

## **Corrigenda and Addenda no 1 to DVB Blue Book A066 rev. 1**

September 2004

This document is the result of clarifications, reflecting the experience of conformance testing and licensing, to the DVB Blue Book A066 rev. 1, *MHP Implementation Contracts and other arrangements*. It also makes more widely available the text of a form of notice used in the application of the DVB's IPR policy.

### **Cover**

A legend is added:

See Corrigenda and Addenda no 1 (September 2004)

### **s 2 Explanatory Note**

At the time of the next revision of the DVB Blue Book A066, the Explanatory Note will also

- a. describe the work of DVB Services Sarl, the certification authority issuing certificates to MHP manufacturers, broadcasters and application developers (comprehensive information is available at [www.dvbservices.org](http://www.dvbservices.org)); and
- b. provide an update on the process to forming a joint licensing programme for MHP (see now information offered by the facilitator at [www.vialicensing.com](http://www.vialicensing.com)).

#### **s 2.2.2 Checklist: MHP Conformance Testing and IPR Licensing**

The section is replaced in its entirety by the materials in Annex 1.

(A new section 4 is added together with a footnote. The footnotes in a future revision of DVB Blue Book A066 will be renumbered.)

#### **s 2.3.3 IPRM and the IPR policy of the DVB Project**

footnote 9: the first sentence is replaced with:

For more complete information of the IPR policy of the DVB Project, see the presentation in [www.dvb.org](http://www.dvb.org).

### **s 2.4.5 Continuing responsibilities for the MHP Mark**

footnote 24: the footnote is replaced in its entirety with:

The submission of a Certificate to the Custodian on the completion of conformance testing for a new implementation requires payment neither to the Custodian nor to the DVB Project Office. (Each Certificate identifies the product name of the certified Implementation.) It will ensure the accuracy of the supplemental annual certificate submitted to the DVB Project Office under the MHP Mark Licence Agreement (at which time a payment of EUR 5000 is made).

A new product “rebadging” an existing product may, in some cases, not need to be treated as a new implementation calling for conformance testing. This case could arise for OEM products. The distributor of the rebadged product would in any event seek an MHP Mark Licence Agreement, which it obtains upon payment of the initial licence fee and delivery of its certificate, also signed by its seller (OEM), to the effect that the product is a rebadging of a product for which a Certificate of Completion has previously been filed. A similar process is used in circumstances where a “third party certifier” develops and tests an implementation and submits its certification on behalf of an entity not a licensee under the Test Application Licences. In either case, the distributor should also review the position of its seller in respect of IPRs essential to the implementation

(In the first paragraph, only the second sentence is new; in the second, the penultimate sentence has been added and a transitional phrase added to the last sentence.)

The chart accompanying footnotes 26 and 25 is replaced in its entirety, together with the footnotes, by the materials in Annex 2. (This change adds most notably a new footnote 27.)

### **s 3.1 Amended and Restated DVB Conformance Testing Custodian Agreement**

Annex A: Certificate of Completion of the Conformance Testing is replaced in its entirety by the text in Annex 3 (only the space provided to indicate the name or other designation of Implementation (product) is new).

### **s 3.2 MHP Mark Licence Agreement**

Schedule 4: Supplemental Annual Certificate is replaced in its entirety by the text in Annex 4 (only the text calling for the Licensee to attach a list of its Implementations is added).

### **s 7.5 Form of Notification of Approval issued under art 14.1 MoU [NEW]**

A new s 7.5 is added, setting out the form of notice issued after the adoption, by the Technical Module, of a specification, calling for each Member to submit a list of essential IPRs it holds for which it does not have free right to make licences available, and calling attention to the IPR rules of the standards body to which the specification will be submitted.

