luxembourg responded with deregulation. They were not reacting to capital mobility in the market, but responding to demands from domestic firms which wished to expand into broadcasting markets via satellite. These actors, BSkyB and CLT respectively, had close political ties to domestic governments at that time. Therefore an integrated market was not sufficient to produce regulatory competition.

In contrast to the empirical studies by Barnard (2000), McCahery and Vermeulen (2005) and Romano (2005), this case shows that firms do engage in regulatory arbitrage across Europe. Companies responded to deregulation by relocating their headquarters abroad. 'Investment flight' towards the UK and Luxembourg was high. Because licences were valid in EU Member States, the largest players in Europe chose to base satellite services in these two states. The number of channels licensed in the UK has topped 1000.

In contrast to previous studies on regulatory competition in the EU (Bratton, McCahery, and Picciotto; Vogel; Eichener; Joerges and Neyer; and Heritier), this study has shown that there is clear downward pressure on national regulation. But this was not triggered by states or companies, but driven by the EU institutions. When faced with regulatory arbitrage, other Member States did not enter the game. There was no regulatory race to the bottom. Rather states challenged the circumvention of national rules in the Court of Justice. The ECJ ruled consistently against Member States, thereby reinforcing deregulation of national rules. This adds to Radaelli's (2004) recommendation to search for other variables contributing to mechanisms of regulatory competition. The tenacity of Member States to retain policy in this area is of course not only due to concerns of cultural policy, but also due to political ties to domestic media groups. This considered, the ECJ rulings were bold.

There is no evidence of 'administrative supranationalism' or upward pressure on European regulation. Downward pressure has not been superceded by European efforts to harmonise standards. The European institutions have only encouraged downward pressure on regulation based on the political mandate set out in the Single Market programme. It is precisely those rules established in EU Directives and Regulations which are the most subject to competition. European legislation was not designed by the European Commission, as in the case of the protection of minors, to conserve and protect national rules on broadcasting – but to open these rules to competition. Regulatory competition was the key aim of the EU institutions.

NOTES

1. I would like to thank Yannis Karagiannis and John Usher for comments on an earlier draft of this article. Funding for this research was supported by an ESRC grant on Globalization, Regulatory Competition and Audiovisual Regulation in five countries.
2. '*Television Without Frontiers*' Council Directive of 3 October 1989 updated by Directive 97/36/EC of 19.06.97 amending Directive 89/522/EEC on the co-ordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities.
3. Rather than creating a public sector broadcaster for such a small population, Luxembourg had instead licensed Europe's first private radio broadcaster, Compagnie Luxembourgoise de Telediffusion (CLT), in 1930, which was later to become a major European player. Before 1991, Luxembourg considered that regulation was inconsistent with its liberal approach and small market size.
4. Companies applying for broadcasting licences transmitted 'via low-power transmitters' (to Luxembourg) had to detail a complete list of their owners and directors, and managers. But less transparency is required from non-domestic satellite broadcasters.
5. SES, which owns the Astra satellites, became Luxembourg's biggest tax contributor in 1997 with a input of LFr2.06bn in taxes. ('Survey-Luxembourg: Space age role for chateau', Financial Times 28 May 1997). Luxembourg Commissioners Jacques Santer and Vivien Reding were particularly sensitive to the arguments of large media companies and domestic concerns were apparent during key policy debates at the European level (for detail, see Harcourt 2004).
6. The 1989 TWF Directive does not stipulate whether or not the location of companies' headquarters are an indication of where they should be licensed. The UK lobbied to include this provision in the revised 1997 TWF.
7. Sky bought BSB in 1990 which had launched its own satellite Marco Polo with a domestic satellite licence. The new company BSkyB therefore was broadcasting from both Astra and the UK Marco Polo satellites. This contravened UK law, as the company had both a domestic and a non-domestic satellite licence, and went against international satellite law as well. The issue was not resolved until the 1997 Satellite Television regulations and the 1998 Television regulations since which time there have no longer been 'non-domestic satellite licences' as such, merely 'satellite licences'.
8. The UK issues licences to companies not just within Europe, but all over the world. For example, under this law one can purchase a UK licence for a channel broadcasting in Arabic to northern Africa states from the Astra satellite Many licences for satellite broadcasters in Arab countries have been issued in the UK (and also in France). This has led to the establishment of 'media cities' in Cairo and Dubai which have attracted Arabic language broadcasters such as Orbit, MBC, Reuters and CNN, which were originally operating from London (Guaaybess 2002).
9. Procureur du Roi v Marc J.V.C. Debauve and others. Case 52/79 [1980] ECR 0833 18 March 1980.
10. Article 21 of the Royal Decree of 24 December 1966 (Moniteur Belge of 24 January 1967).
11. Two previous cases dealing with the foreign transmission of advertising also ruled against Dutch cable law: Case-352/85 Bond van Adverteerders [ECR 2085, 1988] and Case C-288/89 Collectieve Antennevoorziening Gouda [ECR I 4007, 1991].

12. Case C-14/96, Paul Denuit (TNT & Cartoon Network), Judgement of the Court of Justice of the European Communities of 29 May 1997.
13. Joined cases Konsumentombudsmannen (KO) v De Agostini (Svenska) Förlag AB (C-34/95) and TV-Shop i Sverige AB.
14. Opinion-Joined Cases E8/94 and E9/94, In a similar case to De Agostini the EFTA Court made the same ruling. In Forbrukerombudet v.Mattel Scandinavia and Lego Norge, Judgment of 16 June 1995, the EFTA Court gave the opinion that Norway's the Norwegian prohibition on television advertisements specifically targeting children was incompatible with the Television Directive if it applied the rules to a broadcaster established in another EEA State.
15. Joined cases Radio Torre, Rete A Srl, Vallau Italiana Promomarket Srl, Radio Italia Solo Musica Srl and Others, and GETE Srl (Appendix 3).
16. http://www.csa.fr/actualite/dossiers/dossiers_detail.php?id = 8864&chap = 2094.

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