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

2016/0284(COD) - 17/05/2019 - Final act

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.

LEGISLATIVE ACT: Directive (EU) 2019/789 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, and amending Council Directive 93/83/EEC

CONTENT: with the development of digital technologies and the Internet, users increasingly expect to have access to television and radio programmes, both live and on demand, through traditional means, such as satellite or cable, and also through online services. As a result, broadcasters are increasingly offering, in addition to their own television and radio broadcasts, online services ancillary to these broadcasts, such as simultaneous broadcasting services via the Internet (multi-media broadcasting) and catch-up services that allow a programme to be viewed or listened to after its initial broadcast.

In order to be able to offer these services on a cross-border basis, broadcasting organisations must acquire the rights to the works and other protected objects contained in their programmes, for all the territories covered.

This Directive lays down rules that aim to enhance cross-border access to a greater number of television and radio programmes, by facilitating the clearance of rights for the provision of online services that are ancillary to the broadcast of certain types of television and radio programmes, and for the retransmission of television and radio programmes.

Application of the country of origin principle to ancillary online services

The Directive establishes the country of origin principle as regards the exercise of copyright and related rights relevant for acts that occur in the course of the provision of, the access to or the use of an ancillary online service. That principle covers the clearance of all rights that are necessary for a broadcasting organisation to be able to communicate to the public or make available to the public its programmes when providing ancillary online services.

The scope of application of the country of origin principle is limited to certain types of programmes. Those types of programmes include news and current affairs programmes as well as a broadcasting organisation's own productions that are exclusively financed by it.

Exercise of retransmission rights by right holders other than broadcasting organisations

For the purposes of the types of retransmissions covered by the Directive, the rights in works and other subject-matter contained in the programme must have been acquired through a collecting management

organisation. Member States shall ensure that rightholders may exercise their right to grant or refuse the authorisation for a retransmission only through a collective management organisation.

Member States shall ensure that it is possible to call upon the assistance of one or more mediators where no agreement is concluded between the collective management organisation and the operator of a retransmission service, or between the operator of a retransmission service and the broadcasting organisation regarding authorisation for retransmission of broadcasts.

Transmission through direct injection

The Directive also lays down rules for the transmission of television and radio programmes through direct injection, i.e. a technical process by which a broadcaster transmits the signal carrying its programmes to signal distributors in such a way that this signal is not accessible to the public during this transmission.

In this case, the broadcaster and the signal distributor shall be considered as participating in a single act of communication to the public, for which they will have to obtain authorisation from the rights holders.

Transitional provision

Existing contracts shall not be affected for a period of four years from the entry into force of the Directive, i.e. until 7 June 2023.

By 7 June 2025 at the latest, the Commission shall evaluate the Directive and present its main conclusions in a report to the European Parliament, the Council and the European Economic and Social Committee.

ENTRY INTO FORCE: 6.6.2019.

TRANSPOSITION: no later than 7.6.2021.