

**Proposal for a DIRECTIVE 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**

(Text with EEA relevance)

	COMMISSION PROPOSAL	EP TEXT	COUNCIL TEXT	COMPROMISE TEXT
1.	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,			THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
2.	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114 thereof,			Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 53(1), 62 and 114 thereof,
3.	Having regard to the proposal from the European Commission,			Having regard to the proposal from the European Commission,
4.	After transmission of the draft legislative act to the national parliaments,			After transmission of the draft legislative act to the national parliaments,

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5.	Having regard to the opinion of the European Economic and Social Committee <sup>1</sup> ,			Having regard to the opinion of the European Economic and Social Committee <sup>2</sup> ,
6.	Having regard to the opinion of the Committee of the Regions <sup>3</sup> ,			After consulting the Committee of the Regions,
7.	Acting in accordance with the ordinary legislative procedure,			Acting in accordance with the ordinary legislative procedure,
8.	Whereas:			Whereas:
9.	(1) In order to contribute to the functioning of the internal market, it is necessary to provide for wider dissemination of television and radio programmes originating in other Member States for the benefit of users across the Union by facilitating licensing of copyright and related rights in works and other protected subject-matter contained in broadcasts of such programmes. Indeed, television	(1) In order to contribute to the functioning of the internal market <b>and especially to increase access to information</b> , it is necessary to provide for wider dissemination of <b>news and current affairs</b> programmes originating in other Member States for the benefit of users across the Union by facilitating licensing of copyright and related rights in works and other protected subject-matter		(1) In order to contribute to the functioning of the internal market, it is necessary to provide for wider dissemination of television and radio programmes originating in other Member States for the benefit of users across the Union by facilitating licensing of copyright and related rights in works and other protected subject-matter contained in broadcasts of certain types of television and

<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> OJ C [...], [...], p. [...].

<sup>3</sup> OJ C [...], [...], p. [...].

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	and radio programmes are important means of promoting cultural and linguistic diversity, social cohesion and access to information.	contained in broadcasts of such programmes. Indeed, <i>news and current affairs</i> programmes are important means of promoting access to information.  [ALT. AMC G]		radio programmes. Indeed, television and radio programmes are important means of promoting cultural and linguistic diversity, social cohesion and increasing access to information
10.	(2) The development of digital technologies and internet has transformed the distribution of and access to television and radio programmes. Users increasingly expect to have access to television and radio programmes both live and on-demand, using traditional channels such as satellite or cable and also through online services. Broadcasting organisations are therefore increasingly offering, in addition to their own broadcasts of television and radio programmes, online services ancillary to their broadcast, such as simulcasting and catch-up services. Retransmission services operators, which aggregate broadcasts of television and radio programmes			(2) The development of digital technologies and internet has transformed the distribution of and access to television and radio programmes. Users increasingly expect to have access to television and radio programmes both live and on-demand, using traditional channels such as satellite or cable and also through online services. Broadcasting organisations are therefore increasingly offering, in addition to their own broadcasts of television and radio programmes, online services ancillary to their broadcast, such as simulcasting and catch-up services. Retransmission services operators, which aggregate broadcasts of television and radio programmes

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	<p>into packages and provide them to users simultaneously to the initial transmission of the broadcast, unaltered and unabridged, use various techniques of retransmission such as cable, satellite, digital terrestrial, closed circuit IP-based or mobile networks as well as the open internet. On the part of users, there is a growing demand for access to broadcasts of television and radio programmes not only originating in their Member State but also in other Member States of the Union, including from members of linguistic minorities of the Union as well as from persons who live in another Member State than their Member State of origin.</p>			<p>into packages and provide them to users simultaneously to the initial transmission of the broadcast, unaltered and unabridged, use various techniques of retransmission such as cable, satellite, digital terrestrial, closed circuit IP-based or mobile networks as well as the open internet. Furthermore, operators that distribute television and radio content to users have different ways to obtain programme-carrying signals of broadcasting organisations, including by means of direct injection. On the part of users, there is a growing demand for access to broadcasts of television and radio programmes not only originating in their Member State but also in other Member States of the Union, including from members of linguistic minorities of the Union as well as from persons who live in another Member State than their Member State of origin.</p>

