

# Cross-border portability of online content services

## SUMMARY

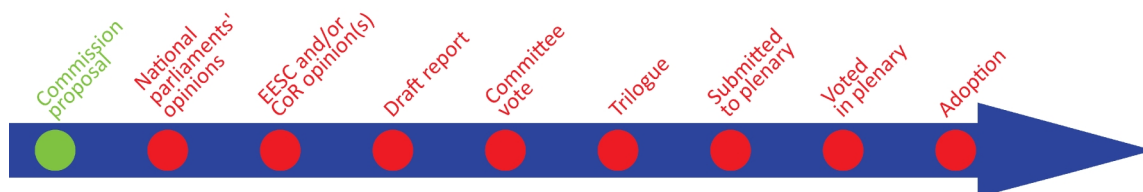
The provision of copyright-protected online content services is still largely characterised by territorial and exclusive licensing practices which result in a lack of cross-border portability in the EU. To remedy this, the Commission proposed a regulation on the cross-border portability of online content services.

According to the proposed regulation the provision of online content services would be deemed to take place only in the country in which the subscriber is a permanent resident. This would require online content service providers to offer cross-border portability to their customers when they are temporarily present in other Member States, and would make unenforceable all contrary contractual restrictions in the licences between rights-holders and service providers.

Stakeholders and commentators have generally welcomed the proposed regulation but some concerns have been raised with regard to elements of the current wording which leaves too much room for interpretation.

## Proposal for a Regulation of the European Parliament and of the Council on ensuring the cross-border portability of online content services in the internal market

<i>Committee responsible:</i>	Internal Market and Consumer Protection (subject to confirmation)	COM(2015) 627 of 09.12.2015
<i>Rapporteur:</i>	Marco Zullo (EFDD, Italy)	<i>procedure ref.:</i> 2015/0284(COD)
<i>Next steps expected:</i>	initial discussions in committee	Ordinary legislative procedure



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## Introduction

On 9 December 2015, the European Commission adopted a [proposal](#) for a regulation on portability of online content services. The proposal aims to facilitate the cross-border portability of online content services so that users can access their online content services – such as audiovisual and music – whenever they travel across the EU. The new legislation would introduce a common approach in order to remove barriers to cross-border portability in the Union.

## Context

### Demand for cross-border access to online content

Technological developments and the growing use of portable devices such as tablets and smartphones have greatly facilitated access to online content services independently of the location of the users. Subscriptions to online content are growing fast ([International Video Federation](#), 2014). As a result, consumers increasingly want to access online content services not only in their home country but also when they travel or temporarily stay in another Member State ([Plum Consulting](#), 2012). Enhancing cross-border access to online content has therefore become central to fostering a favourable environment for e-commerce in the EU.

Surveys show that consumers are often prevented from using the content services that they have acquired in their home country when they cross an internal EU border (e.g. [Eurobarometer](#) survey, 2015). The European Commission [estimates](#) that at least **29 million people**, or **5.7% of European consumers**, would potentially make use of cross-border portability of online services in the EU and that this percentage will grow in future (reaching **14%** and around **72 million people by 2020**) given the increasing use of mobile devices and the trends amongst young customers towards cross-border online access. However some [stakeholders](#) and other studies ([European Audiovisual Observatory](#), 2015) indicate that demand for cross-border access to online content is more limited, and consider that less than **3% of the EU population** are concerned.

### Recent Commission initiatives for enhancing cross-border access to online content

#### *Stakeholder dialogue 'Licences for Europe'*

In 2013, the Commission launched a stakeholder dialogue, '[Licences for Europe](#)', in order, inter alia, to promote industry-led solutions for fostering cross-border access and portability of services in the EU. Representatives of the audiovisual sector issued a [joint statement](#) affirming their commitment to continue working towards the further development of cross-border portability. However, [according](#) to the Commission no tangible results or concrete industry follow-up have materialised yet.

#### *Collective Rights Management Directive*

The [Collective Rights Management Directive 2014/26/EU](#) (CRM) was adopted in order to improve the functioning of the organisations in charge of representing collectively the interests of the rights-holders in the EU. One of the key objectives of the Directive –

which is to be transposed in all Member States by April 2016 – is to create the conditions for more effective licensing of online musical works in a cross-border context (i.e. multi-territorial licences). Scholars have however [stressed](#) that important legal questions regarding the implementation of the Directive still remain to be clarified.

