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**Audiovisual services in the GATS:  
the case of Norway**

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# Audiovisual services in the GATS: the case of Norway

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## *Abstract*

*This paper discusses possible impacts of the Doha round negotiations in the WTO on the audiovisual services sector in Norway. Like most other countries, Norway has not made commitments, but has listed a number of MFN exemptions in the sector. These exemptions have now been brought to the negotiating table. The paper argues that if the MFN exemptions were lifted during the Doha round, this could imply extensive liberalization. The paper also argues that developments in other sectors (telecommunication, advertising, computer and related services, other recreational services), the horizontal agreement on e-commerce and technology affect both the relevance and the means of regulation in the audiovisual sector. It is suggested that supporting local production rather than restricting foreign market access is the most effective way of pursuing cultural policy objectives.*

JEL: F13, F14

Keywords: International trade, audiovisual services

## 1 Introduction

Audiovisual services are included in the General Agreement on Trade in Services (GATS), but it is the GATS sector to which the fewest countries have made commitments. By the end of the Uruguay Round in 1994, only 13 countries had made commitments, while the number had increased to 24 in early 2005 due to commitments by new WTO members.<sup>1</sup> Among the 24 countries that have made commitments the only OECD countries are USA, Japan and South Korea. The reason for this reluctance to allow foreign market access is the notion that audiovisual services reflect the social and cultural characteristics of nations. The sector receives significant government support in most developed countries and is an important part of the nations' cultural policies. Nevertheless, it is among the services sectors most exposed to international competition and the United States is the dominant player in world markets, particularly in the motion picture sector.

Norway has not made commitments in the GATS on audiovisual services, and the offer under the ongoing negotiations in the Doha development round does not include audiovisual services. The lack of commitments does not mean that the sector is unaffected by GATS, however. First, nine countries have made requests that Norway makes commitments in the sector during the ongoing round.<sup>2</sup> Second, the most favoured nation (MFN) principle applies to all services sectors even if no specific commitments are made. Exemptions to this rule were allowed when GATS came into force (Article II) but such exemptions should in principle be limited to a period of 10 years. Norway's list of exemptions to MFN includes a

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<sup>1</sup> According to WTO (2001a) 19 members had made commitments by 2001. Since then the following new members have committed audiovisual services: Jordan, Oman, China, Chinese Taipei and Armenia. [http://www.wto.org/english/thewto\\_e/acc\\_e/completeacc\\_e.htm#alb](http://www.wto.org/english/thewto_e/acc_e/completeacc_e.htm#alb) (accessed 22.04.2005).

<sup>2</sup> See <http://www.odin.dep.no/ud/norsk/tema/handelspolitikk/032121-990019/dok-bn.html> for an overview of the requests Norway received.

number of limitations on the audiovisual sector, and in the list it is stated that the duration is indefinite.<sup>3</sup>

Permanent exemptions from the MFN principle apply to regional free trade agreements (RTA) both for goods and services. Norway is a member of the European Economic Area (EEA), which has a common audiovisual policy. Among its objectives are fostering cultural diversity by means of a combination of supporting local production and restricting foreign market access, particularly as far as screen time on free-to-air television is concerned. The bulk of support to audiovisual services comes from national sources, but there is also a program at the EU/EEA level (MEDIA). Norway also participates in Eurimages, which is a program under the Council of Europe. It provides support for co-production and distribution of films and encourages the distribution of European films and television in member countries.<sup>4</sup> This is not part of a RTA and could be considered as a trade distorting measure to the disadvantage of third countries.

The GATS agreements on telecommunications services, computer and related services, recreational services and to some extent advertising services affect the audiovisual services sector in ways that are not yet entirely clear. The same goes for the horizontal agreement on electronic commerce. Telecommunications are complementary to audiovisual services and affect the tradability of the latter. Furthermore, the quality and diversity of audiovisual services affect demand for telecommunications infrastructure, particularly broadband, and there are indirect network effects at play. The other services sectors mentioned are partly overlapping with the audiovisual services sector. The definition of the sector is still subject to discussion in the GATS negotiations and it is probably in the interest of net exporters of audiovisual services to reclassify as many services as possible currently under the audiovisual services heading. In addition, technological developments have a bearing on the measures available to government for trade restricting purposes.

This paper discusses Norway's commitments to international trade in audiovisual services, focusing on developments in the WTO. It starts with a discussion of the audiovisual sector as defined in the GATS. Section three discusses related sectors and agreements in the WTO that could affect international trade patterns in the audiovisual sector. As a member of EEA, Norway is subject to the European Common Audiovisual Policies. It is discussed in section four of this paper. Section five presents developments in Norway's trade and FDI in the sector and discusses the impact of trade liberalization on future trade and FDI flows, while section six discusses the scope of regulation given recent technological developments. Section seven summarizes and concludes.

## **2 Audiovisual services in the GATS**

The Uruguay Round of multilateral trade negotiations established the General Agreement on Trade in Services (GATS) and the World Trade Organization (WTO). GATS is the first and only multilateral agreement on trade in services. Cinematograph films are, however, also mentioned in the General Agreement on Tariffs and Trade (GATT Article IV) where they are subject to special provisions. Films are classified as goods in the GATT and countries are allowed to establish or maintain quantitative regulations e.g. reserving minimum proportions

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<sup>3</sup> Several other countries, including Canada and EU have made similar, indefinite MFN exemptions.

<sup>4</sup> See [http://www.coe.int/T/E/Cultural\\_Co-operation/Eurimages/](http://www.coe.int/T/E/Cultural_Co-operation/Eurimages/)

of screen time for films of national origin. This article predates the GATS agreement, but it is still part of the GATT.<sup>5</sup>

The agreement on audiovisual services was first and foremost concerned with film production, film distribution and terrestrial broadcasting of audiovisual services (WTO, 2000). Table 1 presents the classification of audiovisual services in the GATS. It is built on the UN Provisional Central Product Classification (CPC).

**Table 1: Audiovisual services classification in the GATS**

Sector
Motion picture and video tape production and distribution Promotion or advertising services Motion picture or video tape production services Motion picture or video tape distribution services Other services in connection with motion picture or video tape production and distribution
Motion picture projection services Motion picture projection services Video tape projection services
Radio and television services Radio services Television services Combined programme making and broadcasting services
Radio and television transmission services Television broadcast transmission services Radio broadcast transmission services
Sound recording
Other

Source: WTO (2001a)

The classification relates to some extent to the platform through which services are provided. A problem with this is that the same content can be provided over several platforms which could create trade distortions and a shift of content delivery from regulated to unregulated platforms. The classification also partly overlaps with telecommunication services, other communication services, computer related services, advertising services, recreation services and possibly others as well. Among the leading trading nations, the United States has been a driving force in liberalizing the sector. The country argues that the current classification does not cover all the sectors it considers relevant and that it is not clear as to which sectors are covered. A review of the classification is therefore suggested (Siwek, 2004). In the US’ initial offer during the Doha round negotiations, radio and television broadcast transmission services have been moved to “Other communication services” as a new sub-category while projection services have been moved to “other recreation services”.<sup>6</sup> A reclassification along these lines could make a clearer distinction between content and infrastructure services. Furthermore, since countries are generally more inclined to commit most of these overlapping services sectors, a reclassification could mean more open markets for the affected audiovisual services.

