

Memorandum of Understanding further amended and restated for the development of harmonised Digital Video Broadcasting (DVB) services based on European specifications.

The Statutes of the DVB Project

The signatories:

Considering:

- that the future of terrestrial, cable and satellite television services is important for the public, broadcasters, operators and for the manufacturers who are part of the consumer electronics industry;
- that DVB has enabled digital broadcasting services by satellite and cable to begin in Europe and elsewhere in the world based on the standardisation by the Moving Picture Experts Group (MPEG) of source coding and multiplexing;
- that the future technology for programme production, editing, transmission network and home display will be digital;
- that digital systems, combined with compression technology are now used for feeding cable head ends;
- that digital broadcasting systems, based on DVB specifications, are soon to be introduced into the current terrestrial frequency bands without disturbing existing analogue services;
- that Directive 95/47/EC calls for all digital television transmissions to conform to standards from a recognised European Standards Body and in this regard relevant DVB specifications have been incorporated into European standards;
- that the objectives of the original statutes of the DVB Project (MoU) have now largely been achieved ;
- that enterprises that are, or intend to, invest in systems based on DVB specifications might reasonably expect the DVB to provide an effective technical support to maintain those specifications over a very extended period;
- that Europe needs a forum that brings together all the various parts of the market to keep under review market and technology developments in digital broadcasting so as to identify at a very early stage where further co-operation is needed;
- that some DVB techniques may also be applicable to the future multi-media environment and technical issues will arise across the various interfaces with other technologies such as interactive technologies;

- that the European Commission will review from time to time the state of the digital broadcasting market with a view to the evolution of the regulatory regime and that a forum that brings together all the different parts of the market could be a valuable source of information and advice for such;
- that revised statutes (MoU) are needed that modify the original ones so as to fully reflect the objectives of this new phase of the DVB project;
- that the initial version of the statutes (MoU) was adopted on 10 September 1993; this initial version has been amended and restated several times thereafter; and the Members of the DVB Project have adopted these amended and restated Statutes (MoU) on 20 October 2011.

agree the following Articles: -

Article 1 Form, registered office and purpose

- 1.1** The DVB Project is hereby established as a not-for-profit association with legal personality governed by articles 60 and seq. of the Swiss Civil Code and by these Statutes.
- 1.2** The registered office of the DVB Project shall be at the registered office of the European Broadcasting Union (EBU) in Geneva, or at such other location in Europe as the Steering Board may determine in accordance with the Swiss Civil Code.
- 1.3** The purpose of these Statutes (MoU) is to create in Europe a framework for a harmonious and market-driven development of digital broadcasting via cable, satellite and terrestrial means, including broadband wireless (MMDS, LMDS, etc.), interactive services, and to promote links between this European activity and similar activities in other parts of the world.
- 1.4** This shall be realised through:
 - preparing and promoting DVB technical specifications for digital television and their widespread international utilisation/adoption.
 - facilitating the introduction of new services using those standards.
 - facilitating the closest possible co-ordination between pre-competitive R&D and standardisation.
 - maintaining the existing DVB specifications to meet the needs of the market in Europe and elsewhere.
 - keeping under continuous review the market and technology developments to identify new developments in digital video broadcasting and related areas where European co-operation is essential for market success.

Article 2 Membership

2.1 Membership

These Statutes (MoU) may be signed by an entity/administration, a group of entities or organisations who commit themselves to the purposes of these Statutes (MoU) and to actively contribute to the work of at least one of the Modules. Such signatories are called Members or Full Members under these Statutes (MoU).

2.2 Observership

Observership status may be granted by decision of the General Assembly to any legal person, company or entity on a basis of mutual reciprocity.

Observers have the right to attend the meetings of the General Assembly with the right to speak but not the right to vote.

The Steering Board may recommend to the General Assembly for Observers an exemption of the full or fractional annual membership fee.