#### *Commission competition inquiry and antitrust proceedings*

In parallel to the legislative initiatives the Commission also launched an [inquiry](#) into the e-commerce sector, to assess in particular the potential barriers erected by companies to cross-border online trade in goods and services.<sup>1</sup> The preliminary report is expected to be published in mid-2016, and Margrethe Vestager, European Commissioner in charge of Competition matters, announced that an [issues paper](#) on geo-blocking (i.e. restrictions preventing internet users located in a given European country from accessing a website, and purchasing online services or products offered to users based in another country) will be published before Easter 2016. Furthermore, in 2015 the European Commission initiated formal [antitrust proceedings](#) against several film studios and broadcasters, accused of having put in place – in breach of EU competition law – some contractual restrictions preventing EU consumers located elsewhere to access, via satellite or online, pay-TV services available in the UK and Ireland.

#### *Digital Single Market Strategy*

The Juncker Commission has identified the completion of the [Digital Single Market](#) (DSM) as one of its political priorities, and has committed to adapting EU legislation to the digital era in its 2015 [work programme](#). Accordingly, one of the main objectives of the [Digital Single Market strategy](#) announced by the Commission on 6 May 2015 is to remove barriers to e-commerce and ensure better access for consumers and businesses to digital goods and services across Europe. To that end, a step-by-step approach was announced in the [Communication on the future of the European copyright framework](#), with a series of targeted legislative interventions to modernise copyright law and adapt it to technological challenges.

As a first step, the Commission adopted on 9 December 2015 a [legislative proposal on cross-border portability](#) in order to ensure that subscribers to online content services can continue using them while temporarily present in another Member State. This proposal will be followed in 2016 by other legislative initiatives targeting other barriers to e-commerce such as [geo-blocking](#), the obstacles to [online contracts](#) and the [review of the Satellite and Cable Directive](#) (i.e. for cross-border distribution of television and radio programmes online).

### **Existing situation**

At the moment, there are no explicit provisions under EU law mandating cross-border portability of online content services. Territorial licensing and exclusivity, which usually characterise the provision of online content services in the EU, result in a lack of cross-border portability.

The **territoriality of copyright** and related rights enshrined in [Article 5 of the Berne Convention](#), and confirmed as a core principle of EU copyright law by the Court of Justice (CJEU) in its 2005 [Lagardère](#) ruling, means that each Member State grants and recognises copyright protection in its own territory by virtue of national legislation. As a result, copyrights are acquired and enforced country by country in the 28 Member States. A key issue in the on-going reform of EU copyright law is to mitigate the hindrance to the internal market caused by territorial protection of copyright.<sup>2</sup>

**Territorial licensing and exclusive licensing**

The provision of online content services such as films or music protected by copyright and related rights usually requires service providers to be licensed by rights-holders on a territorial basis, i.e. country-by-country. The [financing of film and television productions](#) – largely based on cultural and linguistic preferences – often depends on selling distribution rights to national distributors, based on exclusive rights to exploit the piece of work in a specific territory. Also, exclusive licensing enables rights-holders to collect higher revenues, and broadcasting organisations and other service providers to maximise their advertising and subscription revenues. This model prevails in particular with regard rights to [broadcast sports](#).

**Territorial distribution of rights**

Territorial licensing is often the result of [commercial practices](#) by rights-holders and providers of services, even though creators grant worldwide rights to their publishers, collecting societies or producers. Country-by-country licensing still prevails in the audiovisual sector and also to a lesser degree in the music sector, despite the fact that multi-territorial licensing (i.e. through which rights-holders are granted a licence for several Member States) is possible. According to the Commission, service providers in the audiovisual sector (especially for [premium sport content](#)) may have no interest in acquiring multi-territorial licences, are not financially able to buy licences for a large territory, or face regulatory or technical constraints which may explain why they decide not to exploit the rights on a broad geographical scale.<sup>3</sup>

**Lack of cross-border portability***Reasons for lack of cross-border portability*

Three main reasons for the lack of cross-border portability can be identified:

- The territorial licensing of rights segments the market by territories, and restricts cross-border provision of services.
- Exclusive licensing practices have detrimental consequences on cross-border access to online content, since service providers are not able or have no incentive to acquire a licence for several territories and offer cross-border access to their content.
- The contractual clauses in licensing agreements between rights-holders and distributors and between distributors and end-users create an obstacle to cross-border portability.

