

# 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.