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

1997/0198(COD) - 09/07/1997 - Legislative proposal

OBJECTIVE: following the Green Paper from the European Commission (COS0395), the proposal for a directive aims to guarantee the legal protection of encrypted services in the internal market. SUBSTANCE: the proposal concerns the legal protection of broadcasting signals and remunerated broadcasting. It aims to: - prohibit and sanction all commercial activities involving unauthorized access to encrypted services (sale of decoders, smart cards or pirate devices); - prevent the Member States from restricting the free movement of services and decoders within the Union. The proposal covers all services supplied on a Conditional Access basis, such as pay-TV and pay-radio, video-on-demand, audio-on-demand, electronic publishing and a wide range of on-line services, all of which are offered to the public on a subscription or usage-related basis. It required the Member States to prohibit: - the manufacture, import, sale, possession, installation, maintenance or replacement for commercial purposes of an illicit device; - the use of commercial communications to promote illicit devices. The proposal demanded that sanctions applied should be effective, deterrent and proportional to the potential impact of the infringement. Service providers would be able to bring an action for damages and to request an injunction and the seizure of illicit devices, when appropriate.