*Differences between industry sectors*

The lack of cross-border portability varies from sector to sector. According to the [surveys](#) conducted by the Commission cross-border portability is already widely implemented for online music services and in the e-book and video game sectors, whereas in the audiovisual sector it is very limited (i.e. only partial portability, when service providers have exploitation rights in the visited Member State) if not excluded by contractual arrangements that ensure territorial exclusivity to service providers or distributors.

*Barriers to the internal market*

The European Commission is of the opinion that barriers to cross-border access to copyright-protected content services are still common in the Union.<sup>4</sup> As result of the territorial licensing of rights and the commercial practices implemented, (i) consumers cannot always access the online content of their choice, and (ii) service providers sometimes cannot offer portable online content services. Therefore, the freedom to

provide and to receive services is not ensured and the functioning of the internal market is impaired. On the industry side, some content providers [acknowledge](#) too that portability issues, i.e. the inability to transfer content across multiple devices and/or across borders, contribute to fragmentation of the single market. Furthermore, a [CEPS study](#) produced for EPRS has stressed that limited cross-border portability significantly harms EU consumers and also has an impact on content creators, rights-holders and commercial users insofar as transaction costs hamper the exploitation of cross-border business opportunities.<sup>5</sup>

## The changes the proposal would bring

### Scope and objectives of the proposed regulation

The primary [objective](#) of the proposed regulation is to remove the barriers to cross-border portability of online content services in the EU. To that end, the regulation would introduce a common approach to ensuring that subscribers to online content services in the EU can receive those services on a portable basis when they are temporarily present in another Member State. According to the [Commission](#), cross-border portability would also indirectly enhance access to cultural content, contribute to promoting the interests of consumers and limit online piracy.

**Piracy** in the context of cross-border online content access is a growing concern in the EU. According to a [2013 study](#) from the Office for Harmonization in the Internal Market, **42%** of Europeans consider it is acceptable to download or access copyright-protected content illegally when it is **for personal use** and **22%** consider this is acceptable **when there is no legal alternative in their country**. Also a [2015 study](#) from the European Audiovisual Observatory, stressed that the EU audiovisual industry suffers from high levels of piracy which has already had a very strong impact on the DVD film market. Against this background, [according](#) to the Commission, ensuring portability of content would **promote access to legally acquired content** and avoid end-users using technical means such as **virtual private networks (VPNs)** to bypass territorial restrictions created by licensing schemes. Scholars have [argued](#) that, while using VPNs to circumvent territorial restrictions constitutes both copyright infringement and a breach of licensing contracts, demand for cross-border access could be met by providing lawful options to subscribers willing to pay for such services.<sup>6</sup> Furthermore, the question is posed of the legal responsibility of multi-territorial service providers to content owners. In this regard **Netflix** has recently decided to [ban](#) the use by its subscribers of VPN to view movies and TV programmes unavailable in the subscriber's country due to territorial restrictions.

### Key provisions of the regulation

#### *Legal basis*

Removing the existing barriers to the portability of online content services requires adapting the way copyrights protecting online content services (and rights protecting other works such as sporting events) are exercised in the EU. The EU harmonised framework on the scope of copyright and related rights would be primarily affected. Therefore, the Commission proposes to rely on [Article 114 TFEU](#) – which confers on the EU the power to adopt measures which have as their object the establishment and functioning of the internal market – as the legal basis for the regulation. A regulation which applies directly in all Member States would guarantee uniform application of the cross-border portability rules and their entering into force at the same time.

#### *Obligation to ensure portability of online content services*

The portability obligation would require providers of online content services to enable their subscribers residing in a Member State to use their subscriptions and access the legal content they have purchased or rented, on the same range of devices and the

same range of functionalities when they travel in the EU and are temporarily present in other Member States. For example, a UK TV channel would have to give its UK subscribers access to these services when they are on holiday in France.

