Basic information

2016/0284(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes **Subject** 3.30.02 Television, cable, digital, mobile 3.30.04 Radiocommunications, broadcasting 3.30.06 Information and communication technologies, digital technologies 3.30.25 International information networks and society, internet 3.50.15 Intellectual property, copyright	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	SVOBODA Pavel (PPE)	15/01/2018
	Shadow rapporteur NIEBLER Angelika (PPE) WÖLKEN Tiemo (S&D) KARIM Sajjad (ECR) CAVADA Jean-Marie (ALDE) MAŠTÁLKA Jiří (GUE/NGL) REDA Felix (Verts/ALE) ADINOLFI Isabella (EFDD) BOUTONNET Marie-Christine (ENF)	

Committee for opinion	Rapporteur for opinion	Appointed
INTA International Trade	The committee decided not to give an opinion.	
ITRE Industry, Research and Energy	BUZEK Jerzy (PPE)	10/07/2017
IMCO Internal Market and Consumer Protection	FORD Vicky (ECR)	11/10/2016

CULT Culture and Education (Associated committee)	KAMMEREVERT Petra (S&D)	25/10/2016

Committee for opinion on the legal basis	Rapporteur for opinion	Appointed
JURI Legal Affairs	LEBRETON Gilles (ENF)	10/01/2019

Council of the European Union

Council configuration	Meetings	Date
Competitiveness (Internal Market, Industry, Research and Space)	3503	2016-11-28
Agriculture and Fisheries	3686	2019-04-15

European Commission

Commission DG	Commissioner
Communications Networks, Content and Technology	OETTINGER Günther

European Economic and Social Committee

Key events

Date	Event	Reference	Summary
14/09/2016	Legislative proposal published	COM(2016)0594	Summary
06/10/2016	Committee referral announced in Parliament, 1st reading		
28/11/2016	Debate in Council		
16/03/2017	Referral to associated committees announced in Parliament		
21/11/2017	Vote in committee, 1st reading		
21/11/2017	Committee decision to open interinstitutional negotiations with report adopted in committee		
27/11/2017	Committee report tabled for plenary, 1st reading	A8-0378/2017	Summary
29/11/2017	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
12/12/2017	Results of vote in Parliament		
12/12/2017	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72 - vote)		
23/01/2019	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE637.325 GEDA/A/(2019)002687	
27/03/2019	Debate in Parliament		
28/03/2019	Decision by Parliament, 1st reading	T8-0322/2019	Summary

28/03/2019	Results of vote in Parliament		
15/04/2019	Act adopted by Council after Parliament's 1st reading		
17/04/2019	Final act signed		
17/04/2019	End of procedure in Parliament		
17/05/2019	Final act published in Official Journal		

Technical information

Procedure reference	2016/0284(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	Treaty on the Functioning of the European Union TFEU 114
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	JURI/8/07952

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE604.674	11/05/2017	
Committee opinion	IMCO	PE597.612	06/06/2017	
Committee opinion	ITRE	PE597.748	23/06/2017	
Amendments tabled in committee		PE606.267	23/06/2017	
Amendments tabled in committee		PE606.268	23/06/2017	
Committee opinion	CULT	PE595.592	28/06/2017	
Committee report tabled for plenary, 1st reading/single reading		A8-0378/2017	27/11/2017	Summary
Text agreed during interinstitutional negotiations		PE637.325	18/01/2019	
Specific opinion	JURI	PE634.499	24/01/2019	
Text adopted by Parliament, 1st reading/single reading		T8-0322/2019	28/03/2019	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2019)002687	18/01/2019	
Draft final act	00007/2019/LEX	17/04/2019	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2016)0594	14/09/2016	Summary
Document attached to the procedure	SWD(2016)0301	14/09/2016	
Document attached to the procedure	SWD(2016)0302	14/09/2016	
Commission response to text adopted in plenary	SP(2019)437	30/07/2019	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	PT_PARLIAMENT	COM(2016)0594	05/12/2016	
Contribution	NL_CHAMBER	COM(2016)0594	21/12/2016	
Contribution	DE_BUNDESRAT	COM(2016)0594	22/12/2016	
Contribution	FR_SENATE	COM(2016)0594	27/01/2017	
Contribution	CZ_SENATE	COM(2016)0594	14/03/2017	
Contribution	DK_PARLIAMENT	COM(2016)0594	04/05/2017	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES5382/2016	25/01/2017	

Additional information

Source	Document	Date
European Parliament	Briefing	
European Commission	EUR-Lex	

Final act

Directive 2019/0789
OJ L 130 17.05.2019, p. 0082 Summary

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.

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

2016/0284(COD) - 14/09/2016 - Legislative proposal

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.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with Council.

BACKGROUND: the development of digital technologies and internet has transformed the distribution of and access to television and radio programmes, with **49% of European internet users** (Eurostat estimate) accessing music, audiovisual content and games online. Broadcasters and retransmission service providers are increasingly investing in the development of digital and online services for the distribution of radio and television programmes.

