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DIGITALEUROPE paper on HbbTV mandate



Key Messages

A number of DIGITALEUROPE members are major supporters and implementers of the HbbTV Standard and are also leading members of the HbbTV Association that develops the Specification. Whilst members are positive about the continued market adoption of the HbbTV Standard, they have significant concerns about the apparent desire of some national bodies to make HbbTV a legally mandatory requirement for all connectable TVs, all TVs or even all set-top-boxes.

These concerns are amplified by the activities in some EU Member States where this is being done as part of a wider update to broadcast regulations as part of the transposition of the Audiovisual Media Services Directive (AVMSD) or the European Electronic Communications Code (EECC), even though those Directives contain no such mandate.

DIGITALEUROPE has also witnessed issues with ‘trial’ services delivered by audiovisual media services providers not being fully functional. To guarantee functionality, any HbbTV obligations should therefore be symmetrical and also apply to the service providers, to fully test prior to launch, rather than only on manufacturers using the HbbTV Test Suite.

Applicability of the EECC and AVMSD

Neither the European Electronic Communications Code (EECC) or the Audiovisual Media Services Directive (AVMSD) mandate the HbbTV Standard for connected TVs. While DIGITALEUROPE fully supports and encourages the EU Member States to correctly transpose and implement both Directives, this transposition should not be misused by Member States to introduce new legal mandates for HbbTV as part of the review of wider broadcasting regulations.

Such a new legal mandate for HbbTV would significantly exceed any flexibility given to Member States in the implementation of both Directives and would instead negatively impact the free circulation of goods in Europe, leading to more

fragmentation in the Single Market, directly against the aim and ambition of the AVMSD and EECC.

European Commission review

DIGITALEUROPE reminds national bodies again that the review¹ of the European Commission in 2004-2006 concluded that: “*there was no clear case for mandating standards for interactive television*”, as well as that: “*the market is best served at the present time by continuing to rely on industry-led voluntary standardisation initiatives.*”

Only in absence of adequate, industry-led interoperability solutions, should the Commission take steps to make certain standards mandatory. The rest of the report as well as its Extended Impact Assessment further support the findings that the imposition of mandatory standards would not necessarily guarantee interoperability, and may rather have negative economic impacts, stifle innovation and create a barrier to market entry.

While the above review regarded the previous MHP technology, the same principles and conclusions remain relevant and applicable for HbbTV.

Over the past fifteen years, DIGITALEUROPE finds that the condition for interoperability and diffusion of new technology continues to be met through industry-led cooperation. The HbbTV Association in particular has managed to meet these interoperability needs for interactive TV products and services, through voluntary stakeholder collaboration.

Consequently there is no need for a mandate, by the Commission or national legislators, as voluntary efforts to stimulate the uptake of HbbTV have succeeded.

Complexity to validate and test

An additional complexity that would follow from a national legal obligation would be introducing a requirement on CE Manufacturers, as well as the enforcing Regulators, to be able to fully check whether a connected (or connectable) TV set is definitively and fully compliant with HbbTV. That is however, in practice today, not a technical possibility.

¹ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52006DC0037>

The HbbTV Test Suite², produced by the HbbTV Association, does not provide full coverage of the Specification, and is consequently not suitable as a legally robust tool for regulatory compliance. CE Manufacturers simply would not have a uniform way to ‘prove’ and certify a legal HbbTV obligation.

This further risks upsetting the market and increase confusion regarding interoperability between broadcasts and TV sets. CE Manufacturers would therefore always need to have a way to remedy this worst-case scenario of a non-compliant HbbTV application and disable the HbbTV functionality altogether to avoid disrupting the normal TV operation.

Such interoperability issues have been happening in Member States recently where newly launched trial HbbTV applications have not been fully functional on some products, possibly due to a lack of adequate testing by service providers. DIGITALEUROPE feels that this unequal treatment between broadcasters and the CE community needs to be addressed. Mandating HbbTV on end devices is not the solution. On the contrary, this will give a free licence to broadcasters to launch HbbTV services without appropriate testing.