The portability obligation would not require a separate licence or the renegotiation of existing licences between rights-holders and service providers. Instead, **a legal fiction** will be used, i.e. the service providers would be deemed to carry out the relevant acts of reproduction, communication to the public, making available of works, etc. on the basis of the respective authorisations they have already received from the rights-holders for the country of residence.

According to [recitals 11 and 12](#), the objective of the regulation is to adapt the legal framework in order to ensure that the contractual licensing of rights no longer presents barriers to cross-border portability, and to comply with the [Murphy](#) ruling (2011) in which the CJEU held that certain restrictions to the provision of services cannot be justified in light of the objective of protecting intellectual property rights. To that end, the proposed regulation creates a **legal fiction** according to which the provision of copyright-protected content services is deemed to take place only in the country in which subscribers are permanent residents (and not where they are temporarily located). While this approach requires **amending EU copyright law** it does not explicitly question the traditional **principle of territorial protection of copyright**. Some scholars have already taken the view that the Murphy ruling must be interpreted under EU law as prohibiting **exclusive territorial licensing practices such as those restricting portability**.<sup>7</sup> Following a comparable approach, the Commission proposes to introduce in EU law what amounts to a **limited expansion of the 'country of origin' principle**.<sup>8</sup> The related question of whether the Murphy case provides the EU legislator with sufficient legal grounds for prohibiting **geo-blocking practices** – in spite of the principle of territorial protection of copyright – is disputed in the doctrine<sup>9</sup> and will be addressed first in the context of the pending [antitrust investigations](#) and the on-going [inquiry](#) into the e-commerce sector.

#### *Online content services concerned*

The draft regulation would apply to content services – such as audiovisual, music and e-book services, sporting events and other TV broadcasts – offered online by way of streaming, downloading or other technical means and which are:

- (a) lawfully provided in the Member State of residence of the subscriber, i.e. after having obtained the relevant rights from the rights-holders;
- (b) provided on a portable basis, without being limited to a specific location;
- (c) provided to subscribers who have a contract for such service in the Member State of residence; and are
- (d) paid online services offered by commercial providers (e.g. Netflix); or
- (e) free-of-charge online services offered by providers (e.g. public broadcasters such as the BBC) who choose to introduce portable services and agree to verify their subscribers' Member State of residence.

#### *Obligations not to restrict portability by contract*

The regulation would prohibit any restrictions in contracts between rights-holders and service providers which would limit the cross-border portability of services. As a result, contractual terms designed to prohibit or limit the cross-border portability of online content services would be unenforceable.

*Verification of the Member State of residence*

The proposed regulation allows rights-holders to require service providers to put adequate measures in place in order to verify the habitual residence of the user, and ensure that only legitimate subscribers can access portable online content. However, only measures that do not go beyond what is necessary in order to achieve the purpose of verifying their residence are allowed. Information such as customer payment details, contract for internet or telephone connection, and IP address may serve as reasonable indicators to identify the subscriber's Member State of residence.

*Retroactivity*

An important element of the proposed regulation is the retroactive enforcement of the legislation, i.e. cross-border portability should be made possible in the EU by service providers as soon as the regulation enters into force and would therefore apply to existing contracts and acquired rights (even for contracts concluded before the entry into force of the regulation). Retroactivity would, in the Commission's view, simplify the introduction of portable services and avoid lengthy contract renegotiation.

*Quality control*

The proposed regulation does not require providers to ensure quality of delivery of an online content service beyond the quality available via the local online access chosen by a subscriber while temporarily present in another Member State, since providers do not control delivery networks. Following the proportionality principle, providers would therefore not be obliged (unless they expressly committed to it) to ensure the provision of online content service with the same quality of service in the 'temporary' Member State as provided in the Member State of residence of the subscriber. Nevertheless, for more transparency, the provider would have to inform the subscriber of the quality of delivery of the online content service provided in a Member State different from their Member State of residence.

*Entry into force*

The Commission aims to remove these obstacles to cross-border portability as of 2017 (six months after the targeted adoption date and publication of the regulation). It wants to align the timing of implementation with the ban on mobile [roaming](#) charges (i.e. the extra fees currently charged by mobile operators to travellers within the EU) that will be removed as of 15 June 2017. The end of mobile roaming charges will, in the Commission's view, encourage consumers to use online content services more and thereby increase consumer demand for portable services.