Services are different from goods in the sense that they often cannot be stored and thus need to be produced and consumed at the same time and in the same space. They have therefore

<sup>5</sup> Quantitative restrictions on trade are generally against the principles of the GATT and WTO where trade restrictions should be in the form of tariffs. Other sectors where quotas were allowed were textiles and clothing (abolished 1 January 2005) and agriculture, where so-called tariff quotas are allowed.

<sup>6</sup> Services negotiations started in 2000, before the Doha round, as agreed when GATS was established, and has been integrated into the Doha round.

been considered non-tradable in the past. Nevertheless, the consumption of services produced by foreign firms is widespread and increasing. GATS aims at developing international regulation of all such transactions. It includes the following four modes of services delivery:

1. Cross-border supply
2. Consumption abroad
3. Commercial presence (FDI)
4. Presence of natural persons

Cross-border supply is mainly related to satellite broadcasting and services transmitted on the internet. Commercial presence through ownership of locally based providers is also an important mode of supply of audiovisual services, in particular cross-border mergers and acquisitions in the media sector. Horizontal mergers as well as vertical integration are common and the media sector has become relatively concentrated as a result. In addition there has been a tendency that large network services providers, including utilities, have acquired content providers. Examples are Canal-Plus-Vivendi in France, and Bertelsman in Germany. The latter consists of press, publishing, broadcasting, music and telecommunications.<sup>7</sup> In Norway Telenor has owner interest in printed media (A-pressen), which in turn has owner interest in broadcasting (TV2). Consumption abroad is trivial and it appears to be neither necessary nor possible to regulate. Presence of natural persons refers to foreign citizens (e.g. actors, producers, musicians) providing their services abroad on a temporary basis. Most countries have not made commitments in this mode of supply.

At this point it is useful to briefly explain what it means to make a commitment in the GATS. Countries only have obligations in the sectors where they have made specific commitments. They make commitments by submitting a *schedule*, which is a list of the sectors in which commitments are made. In addition the schedule contains horizontal commitments and limitations on market access and national treatment that apply to all services sectors. Typical horizontal limitations are restrictions on presence of natural persons and eligibility for subsidies.

A schedule has a standard format containing eight entries for each sub-sector committed (see Table 2, which is the United States' schedule in audiovisual services).<sup>8</sup> For each sector there is a column for limitations on market access and a column for limitations on national treatment. Limitations in each column are made for each of the four modes of supply. The list of sectors or sub-sectors can be seen as a positive list where the country makes commitments on market access only for those sectors or sub-sectors listed. If for example a country has entered "audiovisual services" in the list without including any sub-sectors, it has given market access and national treatment in the entire sector, as defined in Table 1. If, on the other hand, countries list sub-sectors such as motion picture and home video entertainment, market access commitment is limited to the sub-sectors listed.

The limitations by mode of supply are entered as a negative list where market access and national treatment apply to all (sub) sectors included in the schedule if not explicitly exempted. If no limitations are explicitly mentioned under market access, the country cannot limit for instance the share of foreign equity in media companies. Finally there is the listing of additional commitments that is not directly related to market access or national treatment. In

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<sup>7</sup> [http://www.bertelsmann.de/bertelsmann\\_corp/wms/bertelsmann/index.php?ci=96&language=1](http://www.bertelsmann.de/bertelsmann_corp/wms/bertelsmann/index.php?ci=96&language=1)

<sup>8</sup> The offers during the Doha round of negotiations build on the existing schedule and changes are made in terms of additions to and crossing out existing text (i.e. "track changes mode" in the text file).

the telecommunications sector additional commitments have been made on regulatory principles for competition and interconnection. A reference paper was developed by the WTO secretariat in order to help facilitate the adoption of common principles for regulation of the telecommunications sector. Many countries, including Norway, incorporated the reference paper in their additional commitments. It has been argued that a reference paper should be developed for the audiovisual sector as well (Siwek, 2004).

If a mode of supply is listed with “None” under limitations, it means that there are no limitations on market access or national treatment respectively. If the entry is “unbound” it means that no commitments have been made. The US as most other countries has made no specific commitments on presence of natural persons.

**Table 2: The United States' initial offer on audiovisual services**

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional commitments
G. Audiovisual services <sup>1</sup>			
<u>Motion picture and home video entertainment promotion or advertising services</u>	1) <u>None</u> 2) <u>None</u> 3) <u>None</u> 4) <u>Unbound except as indicated in horizontal commitments</u>	1) <u>None</u> 2) <u>None</u> 3) <u>None</u> 4) <u>None</u>	
a1) <u>Motion Picture &amp; Video-Tape Home Video Entertainment Production &amp; Distribution Services</u>	1) None 2) None 3) None 4) Unbound except as indicated in horizontal commitments	1) Grants from the National Endowment for the Arts are only available for: individuals with US citizenship or permanent resident alien status, and non-profit companies. 2) None 3) As 1 4) None	
a2) <u>Motion Picture and home video entertainment distribution services (i.e. licensing for exhibition, broadcast, or other transmission)</u>	1) None 2) None 3) None 4) Unbound except as indicated in horizontal commitments	1) None 2) None 3) None 4) None	
b) <u>Motion Picture Projection Service</u> [Note: Projection services have been moved to other recreation services, below]	<del>1) None</del> <del>2) None</del> <del>3) None</del> 4) <u>Unbound, except as indicated in the horizontal section</u>	<del>1) None</del> <del>2) None</del> <del>3) None</del> <del>4) None</del>	
c) <u>Radio &amp; Television Production Services</u>	1) None 2) None 3) None 4) Unbound except as indicated in horizontal commitments	1) None 2) None 3) None 4) None	



<p>d) <del>Radio and Television Transmission Services</del>  [Note: Radio and television broadcast transmission services have been moved to other communications services, above]</p>	<p>1) <del>None</del>  2) <del>None</del>  3) <del>A single company or firm is prohibited from owning a combination of newspapers, radio and/or TV broadcast stations serving the same local market. Radio and television licenses may not be held by: a foreign government; a corporation chartered under the law of a foreign country or which has a non-US citizen as an officer or director or more than 20 per cent of the capital stock of which is owned or voted by non-US citizens; a corporation chartered under the laws of the United States that is directly or indirectly controlled by a corporation more than 25 per cent of whose capital stock is owned by non-US citizens or a foreign government or a corporation of which any officer or more than 25 per cent of the directors are non-US citizens.</del>  4) <del>Unbound, except as indicated in the horizontal section. In addition, US citizenship is required to obtain radio and television licenses.</del></p>	<p>1) <del>None</del>  2) <del>None</del>  3) <del>None</del>    4) <del>None</del></p>	
<p>e) <u>Sound recording services</u></p>	<p>1) None  2) None  3) None  4) Unbound except as indicated in horizontal commitments</p>	<p>1) None  2) None  3) None  4) None</p>	
<p>f) <del>Other Audiovisual Services</del> <u>Other services in connection with motion picture, home video entertainment, and radio and television production services, such as film dubbing, film title printing, editing, and cutting</u></p>	<p>1) None  2) None  3) None  4) Unbound except as indicated in horizontal</p>	<p>1) None  2) None  3) None  4) None</p>	

Source: WTO (2003a)

Notes:

1) References below to “home video entertainment” include, but are not limited to video tapes and optical discs.