Additionally, it should be kept in mind that the HbbTV Specification is a powerful and feature rich technology, which in turn demands significant processing power and internet capability in a TV set. Most European TV markets see a demand for a range of devices at different price points to meet the needs of the consumer. In turn, manufacturers offer a range of TVs with different feature sets and price points to address the market demand. A legally binding mandate to support HbbTV in all TV sets would introduce significant cost to TV sets at the lower end of the product range, potentially raising prices for entry-level TVs.

Potential IPR issues

DIGITALEUROPE’s final concern relates to the risk of IPR claims that may be raised by parties who sit outside the ETSI IPR policy, due to the complexity of the HbbTV Specification. While ETSI IPR policy includes a procedure to handle such risks, as long as HbbTV is not legally mandated, manufacturers have the freedom to remove IP that is subject to unreasonable non-FRAND claims, should such claims arise. Whereas if HbbTV is legally mandated, this option may no

² As noted by HbbTV: “while the HbbTV test suite is designed to be as clear, complete and comprehensive as possible and constitutes a major goal of HbbTV, it is not possible to guarantee that the test suite has a complete coverage of the specification. The test suite alone does not provide a definitive measure of receiver compliance and makes no provision for testing application compliance.” For mor information, see: <https://www.hbbtv.org/overview/#hbbtv-overview>

longer be available and manufacturers may be prevented from selling products until the ETSI resolution process has completed.

Consequently, there is a risk that some IP holders may exploit this to their commercial advantage as leverage to exert non-FRAND licence terms for IPR. This risk of non-FRAND IPR results in uncertainty and commercial risk to members of the ecosystem.³

Conclusion

DIGITALEUROPE members remain supporters of HbbTV and encourage its adoption.

However, for the reasons described above DIGITALEUROPE urges Member States to not make this a legally mandatory requirement, but support its uptake as a recommended and voluntary solution. Doing otherwise risks fragmentation of the EU Single Market and introducing a host of implementation complexities and challenges, without clear benefit.

In addition, we recommend that national bodies develop pragmatic logo programs to promote HbbTV implementation and the benefits of local HbbTV services to consumers, and to foster interoperability through cooperation.

FOR MORE INFORMATION, PLEASE CONTACT:



Jochen Mistiaen

Senior Policy Manager

jochen.mistiaen@digitaleurope.org/ +32 496 20 5411

³ At least one DIGITALEUROPE member has already been subject to spurious licence claims against essential IPR in the HbbTV Specification.

About DIGITALEUROPE

DIGITALEUROPE represents the digital technology industry in Europe. Our members include some of the world's largest IT, telecoms and consumer electronics companies and national associations from every part of Europe. DIGITALEUROPE wants European businesses and citizens to benefit fully from digital technologies and for Europe to grow, attract and sustain the world's best digital technology companies. DIGITALEUROPE ensures industry participation in the development and implementation of EU policies.

DIGITALEUROPE Membership

Corporate Members

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National Trade Associations

Austria: IOÖ

Belarus: INFOPARK

Belgium: AGORIA

Croatia: Croatian

Chamber of Economy

Cyprus: CITEA

Denmark: DI Digital, IT

BRANCHEN, Dansk Erhverv

Estonia: ITL

Finland: TIF

France: AFNUM, SECIMAVI,

Syntec Numérique, Tech in France

Germany: bitkom, ZVEI

Greece: SEPE

Hungary: IVSZ

Ireland: Technology Ireland

Italy: Anitec-Assinform

Lithuania: INFOBALT

Luxembourg: APSI

Netherlands: NLdigital, FIAR

Norway: Abelia

Poland: KIGEIT, PIIT, ZIPSEE

Portugal: AGEFE

Romania: ANIS

Slovakia: ITAS

Slovenia: ICT Association of

Slovenia at CCIS

Spain: AMETIC

Sweden: Teknikföretagen,

IT&Telekomföretagen

Switzerland: SWICO

Turkey: Digital Turkey Platform,

ECID

United Kingdom: techUK