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11.		<p><i>(2a) Audiovisual media service providers should endeavour to ensure that their technical services are gradually made accessible to persons with visual or hearing disabilities.</i></p> <p>[ITRE 4]</p>		
12.	<p>(3) A number of barriers hinder the provision of online services which are ancillary to broadcasts and the provision of retransmission services and thereby the free circulation of television and radio programmes within the Union. Broadcasting organisations transmit daily many hours of news, cultural, political, documentary or entertainment programmes. These programmes incorporate a variety of content such as audiovisual, musical, literary or graphic works, which is protected by copyright and/or related rights under Union law. That results in a complex process to clear rights from a multitude of right holders and for different categories of works</p>	<p>(3) Broadcasting organisations transmit daily many hours of news <b>and current affairs</b> programmes. These programmes incorporate a variety of <b>different</b> content which is protected by copyright and/or related rights under Union law. That results in a complex process to clear rights from a multitude of right holders and for different categories of works and other protected subject matter. <b>For news and current affairs programmes, it is necessary to clear those rights</b> in a short time-frame. In order to make their <b>ancillary</b> online services available across borders, broadcasting organisations need to have the required rights to works and</p>	<p>(3) A number of barriers hinder the provision of online services which are ancillary to broadcasts and the provision of retransmission services and thereby the free circulation of television and radio programmes within the Union. Broadcasting organisations transmit daily many hours of news, cultural, political, documentary or entertainment programmes. These programmes incorporate a variety of content such as audiovisual, musical, literary or graphic works, which <b>are</b> protected by copyright and/or related rights under Union law. That results in a complex process to clear rights from a multitude of right holders and for different categories of works</p>	<p>(3) Broadcasting organisations transmit daily many hours of television and radio programmes. These programmes incorporate a variety of content such as audiovisual, musical, literary or graphic works which is protected by copyright and/or related rights under Union law. That results in a complex process to clear rights from a multitude of right holders and for different categories of works and other protected subject matter. Often the rights need to be cleared in a short time-frame, in particular when preparing programmes such as news or current affairs. In order to make their online services available across borders, broadcasting organisations need to have the</p>

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	and other protected subject matter. Often the rights need to be cleared in a short time-frame, in particular when preparing programmes such as news or current affairs. In order to make their online services available across borders, broadcasting organisations need to have the required rights to works and other protected subject matter for all the relevant territories which further increases the complexity of the rights' clearance.	other protected subject matter for all the relevant territories. <b>[ALT. AMC H]</b>	and other protected subject matter. Often the rights need to be cleared in a short time-frame, in particular when preparing programmes such as news or current affairs. In order to make their online services available across borders, broadcasting organisations need to have the required rights to works and other protected subject matter for all the relevant territories which further increases the complexity of the rights' clearance.	required rights to works and other protected subject matter for all the relevant territories which further increases the complexity of the rights' clearance.
13.				
14.	(4) Operators of retransmission services, that normally offer multiple programmes which use a multitude of works and other protected subject matter included in the retransmitted television and radio programmes, have a very short time-frame for obtaining the necessary licences and hence also face a significant rights	(4) Operators of retransmission services <i>of television or radio programmes including works or other protected subject matter carry out an act of communication to the public irrespective of whether the retransmission of the television or radio programme is made by the same technical means or different technical means than those</i>		(4) Operators of retransmission services, that normally offer multiple programmes which use a multitude of works and other protected subject matter included in the retransmitted television and radio programmes, have a very short time-frame for obtaining the necessary licences and hence also face a significant rights

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	clearing burden. There is also a risk for right holders of having their works and other protected subject matter exploited without authorisation or payment of remuneration.	<i>used for the initial act of broadcasting, and irrespective of whether or not such retransmission takes place within the actual or intended area of reception of the initial broadcast. As retransmission services normally offer multiple programmes which use a multitude of works and other protected subject matter included in the retransmitted television and radio programmes, operators of retransmission services have a very short time-frame for obtaining the necessary licences and hence also face a significant rights clearing burden. There is also a risk for producers, authors, creators and other right holders of having their works and other protected subject matter exploited without authorisation or payment of appropriate and fair remuneration. [ALT. AMC I]</i>		clearing burden. There is also a risk for authors, producers and other right holders of having their works and other protected subject matter exploited without authorisation or payment of appropriate remuneration. Such remuneration for the retransmission of their works and other subject matter is important to ensure a diverse content offer, which is also in the interest of consumers.
15.		<i>(4a) To the extent that retransmission services that</i>		

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		<i>normally offer multiple programmes use a multitude of works and other protected subject matter included in the retransmitted television and radio programmes, they should have the possibility, in line with the principle of contractual freedom, of obtaining the necessary licences and thereby guaranteeing right holders equitable remuneration so that they can continue to offer a wide variety of content. Such a possibility would also be in the consumer's interest. [AM 53, ALDE]</i>		
16.	(5) The rights in works and other protected subject matter are harmonised, among others, through Directive 2001/29/EC of the European Parliament and of the Council <sup>4</sup> and Directive	(5) The rights in works and other protected subject matter are harmonised, among others, through Directive 2001/29/EC of the European Parliament and of the Council and Directive 2006/115/EC of the European Parliament and of the Council, <i>which serve in particular to</i>		(5) The rights in works and other protected subject matter are harmonised, among others, through Directive 2001/29/EC of the European Parliament and of the Council and Directive 2006/115/EC of the European Parliament and of the Council,

<sup>4</sup> Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society OJ L 167, 22.6.2001, p. 10–19.