Trade barriers in audiovisual services are mainly limitations on foreign ownership in media companies, quotas of local content in licensed television channels and cinemas. In addition standards can be used as trade barriers, while subsidies of local providers may also adversely affect foreign providers. The GATS does not prohibit subsidies, not even if they distort trade in services. The agreement merely states that members shall negotiate multilateral disciplines on subsidies in the future and that a member that considers itself adversely affected by a subsidy of another member may request consultations with that member (Article XV). In the so-called July 2004 package that sets a framework for the completion of the Doha negotiations it is stated that members must intensify their efforts to conclude negotiations on rule-making under GATS, including Article XV on subsidies (WTO, 2004). Finally, there are relatively high entry barriers in the audiovisual sector due to high up-front investment costs, particularly as far as digital content is concerned. Audiovisual services can be considered as information services and information is costly to produce but cheap to reproduce. Relatively high concentration rates in the media sector reflect this and raise the question of including multilateral principles for competition regulation in the sector.<sup>9</sup>

The most favoured nation (MFN) clause is a general principle of the WTO and applies to all sectors, including the services sectors not included in the schedule. The principle states that market access given to one WTO member must apply to all WTO members. Exemptions are regional trade agreements (RTA), provided that the agreement covers a substantial part of the members' trade. In addition "advantages to adjacent countries in order to facilitate exchanges limited to contiguous frontier zones of services that are both locally produced and consumed" do not revoke the MFN clause (GATS Article II). At the time when GATS entered into force countries could choose to notify and maintain MFN exemptions for up to ten years. Norway as well as several other countries including the European Union used this option and submitted a list of MFN exemptions. In Norway's list four out of a total of six exemptions are in the audiovisual sector.<sup>10</sup> These are presented in Table 3.

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<sup>9</sup> Switzerland raised the issue of competition in the ongoing GATS negotiations (WTO, 2001b).

<sup>10</sup> The other two are in road transport and air transport services.

**Table 3: Norway – final list of Article II (MFN) exemptions, audiovisual services**

<b>Sector or subsector</b>	<b>Description of measure indicating its inconsistency with Article II</b>	<b>Countries to which the measure applies</b>	<b>Intended duration</b>	<b>Conditions creating the need for the exemption</b>
Audiovisual services: Transmission of audiovisual programmes to the public	Measures that are taken for the implementation and in conformity with the regulations such as the EC Television Broadcasting Directive (No. 89/552) and which define programmes of European origin in order to extend national treatment to audiovisual programmes meeting specific origin criteria	Parties to the Council of Europe Convention on Transfrontier Television or other European countries with whom an agreement may be concluded	Indefinite	The promotion of cultural identity within the broadcasting sector in Europe, as well as achievement of certain linguistic policy objectives
Audiovisual services: Motion picture and video tape production and distribution services	To confer national treatment on audiovisual works through government-to-government framework agreements on film co-production. Such works may in some cases receive access to funding when this would not otherwise be available to co-production.	All countries (existing agreement with the United Kingdom)	Indefinite	The aim of such agreements is to promote cultural links between the countries concerned
Audiovisual services: Production and distribution of cinematographic works and television programmes in Nordic countries	Measures that are adopted for the implementation of benefits in conformity with such support programmes as the NORDIC FILM and TV FUND in order to enhance production and distribution of audiovisual works produced in Nordic countries	Finland, Norway, Sweden, Iceland and Denmark	Indefinite	Preservation and promotion of the regional identity of the countries concerned
Audiovisual services: Production and distribution of cinematographic works and television	Measures that are adopted for the implementation of benefits in conformity with such support programmes as MEDIA and EURIMAGES to audiovisual programmes and suppliers to these programmes, meeting specific European origin criteria	European countries	Indefinite	Preservation and promotion of the regional identity of the countries concerned

Source: WTO (2003b)

It is noted that the intended duration of all the measures in Table 3 is indefinite and that the purpose of the exemptions is to promote cultural identity and/or links with certain countries without opening the sector globally. The Annex on Article II Exemptions states that “In principle, such exemptions should not exceed a period of 10 years. In any event, they shall be subject to negotiations in subsequent trade-liberalization rounds.” (paragraph 6). The European Union’s common audiovisual policy that applies to the EEA falls under the RTA exemptions to MFN. The Nordic programs could probably fall under the adjacent countries’ exemptions. Eurimages, in contrast, is a program under the Council of Europe with 32 member countries, including several non-EEA members. The program implies extensive market access for participating countries and also includes three funding programs for assistance to:

- co-production of films
- distribution
- cinemas

A total amount of 19.5 million Euros was awarded for co-production in 2004, and about 0.9 million for distribution the same year.<sup>11</sup> These are tiny amounts relative to the cost of producing and distributing audiovisual content, so what is relevant in a MFN exemption context is the market access implied by the program.

To conclude this section the MFN exemptions have been put on the negotiating table during the Doha round of negotiations, as stated in the GATS agreement. As Table 3 indicates, the first and last measures imply significant market access to non-EEA European countries. These exemptions are not covered by the RTA or adjacent countries exemptions and should therefore apply to all WTO members from 2004 if the principles of the GATS were adhered to. If the exemptions were removed, this would imply that the transmission of audiovisual services to the public, and production and distribution of cinematographic works and television would be close to fully liberalized. According to the Norwegian Ministry of Foreign Affairs’ website, one country has actually made a request that the MFN exemptions in audiovisual services be removed, but the identity of the countries making requests is confidential.<sup>12</sup>

### **3 Other WTO sectors with relevance to audiovisual services**

Audiovisual services are currently defined as sub-sector D of Communication services in the GATS. As has been argued by the US in its offer to the current negotiations, there is a need to review the classification of audiovisual services. From a conceptual point of view a distinction should be made between content and infrastructure. This distinction is particularly useful from a regulatory point of view. From a competition policy point of view, regulation is most needed in infrastructure services due to network and scale effects. From a cultural policy point of view in contrast, regulation is most needed in the content industry. From a practical policy point of view, however, the distinction may not be straight forward. Content is to some extent still specific to the platform or channel of delivery and vertically integrated media and telecommunications conglomerates often offer packages of infrastructure services and content.

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<sup>11</sup> See [http://www.coe.int/T/E/Cultural\\_Co-operation/Eurimages/](http://www.coe.int/T/E/Cultural_Co-operation/Eurimages/)

<sup>12</sup> <http://www.odin.dep.no/ud/norsk/tema/handelspolitikk/032121-990019/dok-bn.html>

### 3.1 Overlapping sectors

Overlapping sectors refer to sectors that contain activities that could be classified as audiovisual services or sectors that could contain activities currently classified as audiovisual services. Among the latter are **Other communication services** and **Other recreational services** as suggested in the US offer.