*Protection of personal data*

The implementation of the proposed regulation would raise some issues with regard to personal data processing and privacy rules, especially when it comes to verification of the Member State of residence. The collection and processing of location data and the authentication of a subscriber should be carried out in compliance with the applicable EU legislation and in particular [Directives 95/46/EC](#) and [2002/58/EC](#).

The legislative proposal has an impact on several **fundamental rights** under the [European Charter of Fundamental Rights](#). In particular Article 17 (the **right to property**), Article 16 (the **freedom to conduct a business**), Articles 7 and 8 (the **right to respect for private and family life** and the **protection of personal data**) are concerned. According to the Commission, some restrictions are [justified](#) in light of the objective of **facilitating cross-border portability** of online content services for European consumers and because the initiative would only affect these freedoms in a **very limited manner** and under **very limited circumstances** and would have **no**

**significant impact on the revenues** of either rights-holders or service providers or on business models based on territorial exclusivity. The proposed regulation leaves, in particular, service providers the freedom to implement appropriate and proportionate measures to verify the subscriber's Member State of residence. As a result, it has been stressed that service providers will bear the responsibility of selecting those **verification measures** which effectively respect the privacy of their subscribers.<sup>10</sup>

## Preparation of the proposal

Two Green Papers on the [online distribution of audiovisual works](#) (2011) and on [preparing for a Fully Converged Audiovisual World](#) (2013) have addressed the issues of cross-border access and portability of services. A [public consultation](#) on the review of EU copyright rules – including the portability issue – was conducted in 2013-2014. The Commission also held a series of stakeholder workshops (including the [stakeholder dialogue](#), Licences for Europe, from 2012 to 2013). Finally, [an impact assessment](#) was carried out for this proposal in 2015.

## Parliament's starting position

The EP has called for measures ensuring online content portability in the EU on a number of occasions. In a resolution on [European film in the digital era](#) of 28 April 2015, the EP suggested that the development of cross-border portability of audiovisual services should be further explored given the rapid growth of video on demand (VoD) and online transactions across the Union. More recently, the EP welcomed the Commission's proposal to enhance portability of legally acquired and legally available content and services as a first step towards ending unjustified geo-blocking and enhancing cross-border portability, in its resolution on [the implementation of the Copyright Directive](#) (rapporteur, Julia Reda, Greens/EFA, Germany) adopted on 9 July 2015, and in its resolution [Towards a Digital Single Market Act](#) (rapporteurs: Evelyne Gebhardt, S&D and Kaja Kallas, ALDE) adopted on 18 January 2016.

However, the EP also emphasised that the principle of territoriality remains an essential element of the copyright system in the EU and stressed the approach for tackling geo-blocking and fostering cross-border online services should protect cultural diversity and the industry's economic model. The EP called in particular for respect of the financing of audiovisual and film productions which are still based on the territoriality of rights in Europe, and asked the Commission to better identify and take into account the specific impact of territoriality on the financing of audiovisual works. Furthermore, The EP emphasised that portability and geo-blocking may require both regulatory and market-led interventions.

## Stakeholders' views

### Content service and network providers

Online content service and network providers, including [IMPALA](#) (the European independent music companies) and [ETNO](#) (the association of the largest telecommunications network operators in Europe), have generally welcomed the proposed regulation which aims at widening the availability of legally acquired online content in the EU. [EBU](#), the European Broadcasting Union, supported the proposed portability measure but considered that public-service broadcasters must be free to decide whether or not to launch a portability service.



Other online content service and network providers, while supporting the proposed cross-border portability measures, called for limiting legislative intervention. [EDIMA](#), an EU-wide trade association representing online platforms, announced that they would support an approach which enshrines a limited country-of-residence approach in principle, but stressed that the legislation should facilitate market-led developments and not prescribe specific practices, for instance for establishing residence.

Several stakeholders stressed, on the contrary, that the proposed legislation does not go far enough, and called for more wide-ranging measures to ensure cross-border provision of online services. [EuroISPA](#), an association representing European Internet Service Providers (ISPs), welcomed the proposed regulation but called on the Commission to present a more ambitious reform of EU copyright rules that allows for the emergence of new business models to supply digital content.