**2.2.2 Checklist:  
MHP Conformance Testing and IPR Licensing**

<b>IMPLEMENTER ACTIVITY</b>	<b>ACTION</b>	<b>IPR LICENSING &amp; FEES (5)</b>
<b>1. Considering Implementation</b>		
	Examine MHP at <a href="http://www.mhp.org/technical_essen/">http://www.mhp.org/technical_essen/</a> ; references to third party specification on separate third-party website	Third-party website may have click-through limitations; no fees
<b>2. Implementation – Testing</b>		
a. MHP Test Suite	Send ETSI two copies, each signed, of each Test Application Licence	Review licensing terms; ETSI administrative fee of 1000 euro; no royalty (6)
b. Source code, test harness	At your option, send ETSI two copies, each signed, of each Source Code Licence and of each Test Harness Licence	Review licensing terms; no additional administrative fee; no royalty
<b>3. Implementing – Market Launch</b>		
All implementers using the MHP Mark	Send ETSI a Certificate of Completion of Conformance Testing;  Send to DVB Project Office two copies, each signed, of the MHP Mark Licence Agreement	€10,000 royalty, payable to DVB
a. Short-form licence of essential IPR	Send ETSI two copies, each signed, of each Essential IPR Licence	Review licensing terms; no royalty
b. “Long-form” licence with IPR holder	Make direct contact with the licensor	Royalty, other terms subject to bilateral negotiations
c. No licence (“clean-room implementer”)	Send to ETSI notice that you choose not to deliver an Essential IPR Licence	
<b>4. Implementing – Later MHP Products; Annual Certificates</b>		
a. Second and later MHP Products (7)	Send to ETSI a Certificate of Completion of Conformance Testing, identifying the product	None
b. Supplemental Annual Certificate	On the anniversary date of the MHP Mark Licence Agreement, send to DVB a Supplemental	E 5000

- <sup>5</sup> The table reflects the situation as of June 2003 in respect of royalties. As other IPR holders participate in the ETSI program, they may ask for payment of royalties. Note that Sun has offered a second form of Essential IPR Licence under which it will assess a royalty not to exceed US\$ 1 for each hardware unit.
- <sup>6</sup> As indicated in the prior footnote, there is as of the date of this Blue Book no royalty associated with the MHP Test Suite. The MHP Test Suite is confidential and for that reason a rights holder may not be aware that its essential IPR is implicated until after its adoption by the DVB Steering Board. See section 2.4.2. Note also that the licences for test suites adopted for other GEM variations may be royalty-bearing and contain terms different than those set out in this Blue Book.
- <sup>7</sup> There are different implementation variants (for example, OEM, rebadging, use of a third party certifier). In some cases the implementer may consider resubmitting IPR Licence Agreements and paying a new fee. See s 2.4.5.

	<b>Conformance Testing</b>	<b>MHP Mark (25)</b>	<b>Essential IPRs</b>	<b>Reference(26)</b>
<b>Full Implementation</b>	Obtains MHP Test Suite	Obtained with Certificate of Completion	Available	<i>passim</i>
<b>Incomplete Implementations</b>	Obtains MHP Test Suite	No	Obtains Certificate of Assurance	Item 5.1.1 (A)
<b>OEM purchaser</b>	If only rebadging, not needed	Yes with certificate from OEM	To be reviewed by purchaser	Footnote 24
<b>Changed Implementation</b>	Implementer decides if retesting needed	Annual certificate may suffice	To be reviewed by Implementer	Explanatory Note, s 2.4.5
<b>Affiliate</b>	See footnote 27	Yes, as sublicensee	Covered	MHP Mark Licence Agreement, schedule 5

(25) Note also annual requirements for supplemental certificate, fee, etc

(26) Cross-reference is not inclusive. Other provisions may be relevant.

(27) The chart covers the case of a company testing an implementation which is in turn brought to market by its affiliate. In the case of conformance testing, at least one test application licence agreement makes clear that it cannot be assigned to an affiliate or otherwise.

**Annex A: Certificate of Completion of the Conformance Testing**

[date]

To the Custodian under the DVB Conformance Testing Custodian Agreement  
European Telecommunications Standards Institute  
650 route des Lucioles  
06921 Sophia Antipolis, France

Attention: DVB MHP administration

Ladies and Gentlemen:

**Certificate of completion of Conformance Testing**

We hereby deliver our Certificate under the DVB Conformance Testing Custodian Agreement. All capitalised terms in this Certificate shall have the same meaning as in that Agreement; for purposes of this Certificate, we are the Implementer.

We hereby represent and warrant that

- (a) the Implementer has completed the Conformance Testing, using the MHP Test Suite delivered to the Implementer by the Custodian;
- (b) during the Conformance Testing, the implementation by the Implementer of MHP satisfied the MHP Test Suite; and
- (c) this Certificate has been prepared and signed by the person who has performed the Conformance Testing on behalf of the Implementer and who is authorised to sign the Certificate on its behalf.

We understand that if these representations and warranties are untrue there may be a breach of the MHP Mark Licence Agreement and one or more Test Application Licences, Source Code Licences or Essential IPR Licences.

We also enclose with this Certificate, if we are also an Essential IPR Licensee, two executed copies of each Essential IPR Licence.

Sincerely,

[IMPLEMENTER]

Name or other designation of  
Implementation (product)

by: \_\_\_\_\_  
its

\_\_\_\_\_

/\_\_\_/ We attach to this Certificate two copies of each Essential IPR Licence.