**Electronic commerce** is a horizontal area in the WTO. It was introduced to the WTO at the second ministerial conference in Geneva in 1998 and a work program was established in order to clarify trade issues related to electronic commerce. A declaration saying that WTO members would not impose customs duties on electronic transmissions was made and this prevails as the current policy, even though it has been pointed out that import taxes should not depend on the channel of delivery of same products, particularly when the products in question are goods shipped physically to the foreign customer (e.g. CDs and DVDs). In this paper I am more concerned with services that are delivered electronically directly to the customer, and I do not discuss this issue of tariffs any further.

Music and video, including video games, are increasingly sold over the internet and directly downloaded or consumed in real time by the customer. Given existing regulation, trade barriers and market conditions depend on the mode of delivery. A film, for instance, is subject to screen quotas if sold to a local broadcasting company, but to no regulations at all if sold directly to the consumer. Furthermore, in recent years peer-to-peer (P2P) file sharing has resulted in free downloads of audiovisual content, most prominently in the music industry, causing havoc in the industry.

According to OECD (2004), news and media, entertainment and music accounted for 17 percent of total internet activity in the United Kingdom in 2003, and the corresponding figures for the United States and Australia were 15 and 20 respectively.<sup>13</sup> Norway was not part of the study referred to in the OECD report, but according to Norsk mediebarometer 2004 (SSB, 2005a), 12 per cent of internet users watched film or played games, 44 per cent accessed news from on-line versions of printed newspaper and 29 per cent accessed news from other sources on the internet in 2004. In all these categories the share of users had increased since 2001. In addition the total number of internet users had increased during the same period. The share of the population that had used internet on a daily basis increased from 35 per cent in 2001 to 45 per cent in 2004 (SSB, 2005). How much of this activity can be considered e-commerce is, however, not clear.<sup>14</sup>

Broadband opens new possibilities for channelling audiovisual services such as video-on-demand and downloads of videogames and music. The OECD (2004) study finds that the relative importance of the internet as a mode of delivery increases sharply when users switch from narrowband to broadband. The diffusion of broadband access both through PCs and mobile networks is likely to reduce the relative market share of broadcasters and cinemas and as a consequence an increasing share of the services consumed is delivered directly to the

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<sup>13</sup> The figures are defined as the number of visits to a web site under the mentioned categories as a share of total web visits. If measured in terms of time spent on the activities the share of audiovisual services would probably be higher. The second to largest category was another service that could probably fall under the audiovisual category as well, namely "adult" accounting for about 20 per cent of activity in all three countries.

<sup>14</sup> E-commerce involves a sales transaction with a service being delivered and a corresponding financial transaction being made.

consumer without going through program packagers. It is probably not possible to impose restrictions such as screen quotas for local content on services delivered directly to the consumer on demand. Therefore, e-commerce is likely to undermine the trade restrictions that are imposed in the EEA on audiovisual services.

**Computer and related services** include consultancy services related to the installation, operation and maintenance of computers and software. It includes software implementation services, programming services, data processing services, database services and data preparation services. Some of these could overlap with audiovisual services in areas such as animation used in movies and videogames. Norway has included the entire sector as defined in the GATS in its schedule with no limitations on market access or national treatment except that presence of natural persons is unbound.

**Advertising** is a sub-sector of business services in the GATS schedules, but as seen from Table 1, some advertising services are also classified under audiovisual services. Advertising can be considered an audiovisual service in its own right although the customers are businesses rather than consumers. In addition, audiovisual services and advertising constitute a dual market where advertising revenue subsidizes the production of content. Advertisers' willingness to pay for commercials in turn depends on how many customers can be reached. The two industries are thus closely related and changes in one lead to a need for adjustments in the other. More interactive media use combined with technology that allows users to avoid advertisements is a challenge both to the advertising services business and audiovisual service providers.<sup>15</sup> A study by Andersen (2002) argues that a development towards more specialized television channels and more interactive service consumption over the internet will lead to an increase in the relative importance of subscription revenue relative to advertisement, and to advertising targeting niche markets.

Norway has made a commitment in advertising services in the GATS and there are no restrictions on market access or national treatment except that presence of natural persons is unbound. The current situation is hence one where one part of a dual market is open to unrestricted international trade, while the other is not. The impact that possible liberalization in audiovisual services would have on both markets is an interesting issue for further research.

### **3.2 Complementary sectors - telecommunications**

Complementary services to audiovisual services are first and foremost telecommunications. Adequate telecommunications infrastructure is a precondition for cross-border supply of audiovisual services while development of content in the audiovisual services sector stimulates demand for telecommunication services and thereby boosts investment in telecommunications networks. Conversely, countries with poor telecommunications infrastructure are protected from cross-border import competition of audiovisual services. Norway has a very open trade regime in telecommunications with the only restrictions being on services provision through the presence of natural persons.

Currently, it appears that the content industry is lagging behind infrastructure. According to the Commission of the European Communities (2004), about 80 per cent of the EU15 population could be reached by broadband in July 2004, but only 7.7 per cent were

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<sup>15</sup> Technologies for skipping advertisements or filtering it out exist for video-on-demand and several internet-based services.

subscribers. In Norway about 85 per cent of the population can be reached by broadband, but at the end of the fourth quarter of 2004, out of a total of almost 2.5 million active private internet subscriptions, only about 581 000 were broadband subscriptions (SSB, 2005b). A possible explanation is lack of content that would justify the subscription fee seen from the customers' point of view.

To conclude this chapter, audiovisual services are closely related to other services sectors, through indirect network effects in telecommunications, dual market effects in the advertising sector and overlapping areas with computer related services, other communications services and recreational services. All these related services are open to international trade and investments with few, if any, restrictions except for the movement of natural persons. The internationalization of these related services could limit the scope for protection of audiovisual services to cinemas and the licensed public channels on television and radio. These are likely to lose market shares as a result of the diffusion of broadband and mobile services, and developments in television equipment with improved quality and declining prices of wide-screen television sets combined with digital broadcasting. The diffusion of this technology is still slow, but it is likely to pick up in the near future, making home cinemas a closer substitute to public cinemas.

## **4 The Common Audiovisual Policy in the European Union**

The European Community has not made commitments in the audiovisual services sector in the GATS and naturally has not made any requests in this sector to others. The decision not to make commitments was based on the perceived benefits of having room to manoeuvre in order to maintain and further develop measures for preserving cultural diversity. EU has, however, a common audiovisual policy and it participates in broader European programs such as Eurimages.

The audiovisual sector in EU regulation is defined as television, cinema, recorded music and leisure software. In 2001, television accounted for two thirds of the market, cinema for 15 per cent and recorded music and leisure software for the balance (Commission of the European Communities, 2003). The common audiovisual policy aims at creating an open internal market within the EU while promoting cultural and linguistic diversity. As already mentioned, the policy applies to Norway as well and it is probably more important to the Norwegian audiovisual sector than is GATS for the time being. Nevertheless, the dominant source of imports of audiovisual services to EU as well as to Norway is the United States. Trade with the US is governed by WTO rules and unilateral trade policy measures since neither Norway nor EU have free trade agreements with the US.

