Copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes

2016/0284(COD) - 14/09/2016 - Legislative proposal

PURPOSE: to promote the cross-border provision of online services ancillary to broadcasts and to facilitate digital retransmissions over closed networks of TV and radio programmes originating in other Member States.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with Council.

BACKGROUND: the development of digital technologies and internet has transformed the distribution of and access to television and radio programmes, with **49% of European internet users** (Eurostat estimate) accessing music, audiovisual content and games online. Broadcasters and retransmission service providers are increasingly investing in the development of digital and online services for the distribution of radio and television programmes.

However, despite the growing variety of online services, **broadcasters' programmes often remain unavailable online** to European citizens living in other Member States. In addition, the variety of TV and radio channels from other Member States provided by retransmission services differs across the EU.

Broadcasting organisations transmit on a daily basis a high number of programmes that they license from others or produce themselves. These programmes incorporate a variety of protected content such as audiovisual, musical, literary or graphic works. This requires a **complex clearance of rights with a multitude of right holders.**

Operators of retransmission services, which aggregate a high number of TV and radio channels into packages, also face difficulties for acquiring all the rights necessary to **retransmit** the television and radio programmes of broadcasting organisations. The Satellite and Cable Directive does not extend to retransmission services provided by means other than cable over **closed electronic communication networks**, such as IPTV (TV/radio over closed circuit IP-based networks).

This proposal responds to one of the key objectives identified in the Digital Single Market Strategy: to **enhance wider online access to TV and radio programmes by users across the EU**. It is presented in parallel with:

- a proposal for a directive to modernise certain aspects of the Union copyright framework to take account of technological developments; and
- a proposal for a regulation and a directive to implement the Marrakech treaty in order to improve access to format copies of certain works for the benefit of persons who are blind, visually impaired or otherwise print disabled.

IMPACT ASSESSMENT : the impact assessment examines **two sets of policy options**, aimed at facilitating the clearance of rights (i) for the online transmissions of TV and radio programmes; and (ii) for digital retransmissions of TV and radio programmes:

- **as regards online transmissions of TV and radio programmes**, the preferred option consists of limiting the scope of application to broadcasters' online services which are ancillary to the initial broadcasts (notably simulcasting and catch-up services);
- **as regards digital retransmissions of TV and radio programmes**, the preferred option consists of limiting the scope of application of mandatory collective management of rights to IPTV retransmission services and other retransmission services provided over "closed" electronic communications networks,

CONTENT: the draft regulation aims **to promote the cross-border provision of online services ancillary to broadcasts and to facilitate digital retransmissions over closed networks of TV and radio programmes** originating in other Member States by adapting the Union legal framework. The proposal defines the services covered by the measures (notably "ancillary online services" and "retransmission" services). These definitions will be applied in a uniform manner in the Union.

The proposal concerns the **facilitation of the clearance of rights** for ancillary online services by broadcasting organisations by introducing a **principle of country of origin**, according to which the copyright relevant act takes place solely in the Member State where the broadcasting organisation is established. It also facilitates the clearance of rights for retransmission services provided over closed networks (other than cable), by introducing rules on mandatory collective management.

By addressing the difficulties related to the clearance of rights, the proposal will promote **consumers' access to more TV and radio programmes** originating in other Member States, both as concerns ancillary online services of broadcasting organisations and retransmission services.

The proposal provides that the Commission shall **carry out a review** of the Regulation and present a report on its main findings. It obliges Member States to provide the Commission with necessary information for the preparation of that report.