However, despite the growing variety of online services, **broadcasters' programmes often remain unavailable online** to European citizens living in other Member States. In addition, the variety of TV and radio channels from other Member States provided by retransmission services differs across the EU.

Broadcasting organisations transmit on a daily basis a high number of programmes that they license from others or produce themselves. These programmes incorporate a variety of protected content such as audiovisual, musical, literary or graphic works. This requires a **complex clearance of rights with a multitude of right holders.**

Operators of retransmission services, which aggregate a high number of TV and radio channels into packages, also face difficulties for acquiring all the rights necessary to **retransmit** the television and radio programmes of broadcasting organisations. The Satellite and Cable Directive does not extend to retransmission services provided by means other than cable over **closed electronic communication networks**, such as IPTV (TV/radio over closed circuit IP-based networks).

This proposal responds to one of the key objectives identified in the Digital Single Market Strategy: to **enhance wider online access to TV and radio programmes by users across the EU**. It is presented in parallel with:

- a proposal for a directive to modernise certain aspects of the Union copyright framework to take account of technological developments; and
- a proposal for a regulation and a directive to implement the Marrakech treaty in order to improve access to format copies of certain works for the benefit of persons who are blind, visually impaired or otherwise print disabled.

IMPACT ASSESSMENT : the impact assessment examines **two sets of policy options**, aimed at facilitating the clearance of rights (i) for the online transmissions of TV and radio programmes; and (ii) for digital retransmissions of TV and radio programmes:

- **as regards online transmissions of TV and radio programmes**, the preferred option consists of limiting the scope of application to broadcasters' online services which are ancillary to the initial broadcasts (notably simulcasting and catch-up services);
- **as regards digital retransmissions of TV and radio programmes**, the preferred option consists of limiting the scope of application of mandatory collective management of rights to IPTV retransmission services and other retransmission services provided over "closed" electronic communications networks,

CONTENT: the draft regulation aims **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 by adapting the Union legal framework. The proposal defines the services covered by the measures (notably "ancillary online services" and "retransmission" services). These definitions will be applied in a uniform manner in the Union.

The proposal concerns the **facilitation of the clearance of rights** for ancillary online services by broadcasting organisations by introducing a **principle of country of origin**, according to which the copyright relevant act takes place solely in the Member State where the broadcasting organisation is established. It also facilitates the clearance of rights for retransmission services provided over closed networks (other than cable), by introducing rules on mandatory collective management.

By addressing the difficulties related to the clearance of rights, the proposal will promote **consumers' access to more TV and radio programmes** originating in other Member States, both as concerns ancillary online services of broadcasting organisations and retransmission services.

The proposal provides that the Commission shall **carry out a review** of the Regulation and present a report on its main findings. It obliges Member States to provide the Commission with necessary information for the preparation of that report.

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.

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

2016/0284(COD) - 28/03/2019 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 460 votes to 53 with 8 abstentions, a legislative resolution 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.

Parliament’s position in first reading following the ordinary legislative procedure amended the Commission’s proposal as follows:

Purpose

The 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. It also lays down rules for the transmission of television and radio programmes through the process of direct injection, this being a technical process by which a broadcasting organisation transmits its programme-carrying signals to an organisation other than a broadcasting organisation, in such a way that the programme-carrying signals are not accessible to the public during that transmission.

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. For the purposes of the Directive, broadcasting organisations' own productions should be understood as covering productions carried out by a broadcasting organisation with the use of its own resources, but excluding productions commissioned by the broadcasting organisation to producers that are independent from the broadcasting organisation and co-productions.

In setting the amount of the payment to be made for the rights relating to the country of origin principle, the parties must take into account all aspects of the ancillary online service, such as the features of the service, including the duration of the online availability of programmes included in the service, the audience, and the language versions provided.

Exercise of the rights in retransmission by rightholders other than broadcasting organisations

Acts of retransmission of programmes have to be authorised by the holders of the exclusive right of communication to the public.

Where a rightholder has not transferred the management of the right to a collective management organisation, the collective management organisation which manages rights of the same category for the territory of the Member State for which the operator of a retransmission service seeks to clear rights for a retransmission shall be deemed to have the right to grant or refuse the authorisation for a retransmission for that rightholder.

However, where more than one collective management organisation manages rights of that category for the territory of that Member State, it shall be for the Member State for the territory of which the operator of a retransmission service seeks to clear rights for a retransmission to decide which collective management organisation or organisations have the right to grant or refuse the authorisation for a retransmission.

Mediation

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 of programmes through direct injection

When a broadcasting organisation transmits by direct injection its programme-carrying signals to a signal distributor, without the broadcasting organisation itself simultaneously transmitting those programme-carrying signals directly to the public, and the signal distributor transmits those programme-carrying signals to the public, the broadcasting organisation and the signal distributor shall be deemed to be participating in a single act of communication to the public in respect of which they shall obtain authorisation from rightholders. Member States may provide for arrangements for obtaining authorisation from rightholders.