The US dominates world trade in audiovisual services. Its average market share in the European film market was about two thirds in 2001 and EU as a whole has a trade deficit with the US to the tune of 7 billion Euros annually in audiovisual services. The US dominance occurs in spite of the measures to promote local content, and in spite of the fact that the number of productions of feature films is larger in the EU than in the US.<sup>16</sup> In the late 1990s American productions obtained a market share of between 60 and 90 per cent in EU Members' markets in cinema ticket sales, video cassette sales and rentals, and sales of television fiction programmes. In contrast, the EU market share in the US was about 2 per

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<sup>16</sup> According to the Commission of the European Communities (2003) there were 630 productions in EU in 2002, compared to 450 in USA, but a large share of EU productions attracted less than 100 000 audiences.

cent in the same period (Commission of the European communities, 1999). Table 4 presents data on sales by US affiliates abroad and foreign affiliates' sales in the US of information services.<sup>17</sup>

**Table 4: Sales of US affiliate firms abroad and foreign affiliate firms in the US, USD millions**

	1999				2002			
	Exports		Imports		Exports		Imports	
	Total	Europe	Total	Europe	Total	Europe	Total	Europe
<b>Information</b>	<b>61 888</b>	<b>39 917</b>	<b>45 450</b>	<b>23 690</b>	<b>(D)</b>	<b>41 787</b>	<b>50 823</b>	<b>30 999</b>
Publishing industries	12 681	(D)	15 589	10 463	(D)	11 119	18 574	12 539
Newspaper, periodical, book, and database publishers	5 147	(D)	13 389	8 627	(D)	4 799	16 099	10 607
Software publishers	7 534	5 076	2 200	1 836	10 022	6 320	2 475	1 932
Motion picture and sound recording industries	8 646	5 657	12 584	2 606	10 883	6 856	7 984	(D)
Motion picture and video industries	(D)	(D)	9 184	(D)	8 819	5 875	5 280	(D)
Sound recording industries	(D)	(D)	3 399	(D)	2 064	981	2 704	2 698
Broadcasting and telecommunications	25 853	14 583	13 255	6 781	21 011	10 373	12 068	7 919
Broadcasting, cable networks, and program distribution	(D)	1 857	160	(*)	3 363	2 376	(D)	(D)
Telecommunications	(D)	12 726	13 095	6 781	17 647	7 997	8 501	(D)
Information services and data processing services	14 708	(D)	4 022	3 840	18 404	13 438	(D)	(D)
Information services	3 884	(D)	3 815	3 749	5 319	3 565	(D)	(D)
Data processing services	10 824	8 054	207	91	13 085	9 874	(D)	(D)

Source: Bureau of Economic Analysis, (2004)

Data for EU is not available, but the table indicates that the US has a substantial surplus in information services through delivery Mode 3, commercial presence, with Europe and that Europe accounts for more than 60 per cent of total sales of US affiliates abroad. The surplus had, however declined from 1999 to 2003. The (D) in the table means that data are suppressed to avoid disclosure of individual companies, suggesting that only a few European companies are established in the US.

EU regulation of the audiovisual sector is based on four principles, which states that regulation should:

- Be based on clearly defined policy objectives;
- Be the minimum necessary to meet those objectives;
- Further enhance legal certainty in a dynamic market;
- Be enforced as close as possible to the activities being regulated.

(Commission of the European Communities, 1999).

EU regulation distinguishes between infrastructure and content. In particular, regulation of content should be technology neutral depending on its nature rather than on its channel of transmission or delivery. Regulations of television are included in the "Television without frontiers directive" of 1989, amended in 1997. The directive defines television broadcasting as "the initial transmission by wire or over the air, including by satellite, in unencoded or

<sup>17</sup> Data on unaffiliated sales and total exports and imports are not available at this level of detail.



encoded form, of television programmes intended for the reception of the public.” The very title of the directive suggests, however, that it is not necessarily neutral to technology, and the Commission considers that a thorough revision might be necessary in the medium term in order to take into account technological developments. The directive includes the following provisions:

- Freedom of reception: member states shall not restrict retransmissions on their territory of television broadcasts from other member states;
- Events of major importance are broadcasted on free to air television. Major sports events, for example, must not be exclusively broadcasted by pay channels with a limited coverage. Member states draw up a list of designated events to which this provision applies;
- Broadcasters reserve for European works a majority proportion of their transmission time, excluding the time for news, sports events, games, advertising, teletext servicing and teleshopping;
- Broadcasters reserve for European works at least 10 per cent of their transmission time, excluding the time for news, sports events, games, advertising, teletext servicing and teleshopping, for European works created by producers who are independent of broadcasters;
- News and current affairs programmes may not be sponsored.

The directive includes definitions of European works, which includes co-production with third countries. It does not include services provided on individual demand such as video-on-demand. Several studies have argued that the definition of European works could be clearer and that the policy measures are not sufficiently effective in enhancing European culture and cultural diversity as stated in policy objectives (Messerlin and Cocq, 2004). The directive also restricts the use of advertising and teleshopping in terms of transmission time, there is a ban on certain products (tobacco, prescription drugs) and other restrictions related to morals, human dignity and health and safety. The directive is monitored by a contact committee under the aegis of the Commission. Reports on the implementation of the directive find that freedom of reception has now been ensured (Commission of the European Communities, 2003).

An important aspect of EU regulation has been the application of competition rules to the audiovisual sector. The Commission has examined several mergers and acquisition cases in the sector and state aid has also been an issue, including the funding of public broadcasters. Members are free to decide how public broadcasters are financed, but state aid should be proportionate to net costs of public service broadcasting and it should not affect trading conditions or competition unduly (Commission of the European Communities, 2003).

In addition to regulation, the EU also has programs of support to the audiovisual sector. The most important is the Media program that started in 1991. The program has gone through two phases (Media I and Media II) and has now entered its third phase, Media Plus, which started in 2001 and is intended to run for five years and has a budget of 400 million Euros.<sup>18</sup> The program supplements national support measures and focuses on development, distribution and promotion, where the largest funding share goes to distribution. The program also supports festivals provided that the European content is 70 per cent or more. The mid-term review of the program argues that it contributes to improving the competitiveness of the European

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<sup>18</sup> Out of the 400 million, 50 million is for Media Training.

industry relative to the US on cinema screens (April et al 2003). Norway is part of the Media Plus program and received the fourth largest rate of support per film in the year 2001 and EU support accounted for about 15 per cent of total government assistance to the audiovisual sector (April et al, 2004).