### Consumers

[BEUC](#), the European consumer association, supported the Commission's proposal but warned that the portability proposal will not solve the problem that many Europeans are currently still unable to buy film or video subscriptions from another Member State and called on the Commission to go further and ban geo-blocking practices.

### Authors and rights-holders

Authors' associations have warned of the impact of the proposed regulation on the remuneration of authors, which still depends very much on territorial licensing. The [Authors' Group](#) stressed that the principle of territoriality of copyright should not be called into question by the implementation of the portable solutions, given its importance especially for the financing of the audiovisual sector. On the same lines, [EFADs](#), the Association of European Film Agency Directors, warned that the regulation of portability must not lead to implementing full cross-border access and jeopardise the territoriality of rights.

FERA (Federation of European Film Directors), FSE (Federation of Screenwriters in Europe) and SAA (Society of Audiovisual Authors) welcomed in a [joint statement](#) the fact that the Commission does not directly question the territoriality principle but warned that poor drafting that did not set time limits on portability could allow significant cross-border access through the 'back door'. According to them, the text gives little guidance for content providers on how to verify the conditions of residence of a subscriber, creating a risk that consumers may find a way to bypass the temporary rules which would lead to distortions in the valuation and monetisation of content.

Many commentators, while agreeing on the principle of portability, have criticised the **current wording** of the proposed regulation which leaves too much room for interpretation.

The **lack of precise definition of key provisions**, such as '**residence**' and '**temporary stay**' has been raised. Some commentators have [stressed](#) that stakeholders will not be able to agree contractually on how to implement portability given their different views and priorities. Others have [advocated](#) a strict definition of the conditions of portability in order to avoid abuses, and called in particular for limiting the duration of portability (through a '**fair use**' policy for instance) and the number and location of simultaneous connections (to avoid subscription-sharing across borders).

The **exact scope and implementation conditions of the portability obligation** have been questioned too. Some commentators have [stressed](#) for instance that clarifications are needed in particular regarding the transition to the new portability obligation (e.g. the timeframe for stakeholders to renegotiate their business models and their contracts), the type of services

affected by portability (i.e. it is not clear whether live TV broadcasting of some major sports must be made portable) and the precise boundary between paid-for and free services.

The potential detrimental **impact** of introducing a portability obligation **on the current contractual arrangements** has also been stressed. The technical and legal challenges that the **retroactive enforcement** of the portability measure represent for companies have been [highlighted](#). Furthermore the question whether the introduction of **the legal fiction** (i.e. copyright-related acts necessary to provide portability being viewed as taking place in the home Member State) requires only a modification of the chain of contracts has been [raised](#).

### Council and European Council

The [European Council of 25-26 June 2015](#) agreed that action must be taken to guarantee portability and facilitate cross-border access to online material protected by copyright context and the [European Council of 17-18 December 2015](#) invited the EU institutions to accelerate implementation of the Digital Single Market Strategy.

The [UK Government](#) announced its support for cross-border portability and is [seeking](#) views on the European Commission's proposal to introduce such EU legislation.

### National parliaments

On 13 January 2016, the [UK Parliament European Scrutiny Committee](#) welcomed the Commission's proposal but stressed that several definitions set out in the regulation would need to be refined to provide adequate legal certainty for all parties and to prevent potential abuses or circumvention of the rules.

For instance, what is meant by 'habitually residing' (to determine the home Member State) is not clearly defined in the draft regulation which raise some uncertainties as to how to address the case of persons with dual residences or those who split their time between two Member States.

Also, the key notion of 'temporarily present' is not precisely defined as the draft regulation does not specify any time limit for a user to stay in another Member State and benefit from portability of the online content acquired in their home country. The risk highlighted is that a wide interpretation could lead to long term periods of 'portability' and therefore undermine exclusivity granted to a provider for a specific territory.

Furthermore, the Committee warned that clarifications are needed with respect to the costs (especially for small businesses) arising from implementing and enforcing the regulation, especially the verification mechanism and the quality control obligations, and called for an in-depth cost/benefits assessment.

The eight-week [deadline for national parliaments](#) to raise subsidiarity concerns passed on 12 February, with none delivering a reasoned opinion.