Article 3 Objectives

The deliverables from these Statutes (MoU) are intended to contribute to the following objectives:

- (a) expanding the number of systems throughout the world that conform to DVB specifications thus realising the benefits for everyone from economies of scale and compatible transmissions;
- (b) meeting the needs for a high standard of specification maintenance by all the enterprises that invest in systems to DVB specifications both in Europe and other parts of the world ;
- (c) appropriate solutions to intellectual property rights problems that may arise in the implementation of DVB specifications;
- (d) providing an effective forum at the European level for identifying, at the earliest possible stage, where further technical co-operation and development is needed to realise the benefits of digital broadcasting technology;
- (e) ensuring timely action is being taken on any further technical specifications needed by the market, building on the work of the competent European bodies wherever possible;
- (f) ensuring that the further evolution of the official regulatory policy frameworks for digital video broadcasting services in Europe are based on the best information of the market and industrial conditions;
- (g) forging links with organisations with compatible aims and objectives to that of the DVB in other parts of the world that intend to base their work, in whole or in part, on DVB specifications.

Article 4 Structure

The organisational structure shall comprise the following:

- General Assembly (GA)
- Steering Board (SB)
- Commercial Module (CM)
- Technical Module (TM)
- Intellectual Property Rights Module (IPRM)
- Promotion and Communications Module (PCM)

The Steering Board may modify the organisational structure in order to achieve the objectives of these Statutes (MoU). The meetings of the Steering Board and the Modules shall take place at the location of the Project Office or at such other location in Europe as the Modules may determine. The location in Europe or elsewhere of joint meetings with other organizations shall be decided by the Steering Board.

Article 5 General Assembly (GA)

- 5.1. Ordinary meetings of the General Assembly shall be convened once a year, at which the Assembly shall consider the report of the Steering Board, adopt the accounts for the past year and approve the budget for the next year.
- 5.2. Every two years, at an ordinary meeting, the General Assembly shall appoint the members of the Steering Board for the next two years. Existing members will be eligible for re-appointment.
- 5.3. Extra-ordinary meetings of the General Assembly may be convened by the Steering Board and shall be convened on a proposal of at least 1/3 of the Full Members.

Article 6 **Steering Board (SB)**

6.1 The Steering Board shall be composed of:

- A maximum of 51 elected representatives. To ensure a balanced representation of views from broadcasters, operators, manufacturers and administrations these representatives shall be composed of the numbers shown from each of the following constituencies:

Content Providers/Broadcasters (public and private)	14
Infrastructure providers (satellite, cable, terrestrial or network operator)	13
Manufacturers/software suppliers	17
Governments/national regulatory bodies	7
- Only those Full Members indicating their intention to contribute with resources and activities for the benefit of the DVB Project will be eligible to stand for election;
- The Steering Board may from time to time name ex-officio members and observers, without voting rights in either case. Representatives of the European Commission shall be ex-officio observers on the Steering Board.
- In addition the Steering Board may co-opt additional members without voting rights, to ensure an adequate spread of interests including geographical balance;
- The chairmen of the Modules and any Expert Groups of the Steering Board shall be ex-officio members of the Steering Board, without voting rights;

The Board shall be elected at the General Assembly. Where the number of nominations exceeds the number of places then the Chairman of the General Assembly shall proceed with an election. The election in any constituency shall be confined to those present from that constituency using the rules and procedures adopted by the Board for this purpose.

6.2 The Steering Board shall be responsible for:

- the policy direction of the overall Digital Video Broadcasting Project (DVB);
- co-ordination, priority setting and management of the DVB project;
- advice to public authorities including the European Commission on regulatory needs to facilitate the aims and objectives of the Statutes (MoU);
- amending the working structure as required from time to time;
- electing a chairman who will hold office for two years and who may be re-elected;
- establishing its own rules of procedures, including voting rules.
- appointing the chairmen of subordinate bodies taking into account any nominations from those bodies and approving their terms of reference and internal rules;

- dealing with any procedural disputes;
- appointing a Project Manager as may be required;
- keeping all signatories informed of the work of the Steering Board, Modules and any Expert Groups;
- preparing any proposals for amending the Statutes (MoU) to be put to the Full Members for approval;
- approving the establishment of relationships with organisations in other parts of the world and setting down the entitlements of members of those other organisations to receive information on and take part in the work of the DVB.

6.3 The EBU shall provide a "Project Office" support to the Steering Board for any Project Management.

6.4 All reasonable efforts shall be taken to ensure decisions of the Board are taken on the basis of consensus. However, when a consensus on an issue cannot be achieved during a meeting of the Steering Board, a call for an indicative vote may be made by the Board Chairman or by ten or more members of the Steering Board. If the indicative vote indicates a favourable outcome (with the majority indicated below) but a consensus is nonetheless not achieved, a call for a deciding vote may be made by ten or more members of the Steering Board to be held at the following meeting of the Steering Board. At such second meeting, the decision shall be valid where

- (i) two-thirds of the members of the Steering Board are in favour, and
- (ii) no constituency votes against the decision, by simple majority of its Steering Board representatives present and voting.