As is clear from this discussion, EU policy on audiovisual services focuses on film and television, while it is silent on the music industry. The music industry strongly urges the EU to re-classify the music industry in such a way that it does not fall under the audiovisual services industry. The industry is a highly successful exporting industry and has a strong position in world exports markets. It further argues that the cultural policy arguments for not making commitments in the audiovisual sector do not apply to the music industry. Therefore, it wants the EU to make commitments in the industry and make requests to others in order to contribute to open world markets. It argues that the music industry belongs to the GATS and that intellectual property rights protection problems can be tackled through a strengthening of TRIPS.<sup>19</sup>

To summarize this section, Norway is part of EEA and EU's policy on audiovisual services applies to Norway as well. The policy aims at promoting cultural diversity and protecting and promoting local content against the background of US dominance in the markets, particularly as far as television and motion pictures are concerned. Reserving a majority of broadcasters' transmission time for local content is probably the most trade restricting policy measure taken by the EU. As long as local content is defined as content produced by EU firms or co-production between EU firms and third country firms, this policy can be maintained even if audiovisual services were committed in the GATS, applying the RTA exemption. However, if local content includes non-EEA-members, for instance non-EEA participants in Eurimages, the policy can be more problematic even if audiovisual services are not committed as MFN exemptions are put on the table in the negotiations.

## **5 Norway's trade and FDI in audiovisual services**

This section presents data on trade in audiovisual services for Norway. There is no systematic collection of bilateral data on trade in this services category, so the presentation draws on several sources that cannot be directly compared. Table 5 shows the share of total television time by country of content production:<sup>20</sup>

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<sup>19</sup> See IFPRI (2001) for a discussion.

<sup>20</sup> The data source does not specify what content is included, so it is assumed that all content except advertising is included. It is therefore not possible to assess to what extent the EEA screen quota regulations are satisfied directly from the table.

**Table 5: Broadcasting time by country of program production (share of total)**

NRK (NRK1 & NRK2)													
	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Norway	60	58	60	60	60	59	55	-	-	-	-	-	68
Other Nordic	4	5	6	6	5	6	4	-	-	-	-	-	4
Other Europe	16	22	20	18	19	15	31	-	-	-	-	-	13
North America	5	7	9	10	9	9	-	-	-	-	-	-	12
Others	15	8	5	6	7	11	-	-	-	-	-	-	3
TV2													
Norway					52	52	50	50	51	52	56	56	60
Other Nordic					2	3	2	1	2	3	5	5	1
Other Europe					14	7	4	4	9	8	5	5	5
North America					10	34	34	31	30	31	28	30	27
Others					22	5	9	13	9	5	7	6	7

Source: NRK and TV2 compiled by <http://medienorge.uib.no>

The local content is high and has increased over time in both the state-owned Norwegian broadcasting corporation (NRK), and the commercial TV2. Among foreign produced programs, other Europe dominates the state-owned channel while North America has a large share of the commercial channel's time. Both NRK and TV2 have fulfilled the objective in the "Television without frontiers" EU directive of a majority proportion of European (including Norwegian) works (Medietilsynet, 2004). Table 6 shows country of production of motion pictures shown on television for the two main TV channels in Norway. The market shares fluctuate from one year to the next, but there is an upward trend in the Norwegian share and a downward trend in other Europe in NRK, and a slight downward trend in the North American share in TV2, although from a very high level.

**Table 6: Motion pictures shown on television by country of production (share of total)**

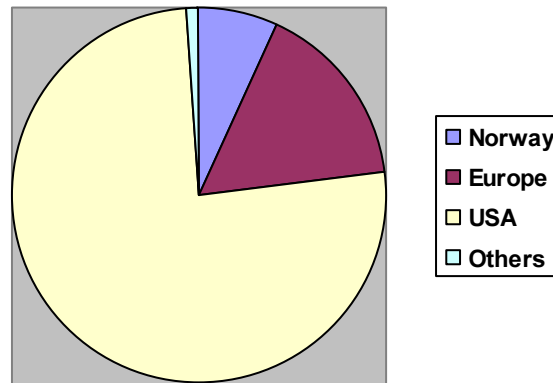
NRK (NRK1 & NRK2)													
	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Norway	6	11	19	11	10	18	13	17	15	10	11	11	25
Other Nordic	4	1	1	10	6	7	5	8	4	4	5	5	5
Other Europe	31	42	34	33	35	33	25	28	21	29	20	28	17
North America	49	36	41	38	43	35	50	43	58	45	48	50	46
Others	10	11	5	8	7	8	8	4	3	11	15	6	7
TV2													
Norway					2	9	0	5	7	3	3	3	4
Other Nordic					2	0	3	7	0	0	6	2	6
Other Europe					5	2	6	2	8	9	3	7	6
North America					91	89	90	86	83	85	86	86	84
Others					1	0	0	0	1	2	2	2	1

Source: NRK and TV2 compiled by <http://medienorge.uib.no>

Turning to cinema films, the Norwegian share in terms of number of visits has fluctuated around 10 percent with no clear trend during the period 1991 to 2003. The share depends very much on whether or not one or two Norwegian blockbusters were launched in a particular year. The market shares (measured in terms of revenue) in 2002 by region of

production is shown in Figure 1.<sup>21</sup> The average Norwegian visited a cinema 4.1 times in 2004, and the figure has fluctuated between 3.3 and 4.5 during the period 1991-2004 (SSB, 2005a).

**Figure 1: Market share of motion pictures in cinemas by revenue, 2002**



Source: MedieNorge (2005)

There have been few changes in the Norwegian pattern of media consumption during the past decade. Number of visits to the cinema has been fairly stable, the same goes for the time spent watching television and the distribution of that time on different channels has been stable as well (SSB, 2005a). One possible explanation is the relatively slow rate of diffusion of broadband in Norway. Norway lags behind other high-income OECD-countries, ranking 11<sup>th</sup> on broadband access per 100 inhabitants in December 2003 (OECD, 2004). At about 8 subscribers per 100 inhabitants Norway's score was slightly above OECD average, but far behind the leading country, South Korea with 23 subscribers per 100 inhabitants. The growth rate of broadband subscription in Norway has, however been very high in recent months (16.5 per cent from the third to the fourth quarter in 2004), suggesting that Norway is catching up (SSB, 2005b).

Norway also lags behind the other Nordic countries and the leading OECD countries in terms of cable and satellite network penetration. During the decade 1990 to 2001, the share of total households owning a TV that could receive cable and/or satellite broadcasting increased from 32 to 70 per cent. This compares to an OECD average of 58.5 per cent in 2001, but the shares in other countries with similar income levels were 86 in Austria, 100 in Belgium, 79.5 in Denmark, 97 in Germany and 98 in the Netherlands. Finland and France, however, lag behind Norway with rates of 62 and 32 respectively (OECD, 2005). The combination of a small market and relatively slow diffusion of new technology thus could partly explain the stability in the Norwegian audiovisual market.

However, differences in media use among age groups could prove a harbinger to future changes. The number of minutes per day spent in front of the television set increases monotonically with age (from 123 in the 9-15 age group to 193 in the 67-79 age group), while

<sup>21</sup> Figures for 2003 are available, but since there were two Norwegian blockbusters this year and an unusually high Norwegian market share (16 per cent in terms of revenue and 19 per cent in terms of visitors), 2002 is shown as a more representative year.

the number of minutes spent on the internet declines monotonically with age from the age of 16 (52 minutes in the age group 16-24 and 3 minutes in the age group 67-79). As new cohorts of internet-literate consumers enter the market, the internet is likely to increase its proportion of total media use.