/\_\_\_/ We chose not to attach an Essential IPR Licence.

## **Schedule 4 Supplemental Annual Certificate**

Supplemental Annual Certificate in respect of Conformance Testing  
[on the anniversary date of the MHP Mark Licence Agreement]  
To the MHP Mark Licensor under the MHP Mark Licensor Agreement  
The DVB Project  
c/o European Broadcasting Union  
Ancienne Route 17A  
CH-1218 Grand Saconnex (Geneva)  
Switzerland  
Attention: Executive Director

Gentlemen:

### **Supplemental Annual Certificate**

We hereby deliver our Supplemental Annual Certificate under the MHP Mark Licence Agreement. All capitalised terms in this Supplemental Annual Certificate shall have the same meaning as in that Agreement; for purposes of this Supplemental Annual Certificate, we are the Licensee.

We hereby represent and warrant that:

- (a) in respect of each of our Implementations, we have completed the Conformance Testing, using the MHP Test Suite delivered, from time to time, to the Licensee by the Custodian;
- (b) during the Conformance Testing, each Implementation of MHP satisfied the MHP Test Suite; and
- (c) this Supplemental Annual Certificate has been prepared and signed by the person who has performed the Conformance Testing on behalf of the Licensee and who is authorised to sign the Supplemental Annual Certificate on its behalf.

We attach a list of our Implementations.

We understand that if these representations and warranties are untrue there may be a breach of the MHP Mark Licence Agreement and one or more Test Application Licences, Source Code Licences or Licences.

We also have made to you on or before today the further payment of EUR 5000 in respect of the MHP Licence Fee.

Sincerely,

[LICENSEE]  
by:

## **7.5 Form of Notification of Approval issued under art 14.1 MoU**

**To all members of the DVB  
Project**

Geneva, [date] 200X

### **CIRCULAR LETTER To the Signatories of the Memorandum of Understanding of the DVB Project**

**Ref.:** Notification of Approval of Specifications for the Purposes of Article 14.1  
of the DVB MoU.

Dear DVB Member,

With reference to Article 14.1 of the Memorandum of Understanding of the Digital Video Broadcasting Project (December 2000), this letter is notification of approval by the Technical Module of the following specifications:

<b>TM Doc. No.</b>	<b>Title</b>	<b>Document type</b>
TM #####		New EN standard
TM #####		Revision to an existing EN standard
TM #####		New TS specification

All documents can be downloaded from the DVB FTP server. The details are:

FTP Server Name: [www.dvb.org](http://www.dvb.org)  
Login: memberdoc  
Password: swenkevi  
URL: <ftp://memberdoc:swenkevi@www.dvb.org>

The documents are in the "TM" sub-directory and in Zipped, WinWord or Adobe PDF format.

Article 14.1 of the DVB MoU provides:

*Within 90 days from notification 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 specifications and for which it will not, or has no free right to, make licences available.*

Thus for purposes of Article 14.1, the 90-day period starts on [date] 200X and this notification concerns the specifications listed in the table above. The 90 day period with therefore closes on [date] 200X at 17:00 CET.

We call to your attention that our specifications are delivered to recognised standards bodies, notably ETSI (<http://www.etsi.org/legal/home.htm>) and CENELEC ( <http://www.cenorm.be/BOSS/supmat/refdoc/mm008.htm>). For example, when specifications agreed by DVB are submitted to ETSI for standardisation, Article 4.1 of ETSI's IPR policy states:

*Each MEMBER shall use its reasonable endeavours to timely inform ETSI of ESSENTIAL IPRs it becomes aware of. In particular, a MEMBER submitting a technical proposal for a STANDARD or TECHNICAL SPECIFICATION shall, on a bona fide basis, draw the attention of ETSI to any of that MEMBER's IPR which might be ESSENTIAL if that proposal is adopted.*

DVB's own IPR rules (MoU art 14) state:

*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 standards by a recognised standards body, the IPR policy of that standards body should apply to such standards.*

If you are a member of the standards body applicable to this specification, we expect you to comply with the IPR rules of that body. If you are not a member, it is nonetheless good practice for you to comply with its IPR rules. This paragraph is a reiteration of a long-standing policy within DVB; it does not modify the effect of this notice under MoU art 14.1.

Copies of the complete text of Article 14 and of the specifications listed have already been distributed to you as a member of the DVB Project.

For further information, please contact the DVB Project Office.

Yours sincerely,

on behalf of:  
Chairman, DVB Technical Module

**Distribution:** Signatories of the DVB MoU  
**Copy:** Chairman DVB, Chairman, DVB Intellectual Property Rights Module