Co-opted and ex officio members of the Steering Board may neither vote nor call for a vote. Where the decision concerns advice to an institution of the European Union, then all minority and dissenting views shall be transmitted as well to that institution and other relevant parties.

Article 7 Commercial Module (CM)

The Commercial Module is open to senior managers concerned with the commercial exploitation of services/products in digital broadcasting and related areas.

The Commercial Module shall aim to create a common vision of Europe's future digital distributive electronics highways. It shall keep under review developments in the digital video broadcasting market, both commercial and technological, with a view to identifying, at the earliest possible time, the need for new co-operation.

The Commercial Module shall provide the definition of service requirements, priorities and time scale requirements to the Technical Module and upon completion of the specifications, when agreement between the two Modules is achieved, shall report to the Steering Board their endorsement of the results.

The Commercial Module shall endeavour to reach consensus including the use of indicative voting but if this is not possible in a timely way it shall put the options and the minority opinions to the Steering Board.

Article 8 Technical Module (TM)

The Technical Module provides technical expertise and is open to the technical experts of all Full Members.

The Technical Module also provides a forum for the co-ordination of R&D activities. It shall register details of all R&D projects wishing to come within the scope of these Statutes (MoU).

The Technical Module works according to requirements set down by the Commercial Module. It delivers specifications for one or more Standards via the Steering Board to the recognised standards setting entities, notably the EBU/ETSI/CENELEC Joint Technical Committee. It provides a conduit to other relevant standardisation activities including MPEG for the purpose of meeting the objectives of these Statutes (MoU).

In areas related to digital broadcasting but outside of it, the Technical Module shall recommend to the Commercial Module the adoption of standards of competent standardisation bodies or support for the activities in these related areas under way in other fora or other standards bodies. The Technical Module shall only produce DVB specifications in these related areas where there is no prospect of a standard emerging in a timely way that meets market need defined by the Commercial Module.

The Technical Module is entitled to deal with purely technical issues without there being a defined commercial requirement, but with the approval of the Commercial Module at the earliest possible time.

The Technical Module shall endeavour to reach consensus including the use of indicative voting but if this is not possible in a timely way it shall put the options together with the minority opinions to the Commercial Module and to the Steering Board as appropriate.

Article 9 Intellectual Property Rights Module (IPRM)

The Intellectual Property Rights Module shall provide a forum for members to seek out solutions to any intellectual property rights issue that arise in relation to DVB specifications, within the framework of Article 14.

Article 10 Promotion and Communications Module (PCM)

The Promotion and Communications Module shall ensure the flow of information to all parts of the world concerning DVB activities and specifications according to priorities set by the Steering Board and within a budget set by the Steering Board. This shall include organising the participation of the DVB Project in conferences and exhibitions around the world.

Article 11 Responsibilities of the Modules

Each Module shall be responsible for its own organisational arrangements, providing always that such arrangements do not conflict with these Statutes. Each shall propose for approval by the Steering Board its terms of reference and rules of procedure. They may offer to the Steering Board a nomination for the Chairman of their Module. Full Members are entitled to send representatives to all modules.

Article 12 Sources of funds

12.1 The activities under these Statutes (MoU) shall be funded in one of three ways:

- (a)** Costs of individual participation to be met by the organisations of the participants. This shall include elected officials.
- (b)** All other expenses from a membership fee set each year by the Steering Board within a ceiling not too far removed from the initial membership fee.
- (c)** Other sources of funding approved by the Steering Board.

12.2 The initial membership fee shall be 10,000 Euros or such lower fee as the Steering Board shall set for those becoming Members during the course of year. The

Steering Board may waive the membership fee where a number of Members already paying their fee also wish to be represented by an association.

- 12.3** The accounts shall be administered by the European Broadcasting Union or such other body as the Steering Board shall determine.

Article 13 Documentation

- 13.1** All Members shall be entitled to receive all output documents from all Modules of activities and the minutes of the Steering Board. The Steering Board shall determine its policy on the confidentiality of papers and similarly each of the Modules shall do likewise for its papers. This procedure shall also take into account the confidentiality agreements of the various contributing projects.
- 13.2** Members and Observers shall be entitled to receive all documents available during General Assembly meetings.