The music industry has experienced a steep fall in sales revenue in recent times in Norway. The decline in the first quarter of 2005 was 27 per cent in value terms compared to the same quarter in 2004 (IFPRI, 2005). Widespread use of P2P file sharing and pirate copying is to blame for the decline according to industry sources. Nevertheless, domestic repertoire has increased its market share over time and stood at 35 per cent in March 2005, up from 21 per cent in March 2004 and 19 per cent in 2000. Furthermore, Norwegian repertoire has increased also in absolute terms.

Turning to ownership structures the Norwegian media sector is dominated by four players; Schibsted, Orkla, A-pressen and NRK. Foreign ownership shares were 25 per cent of the total in the printed press sector. There are two significant foreign players in the Norwegian audiovisual market. Modern Times Group (MTG) of Sweden owns 37.66 per cent in P4, a radio channel with a market share of about 22 per cent in terms of audience. MTG also owns TV3. It is part of Viasat, which provides a bundle of TV channels over satellite. TV3 broadcasts from London and its market share is about 6 per cent in terms of viewers. The other major foreign player is the US-based Scandinavian Broadcasting Systems S.A. (SBS). It owns TV Norge, a free-to-air television channel with a market share of about 10 per cent in terms of viewers. It is broadcasted over the networks of local TV channels with which the channel has an agreement and about 90 per cent of households have access to the channel. Also TVNorge satisfies the European content requirements in the EEA agreement (Medietilsynet, 2005). SBS also owns the largest local radio network in Norway (Radio1).<sup>22</sup>

The Norwegian market for broadcasting is dominated by the public broadcaster (NRK) as far as radio is concerned and by NRK and TV2 as far as television is concerned. NRK has even gained slightly in market share since 2000. Local content is relatively high and the same goes for market share relative to other media, in spite of openness to trade within Europe. A tentative interpretation of the data and trends is that there is a strong home bias in traditional media such as free-to-air broadcasting and radio. Even in motion picture and music local content has a strong position, but the market share is probably limited also from the supply side, given the combination of high fixed costs and a small market.

To conclude this section, the Norwegian audiovisual market in terms of local content and dominant players has changed little over the past decade in spite of rapid technology developments and in spite of a common European market for audiovisual services. A possible explanation is that the dominant players have been able to adjust to new technology and market conditions, spurred by increased competition. There also appears to be a relatively strong home bias such that further liberalization of the sector would not necessarily reduce local content. An interesting area of further research would be to establish to what extent EEA regulation on screen quotas is binding in Norway. According to Medietilsynet's annual report from 2004, it appears not to be binding for the license-financed NRK (more than 80 per cent European content), while the commercial channels TV2 and TVNorge also satisfy the requirements, but with a smaller margin (53 and 54 per cent respectively in 2004). A possible outcome of further liberalization is that the US would take market shares in

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<sup>22</sup> Data on ownership is available from Medietilsynet's annual report for 2004.

Norway at the expense of Europe, while local content maintains its market share, at least as long as the license-financed channel maintains its strong market position.

## **6 Technology and the scope for regulation**

### **6.1 Technology and industry structure**

Recent developments in telecommunications technology open new channels of delivery of audiovisual services. The most important developments are broadband and mobile internet access. Audiovisual content is delivered over these networks in two ways; streaming or downloading. Streaming refers to on-demand real time listening or viewing and is usually paid for on a per play basis. Streaming is thus a close substitute to traditional broadcasting of films, music etc. Downloading refers to purchases of video, music etc. where content is transferred to the consumers' PC, mobile phone or other equipment. The content can either be played an unlimited number of times for a set period, but not copied, or it can be copied or burned to a CD. Downloading is thus a close substitute to the purchasing of CDs, DVDs etc. from physical shops or through e-commerce. Both ways of providing content compete with DVD rentals. Differences between mobile and broadband internet have declined in recent years, although content needs to be adapted to different display sizes.

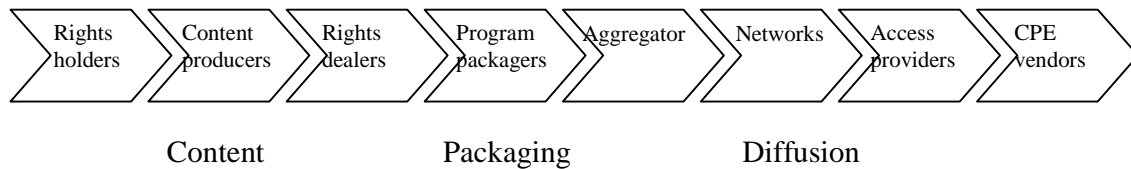
One key issue in the provision of online audiovisual services is payment systems. Finding secure payment on the internet is according to OECD (2004) still a challenge, and could constitute a barrier to cross-border supply. It appears that the mobile networks have an advantage in this regard, particularly as far as micro-payments are concerned. Mobile operators have entered agreements with content providers to charge for services through the mobile phone bill. To what extent such agreements are international in scope is not known, however.

The audiovisual sector can be seen as a supply chain as illustrated in Figure 2.<sup>23</sup> Each link in the chain refers to an organization. The distinction between program packagers and aggregators refers to the distinction between e.g. television channels putting together programs and aggregators putting together channels into packages sold to cable-TV customers. CPE vendors refer to vendors of customer premises equipment such as TV sets, boxes for digital reception etc.

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<sup>23</sup> The value chain is taken from Andersen (2002).

**Figure 2: The supply chain in audiovisual services**



Related to the supply chain is a value chain that refers to activities undertaken by the organizations in the supply chain. The allocation of activities to organizations changes over time and depends on technology and market structure. The relative importance of each activity also changes over time. Recent years have for example seen horizontal market concentration in the media sector and changes in vertical relations from integration to partnerships. The large media multinationals, for example AOL, increasingly enter partnerships and alliances with providers of complementary content and search services (OECD, 2004). The proliferation of broadband and cable networks allows more interactive use of content and not least the ability to skip advertisements. Depending on the extent to which such technology is used to allow customers to customize their own content package, the role of program packagers is likely to decline and advertising as a source of revenue might decline. As a consequence, subscription fees could increase its importance relative to advertising.

The audiovisual service where new technology has had the most dramatic effect is probably the music industry. The online market was not attractive to the record companies because of lack of intellectual property protection and because online supply could undermine existing business. However, with new technology the supply chain could be shortened, and a direct link between consumers and content producers could be established. The emergence of P2P file sharing on a non-commercial basis forced the record companies to come up with online strategies. These are still under development. The general picture is that record companies license content to online providers and at the same time take legal action against unauthorized use. Online providers sell downloads on a pay per download basis, and more recently on a monthly subscription basis. One challenge in the industry is lack of standard formats to code music. Online music delivery reduces production and distribution costs and almost eliminates manufacturing costs of e.g. CDs. This has broadened the spectre of available titles enormously. Rhapsody, an online subscription-based streaming music service, for instance, offers more than 750 000 tracks, of which the top 400 000 are streamed at least once each month (Anderson, 2004).

