Encrypted services: legal protection of services based on or consisting of conditional access

1997/0198(COD) - 29/06/1998 - Council position

The Council common position incorporates the substance of 11 amendments adopted by Parliament. The Council has, however, not incorporated some amendments accepted by the Commission in its amended proposal. Several of these amendments concern the interests of television viewers or the use of conditional access for reasons other than protecting remuneration. The Council has however noted the Commission's intention to carry out a study on the use of conditional access systems for reasons other than protecting remuneration, their impact on the operation of the internal market and the need for appropriate additional legal protection. The Council has made other changes which do not affect the objectives or substance of the proposal. These changes mainly aim to: - explicitly refer to 'commercial communications'; - clarify the concept of 'distribution'; - add a reference to the 'rental' and 'distribution' of illicit devices to the list of illicit activities; - state that national rules may provide that infringements must be intentional, i.e. carried out by people who were aware or should normally have been aware of them; - indicate that the Member States are not obliged to adopt penal sanctions but that they must ensure that the measures they adopt are in conformity with their national judicial systems and that they may provide for preventive measures.