Cross-border portability of online content services in the internal market

2015/0284(COD) - 14/06/2017 - Corrigendum to final act

CORRIGENDUM to Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market (OJ L 168, 30.6.2017).

NB: the corrections concern the dates and time limits originally laid down in respect of: (i) the application to existing contracts and rights acquired before the date of application of the Regulation; (ii) the review of the Regulation by the Commission; (iii) the date of application of the Regulation.

LEGISLATIVE ACT: Regulation (EU) 2017/1128 of the European Parliament and of the Council on cross-border portability of online content services in the internal market.

PURPOSE: to allow consumers who paid for online content services in their home country to access them when visiting another country within the EU.

CONTENT: the Regulation establishes a **common EU approach** to allow subscribers to access online content (such as films, sporting broadcasts, music, e-books or games) for which they have paid in their Member State of residence, when subscribers temporarily visit another Member State when on holidays, business trips or limited student stays.

Providers of all online content services that are provided against the payment of money will **not be able to impose any additional charges on the subscriber** for access and use of the service in another Member State where the subscriber is temporarily present. They may not take any action to reduce the quality of delivery of the online content service when providing the online content service.

Verification of the Member State of residence: to avoid abuses, service providers will verify the subscribers' member state of residence. The verifications will be carried out in compliance with EU data protection rules.

The means of verification will be **reasonable, proportionate and effective**. Unless the subscriber’s Member State of residence can be verified with sufficient certainty on the basis of a single means of verification, providers should rely on two means of verification from the list in the Regulation. These may be:

- an identity card;
- bank account or credit or debit card number;
- the place of installation of a set top box, a decoder or a similar device used for supply of services;
- the payment by the subscriber of a licence fee for other services;
- the billing address or the postal address;
- an Internet protocol (IP) address check.

If the provider has **reasonable doubts** about the subscriber’s Member State of residence, he may repeat the verification of the Member State of residence of the subscriber. The provider will be authorised to **cease the access to the online service** when the subscriber cannot prove his/her member state of residence.

Copyright holders will have the possibility of authorising the use of their content without the obligation to verify the subscriber's residence. In such cases, the contract between the provider and the subscriber for the provision of an online content service should be used to determine the latter's Member State of residence.

Online content services provided without payment of money: free to air services, such as those provided by certain public broadcasters, will have the option of benefiting from the regulation provided that they verify the country of residence of their subscribers. The provider shall inform its subscribers of its decision to provide the online content service, prior to providing that service.

Application to existing contracts: this Regulation shall apply also to contracts concluded and rights acquired **before the date of its application**. By 2 June 2018, the provider of an online content service provided against payment of money shall verify the Member State of residence of those subscribers who concluded contracts for the provision of the online content service before that date.

Review: by 2 April 2021, and as required thereafter, the Commission shall assess the application of the Regulation in the light of legal, technological and economic developments, and submit to the European Parliament and to the Council a report thereon.

ENTRY INTO FORCE: 20.7.2017.

APPLICATION: from 1.4.2018.