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

2016/0284(COD) - 27/11/2017 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report by Tiemo WÖLKEN (S&D, DE) on the proposal for a regulation of the European Parliament and of the Council laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes.

The Committee on Culture and Education, exercising its prerogative as an associated committee in accordance with Article 54 of the Rules of Procedure, also gave its opinion on the report.

The committee recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the Commission proposal as follows.

Objective: the Regulation seeks 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.

To that end, it shall establish legal mechanisms to **facilitate the clearance of copyright and related rights** relevant for the cross-border provision of ancillary online services and to facilitate digital retransmissions over a closed environment. Those legal mechanisms shall include:

- the establishment of the country of origin principle as regards the exercise of those rights:
- provisions on: (i) mandatory collective management of copyright and related rights relevant for retransmission; (ii) legal presumptions of representation by collective management organisations, (iii) the exercise of retransmission rights by broadcasting organisations.

Application of the country of origin principle: Members felt that the limitation of the scope of application of the country of origin principle to ancillary online services seemed too narrow in view of technological developments and rapidly changing nature of offers proposed. They proposed that this principle apply to online services as well as news and current affairs programmes.

In this context, Members specified the **rules on remuneration**: when fixing the appropriate amount of the payment to be made for the rights subject to the country of origin principle, the parties shall take into account all aspects of the ancillary online service such as the features of the ancillary online service, the audience, the potential audience, and all language versions.

This shall not limit the parties' freedom to agree on any specific methods or criteria for calculating the amount of payment to be made for the rights subject to the country of origin principle such as those based on the broadcasting organisation's revenues generated by the online service.

The parties shall be entitled to continue agreeing on the introduction of limits on the exploitation of the rights, provided that any such limitations are in compliance with Union and national law.

Exercise of the right in retransmission other than by cable by right holders other than broadcasting organisations: Members clarified that the right of retransmission is an exclusive right and has to be authorised by the holders of copyright and other related rights.

Collective management organisations shall maintain a database providing information related to the management of copyright and related rights covered by these provisions, including information on the right holder, the type of use, the territory and period of time.

Members also introduced provisions on the exploitation of broadcasting programmes through a direct injection process. The definition of '**direct injection**' has been introduced.

Lastly, it is proposed that the Regulation shall apply from **18 months** after the date of its publication.