Online computer and video games are a new industry that has developed as a result of broadband infrastructure services. South Korea is the leading country in this business, probably as a result of the country having by far the highest broadband penetration rate in the world combined with leading equipment producers such as Samsung. According to OECD (2004) the industry constitutes a market of about 25 billion Euros and growing fast. In the US video games, often related to motion pictures, generate more revenue than ticket sales in cinemas. The issue of intellectual property has been solved in this industry as two thirds of the necessary programming remains on the server. Computer and video games require the most sophisticated software available, which in turn has found other applications in education, government services and design among others.

## **6.2 Technology and regulation**

Technological changes have resulted in new industries as well as new ways of delivering audiovisual services to consumers. This in turn affects regulators regarding:

- the relevance of regulation
- the need for regulation
- the measures of regulation

The relevance of regulation depends on the market share of regulated sectors compared to close substitutes that are unregulated. It appears that free-to-air television services and cinemas are the channels of distribution that lend themselves most easily to regulation of content. Although their market shares have been surprisingly stable during the past decade, the diffusion of broadband and the coming of age of the most computer-literate generations are likely to lead to a decline in the market share of these channels of delivery and hence the relevance of regulation. Furthermore, regulation could contribute to declining market shares should it prevent broadcasters from competing effectively.

The need for regulation is based on a discrepancy between market outcomes and a socially optimal outcome where the discrepancy is caused by externalities or other forms of market failure. The most relevant externality for audiovisual services is probably indirect network effects in relation to broadband internet penetration. The usage of audiovisual services increases the value of broadband subscriptions. More broadband subscribers in turn increase the value of audiovisual services. Such indirect network effects do not necessarily give rise to externalities and the need for regulation, since they are often of a pecuniary nature. However, it has been shown that if i) consumers prefer diversity in audiovisual services; ii) there are economies of scale in the production of audiovisual services; and iii) there is free market entry in the audiovisual services sector, then there is a positive adoption externality. The marginal adopter of broadband does not take into account the effect of her subscription on the diversity of audiovisual services available to existing subscribers. This results in a lower subscription rate to broadband than what is socially optimal and subsidizing broadband subscriptions would improve welfare (Church et al, 2003). The current Norwegian and EU regulation aims at free entry in the broadband market, while stimulating local content production. Under which conditions, if any, this would result in a social optimum is an interesting area for further research.

Economies of scale in the audiovisual sector are a reason for regulation in its own right. The most relevant regulation in this regard is competition policy. In most industries international competition is a way of exploiting economies of scale while ensuring diversity at the same



time. E-commerce with online delivery has broadened variety tremendously also in audiovisual services – or perhaps *particularly* in audiovisual services. Services such as Rhapsody mentioned above have a proven ability to aggregate dispersed audiences for niche products offering an almost unlimited number of titles.<sup>24</sup> Such markets are coined long tail markets referring to the huge number of varieties that reach a sufficiently large audience to recoup the cost of supply. Indeed, Rhapsody sells more songs outside its top 10 000 than within the top 10 000, indicating that niche markets can add up to substantial markets that can be reached at low costs through new technology (Anderson, 2004). Under which conditions freer trade in audiovisual services contributes to improved welfare through broader variety at lower costs at the same time as cultural policy objectives are not compromised, is another interesting area for further research.

Digital compression technology has led to more efficient use of spectrum. Therefore, the need for regulation from a point of view of allocating scarce spectrum has become less important than before.

Finally, technology has implications for the available measures of regulations and trade restrictions – whether one chooses to commit the sector in the GATS or not. It is much easier to regulate the content of one-to-many suppliers such as free-to-air broadcasters than many-to-many service suppliers such as P2P networks. But it can be difficult to regulate the content also of broadcasters when broadcasting from abroad via satellite. It has for example proven difficult to prevent satellite channels from advertising alcoholic beverages to Norwegian audiences. The prospect for regulating the content of interactive media and delivery-on-demand audiovisual services is probably limited to internationally agreed standards such as labelling in order to protect minors and other measures that allow users or authorities to filter out unwanted or illegal content respectively. Measures to promote local content will probably increasingly have to focus more on supporting local content providers than to restricting foreign providers when and if services on demand over broadband gain a critical market penetration.

## 7 Summary and conclusions

So far only 24 countries have made commitments in the audiovisual services sector, of which most are small, poor, or both.<sup>25</sup> But at the other end of the scale are some of the largest countries in the world; USA, India and China. It is likely that small and/or poor countries make commitments in audiovisual services because they see it in their best interest to have access to a broad variety of services, which is only possible through trade given their small and underdeveloped markets. At the other end of the spectre, the US and India in particular have significant export interests in the audiovisual services sector and have made commitments in order to contribute to more open world markets in the sector.

Norway has not made commitments in the sector, but is part of the EEA, which has a common internal audiovisual services policy, but no commitments in the GATS. Further, Norway together with EU participates in media programs under the auspices of the Council of

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<sup>24</sup> Norwegian black metal is a case in point where marketing and “word of mouth” on the internet has created a large, but thinly dispersed audience.

<sup>25</sup> The countries that have made commitments so far are: Armenia, Central African Republic, China, Dominican Republic, El Salvador, Gambia, Hong Kong, China, India, Israel, Japan, Jordan, Kenya, Korea, Lesotho, Malaysia, Mexico, New Zealand, Nicaragua, Oman, Panama, Singapore, Chinese Taipei, Thailand, USA (WTO, 2000) and as footnote 1.

Europe. In order to avoid that market access awarded to non-EEA partners in these and other bilateral programs of cultural exchange is extended to all WTO members, Norway has made four MFN-exemptions in the audiovisual services sector in the GATS. The intended duration of these is indefinite. Since MFN exemptions should in principle be limited to ten years, they should in principle expire in 2004. The continuation of MFN exemptions is under negotiations, and if they were lifted this would imply a significant improvement in market access for instance for US content in television broadcasting.

Local content in Norwegian media is relatively high, and considerably higher than the minimum requirement in EEA regulation. Local players also dominate the industry as far as ownership is concerned. Furthermore, patterns of media use have been fairly stable during the past decade in spite of new technology and new types of services and service providers. A closer look at the data indicates, however, that shifts in demand are taking place. Young consumers use the internet more intensively than older consumers and consumers with broadband access spend relatively more time consuming audiovisual services on the internet than internet subscribers without such access. In addition video-games take market share from motion pictures and television. In the future direct regulation of content in audiovisual services is likely to prove less effective than it has been in the past, whether or not Norway chooses to commit the sector in the GATS. Regulation of content is mainly applied in the television sector and refers to minimum *European* content. Given the high share of local content in spite of open European markets, GATS liberalization could well result in an increase in US market share mainly at the expense of European partners.

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