### Parliamentary analysis

In October 2015, the European Parliamentary Research Service (EPRS) published at the request of the Committee on Legal Affairs (JURI) a [European Implementation Assessment on the review of the EU copyright framework](#). The EPRS Members' Research Service also prepared a [briefing on EU copyright reform](#) addressing inter alia the policy and legal contexts of geo-blocking and cross-border portability of online content in the EU (September 2015). EPRS is close to finalising an initial appraisal of the Commission's impact assessment.

## Legislative process

The [legislative proposal](#) on Cross-border portability of online content services in the internal market was published on 9 December 2015. It was initially referred to the Internal Market and Consumer Protection (IMCO) Committee on 21 January 2016 which, on 2 February 2016, appointed Marco Zullo (EFDD, Italy) as rapporteur. This attribution may still be amended however, following a request for a review from another committee.

## References

[Cross-border portability of online content services in the internal market](#), European Parliament, Legislative Observatory (OEIL)

D. Abecassis and O. Pascal, [Portability and cross-border access to audiovisual services in the EU: towards the Digital Single Market](#), Analysys Mason, June 2015

F. Cabrera Blázquez, M. Cappello, C. Grece, S. Valais, [Territoriality and its impact on the financing of audiovisual works](#), IRIS Plus, European Audiovisual Observatory, Strasbourg, 2015

P. Ibáñez Colomo, [Copyright Licensing and the EU Digital Single Market Strategy](#), LSE Law, Society and Economy Working Papers 19/2015

A. Renda, F. Simonelli, G. Mazziotti and G. Luchetta, [Policy Options for Improving the Functioning and Efficiency of the Digital Single Market in the Field of Copyright](#), No. 121, November 2015

T. Sinodinou, [Towards a modern, more European copyright framework, beautiful moves and bold inspirations in EU digital copyright law](#), Kluwer Copyright Blog, December 19, 2015

T. Madiaga, [EU copyright reform: revisiting the principle of territoriality](#), EPRS, 2015

G. Mazziotti and F. Simonelli, [Regulation on 'cross-border portability' of online content services: Roaming for Netflix or the end of copyright territoriality?](#), February 2016

S. Reynolds (ed), [Review of the EU Copyright Framework: European Implementation Assessment](#), EPRS, European Parliament, Brussels, 2015

Plum Consulting (2012), [The economic potential of cross-border pay-to-view and listen audiovisual media services](#), for the European Commission

## Endnotes

<sup>1</sup> [Commission Decision of 6 May 2015 initiating an inquiry into the e-commerce sector pursuant to Article 17 of Council Regulation \(EC\) No 1/2003](#).

<sup>2</sup> See T. Madiaga, [EU copyright reform: revisiting the principle of territoriality](#), EPRS, 2015.

<sup>3</sup> See [Commission Staff Working Document Impact Assessment Accompanying the document Proposal for a Regulation of the European Parliament and of the Council to ensure the cross-border portability of online content services in the internal market](#), SWD(2015) 270 final, at p. 16.

<sup>4</sup> *Ibid* at p. 13-16.

<sup>5</sup> See CEPS & Economisti Associati, [Ex-Post Impact Assessment on the implementation, application and effects of Directive 2001/29/EC on the harmonisation of certain aspects of copyright and related rights in the information society \(InfoSoc\) Directive and of its related instruments](#) in S. Reynolds (ed), [Review of the EU Copyright Framework: European Implementation Assessment](#), EPRS, European Parliament, Brussels (2015), at p. 283.

<sup>6</sup> See A. Renda, F. Simonelli, G. Mazziotti and G. Luchetta, [Policy Options for Improving the Functioning and Efficiency of the Digital Single Market in the Field of Copyright](#), No. 121, November 2015, at p. 26.

<sup>7</sup> See I. Stamatoudi and P. Torremans, [EU Copyright Law](#) (Edward Elgar, 2014), p. 1136.

<sup>8</sup> P. Ibáñez Colomo, [Copyright Licensing and the EU Digital Single Market Strategy](#), LSE Law, Society and Economy Working Papers 19/2015, at p. 12.

<sup>9</sup> *Ibid* at p. 16.

<sup>10</sup> See T. Sinodinou, [Towards a modern, more European copyright framework, beautiful moves and bold inspirations in EU digital copyright law](#), Kluwer Copyright Blog, December 19, 2015.

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