Article 14 Intellectual Property Rights

Recognising that the DVB Project is not a standards body, the DVB Project takes the basic position that if specifications made by the DVB group are being adopted as standard by a recognised standards body the IPR policy of that standards body should apply to such standards.

In order to expedite and to support the standardisation process Members commit themselves to the following policy.

- 14.1** Within 90 days from notification of approval of a specification by the Technical Module, each Member shall, on behalf of itself and its affiliated companies, submit to the chairman of the Steering Board a list of all the IPRs owned or controlled by the Member or any of its affiliated companies, to the extent that the Member knows that such IPRs will be necessarily infringed when implementing such specification and for which it will not or has no free right to make licences available.
- 14.2** With respect to any IPRs, owned or controlled by the Member or any of its affiliated companies, under which it or any such affiliated company has the free right to grant or to cause the grant of licences and to the extent that such IPRs will be necessarily infringed when implementing any specification approved by the Technical Module, other than those that are notified under clause 14.1 hereof, each Member hereby undertakes, on its behalf and on behalf of its affiliated companies, that it is willing to grant or to cause the grant of non-exclusive, non-transferable, world-wide licences on fair, reasonable and non-discriminatory terms and conditions under any of such IPRs for use in or of equipment fully complying with such specification to any third party which has or will submit an equivalent undertaking with respect to any relevant IPRs it may have or obtain with respect to such specification.
- 14.3** A Member shall have the right up until the time of final adoption as a standard by a recognised standards body of a specification approved by the Steering Board to declare to the DVB Steering Board that it will not make available licences under an IPR that was subject to the undertaking for licensing pursuant to article 14.2 above, only in the exceptional circumstances that the Member can demonstrate that a major business interest will be seriously jeopardised.
- 14.4** As used in this Article 14, "affiliated company" shall mean, in respect of a Member, any legal entity which directly or indirectly controls, is controlled by, or is under common control with the Member, but only as long as such control exists, where the term "control" means the ownership, directly or indirectly, of more than 50 % of the interest representing the right to vote or to manage the affairs of an entity.

- 14.5** This Article 14 covers only specifications developed and approved by DVB. For the avoidance of doubt, this Article does not affect the specifications or other materials developed by other standards bodies and referenced by DVB specifications.
- 14.6** Any notifications made by Members in connection with this Article 14 shall not constitute notice from any Member to any other Member (or any Observer) or constitute a charge or basis for a charge, of infringement of any IPR or related damages claim of any kind, for any purpose, under any applicable law.
- 14.7** Each Member hereby agrees, on its behalf and on behalf of its affiliated companies, that, subject to clause 14.9 of this Article 14, all disputes with any other Member of these statutes (MoU) regarding solely the terms and conditions of licences arising in connection with the undertaking in this Article 14 shall be finally settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by three arbitrators appointed in accordance with such Rules. Arbitration shall take place in Frankfurt, Germany. German substantive law shall apply. The language of the arbitral proceedings shall be the English language unless agreed otherwise between the Members.
- Notwithstanding the forgoing provisions, the Members in dispute may agree among themselves on the method, substantive law, venue and language to be applied to resolve their dispute.
- 14.8** Intellectual property rights subject to article 14.2 shall remain subject to that article after transfer of the IPR to a non-Member and by that transferee to subsequent transferees.
- 14.9** For any specification approved by the Steering Board clause 14.7 of this Article shall come into force two years after the notification referred to in clause 14.1 unless by such date at least 70 percent of all Members or their affiliated companies holding IPRs which have been identified as being necessarily infringed when implementing such specification and subject to the undertaking for licensing pursuant to clause 14.2 (but excluding Members or their affiliated companies, all of whose IPRs were subsequently available under clause 14.3) have notified the Steering Board of a voluntary agreed upon joint licensing programme regarding their identified IPR for such specification.

Article 15 Withdrawal

A Member may withdraw from the DVB Project at any time by giving 1 month's notice in writing to the Chairman of the Steering Board. Such withdrawal shall not affect the existing obligations on the Member in its individual capacity.

Article 16 Amendments

Any amendments to these Statutes (MoU) shall be prepared by the Steering Board and shall be decided by the General Assembly or by correspondence to Members. If the proposal is put to the vote by the General Assembly, it will be adopted when two-thirds or more of the votes are in favour and greater than 50 percent of Members have voted. If the proposal is put out to all Members for a vote by correspondence, it will be adopted, after giving Members not less than two months to reply, when two-thirds or more of the votes are in favour and greater than 50 percent of Members have voted. If in either case the 50 percent quorum is not achieved (but the proposal shall have received favourable votes from two-thirds of those voting), then the proposal may be either

- (i) put to all Members for a further vote by correspondence and will be adopted, after giving Members not less than one month to reply, when three-quarters or more of the votes cast in the further vote are in favour (without regard to the number of Members voting), or

- (ii) put to the vote by a second General Assembly and will be adopted when three-quarters or more of the votes cast are in favour (without regard to the number of Members voting).

Article 17 Interpretation

The Steering Board shall provide guidance on any questions of interpretation of the statutes (MoU).

Article 18 Duration

These amended and restated statutes (MoU) amend and restate the statutes (MoU) of the DVB Project adopted on 10th September 1993, as amended and restated on 17th December 1996 and the DVB Project continues without interruption subject to article 20 hereunder.

Article 19 No agency

No Member shall act or represent or hold itself out as having authority to act as an agent or partner of any other Member, or in any way bind or commit any other Member to any obligations.

Article 20 Dissolution

20.1 The DVB Project may be dissolved by decision of the General Assembly taken under the procedure specified in Article 16. Dissolution of the DVB Project shall not affect any existing obligations on the Members in their individual capacity arising from Article 14.

20.2 In the event of dissolution of the DVB Project, any remaining assets, after payment of all outstanding liabilities, shall be transferred to a similar association pursuing the same objectives and entitled to an exemption from tax. Under no circumstances will the assets be returned to the members, nor used for their own benefit.

Article 21 Indemnification of DVB Leadership

21.1 For the purposes of this Article 21,

- (a) "Agent" means the Chairman DVB, the Chairman of any Module, the Executive Director, the Legal Director, those other members of the leadership of DVB from time to time notified by the Chairman DVB to the Steering Board, and any other person having held such a position on or after 1 January 2013;
- (b) "Proceeding" means any threatened, pending, or completed action or proceeding, to the extent that said action or proceeding relates to the activities of the Agent in favour, or at the request, of the DVB Project, whether civil, criminal, administrative, or investigative; and
- (c) "Expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification.

21.2 The DVB Project shall, to the fullest extent permitted by law, indemnify and hold fully harmless any Agent who was, or is, a party or is threatened to be made a party to any Proceeding, against Expenses, judgments, fines, and other amounts actually and reasonably incurred in connection with such Proceeding, including any settlement to the extent that the DVB Project agreed thereto.

- 21.3** In the event entitlement to indemnification is required by law to be based upon the prior determination by the governing bodies of the DVB Project that the Agent has effectively met the standards of conduct prescribed by law, the Agent may require that the relevant body or bodies shall make such determination on the issue within a reasonable period of time.
- 21.4** Each Agent shall use all reasonable endeavours to claim under any policies of insurance and/or rights of indemnity in effect under the terms of the Agent's employment by a Member and under which the Agent is a potential beneficiary before claiming a right of indemnity on the DVB Project. The indemnification provided by the provisions of this Memorandum of Understanding shall not be exclusive nor deemed to be exclusive of any other rights to which Agents may be entitled under any contract, agreement or otherwise. The indemnification shall cover all Proceedings relating to the period wherein the person was an Agent and shall continue to so cover the Agent after the person has ceased to be an Agent, and shall further inure to the benefit of the Agent's heirs, successors and legal assigns.
- 21.5** The DVB Project will purchase and maintain appropriate insurance policies for and on behalf of any person who is or was an Agent.
- 21.6** Expenses incurred in defending a Proceeding shall be paid by the DVB Project in advance of the final disposition of such Proceeding, upon receipt of an undertaking by or on behalf of the Agent to repay such amount, unless it shall ultimately be determined that the Agent is entitled to be indemnified by the DVB Project as authorized in this Article 21.

Article 22 Forum Selection

Except as provided under Article 14.7, any action brought by a Member against the DVB Project pursuant to article 75 of the Swiss Civil Code or otherwise, or brought by a Member against any Agent (as defined in Article 21), shall only be brought in the courts of the Canton and Republic of Geneva.