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	2006/115/EC of the European Parliament and of the Council. <sup>5</sup>	<i>ensure a high level of protection for rights holders.</i> [AMC 13]		which provide for a high level of protection for right holders.
17.	(6) Council Directive 93/83/EEC <sup>6</sup> facilitates cross-border satellite broadcasting and retransmission by cable of television and radio programmes from other Member States of the Union. However, the provisions of that Directive on transmissions of broadcasting organisations are limited to satellite transmissions and therefore do not apply to online services ancillary to broadcast while the provisions concerning retransmissions of television and radio programmes from other Member States are limited to simultaneous, unaltered and unabridged retransmission by cable or microwave systems and do not extend to such		(6) Council Directive 93/83/EEC facilitates cross-border satellite broadcasting and retransmission by cable of television and radio programmes from other Member States of the Union. However, the provisions of that Directive on transmissions of broadcasting organisations are limited to satellite transmissions and therefore do not apply to online services ancillary to broadcasts while the provisions concerning retransmissions of television and radio programmes from other Member States are limited to simultaneous, unaltered and unabridged retransmission by cable or microwave systems and do not extend to such	(6) Council Directive 93/83/EEC facilitates cross-border satellite broadcasting and retransmission by cable of television and radio programmes from other Member States of the Union. However, the provisions of that Directive on transmissions of broadcasting organisations are limited to satellite transmissions and therefore do not apply to online services ancillary to broadcasts while the provisions concerning retransmissions of television and radio programmes from other Member States are limited to simultaneous, unaltered and unabridged retransmission by cable or microwave systems and do not extend to such

<sup>5</sup> Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property OJ L 376, 27.12.2006, p. 28–35.

<sup>6</sup> Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission OJ L 248, 6.10.1993, p. 15–21.

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	retransmissions by means of other technologies.		retransmissions by means of other technologies.	retransmissions by means of other technologies.
18.	(7) Therefore, cross-border provision of online services ancillary to broadcast and retransmissions of television and radio programmes originating in other Member States should be facilitated by adapting the legal framework on the exercise of copyright and related rights relevant for those activities.	(7) Therefore, cross-border provision of online services ancillary to broadcast <b>of news and current affairs programmes</b> and retransmissions of television and radio programmes originating in other Member States should be facilitated by adapting the legal framework on the exercise of copyright and related rights relevant for those activities. <i>Whereas the adaptation of the legal framework may result in limitations on the exercise of exclusive rights, it should only apply in certain special cases which do not conflict with the normal exploitation of the work or other protected subject-matter and do not unreasonably prejudice the legitimate interests of the right holder. Therefore, also bearing in mind the importance of the principle of territoriality for the financing and production of</i>	(7) Therefore, cross-border provision of online services ancillary to broadcasts and retransmissions of television and radio programmes originating in other Member States should be facilitated by adapting the legal framework on the exercise of copyright and related rights relevant for those activities.	(7) Therefore, cross-border provision of online services ancillary to broadcasts and retransmissions of television and radio programmes originating in other Member States should be facilitated by adapting the legal framework on the exercise of copyright and related rights relevant for those activities. This should be done by taking into account the financing and production of creative content, and in particular of audio-visual works.

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		<i>creative content, and in particular of audio-visual works, any legislative intervention should necessarily be extremely limited and narrow and be in line with the Union principles of necessity and proportionality.</i> [ALT. AMC J]		
19.	(8) The ancillary online services covered by this Regulation are those services offered by broadcasting organisations which have a clear and subordinate relationship to the broadcast. They include services giving access to television and radio programmes in a linear manner simultaneously to the broadcast and services giving access, within a defined time period after the broadcast, to television and radio programmes which have been previously broadcast by the broadcasting organisation (so-called catch-up services). In addition, ancillary online services include services which	(8) The ancillary online services covered by this Regulation are those services offered by broadcasting organisations which have a clear and subordinate relationship to the broadcast. They include services giving access to <i>news and current affairs</i> programmes in a <i>strictly</i> linear manner simultaneously to the broadcast and services giving access, within a defined time period after the broadcast, to <i>news and current affairs</i> programmes which have been previously broadcast by the broadcasting organisation (so-called catch-up services). The provision of access to individual works or	(8) The ancillary online services covered by this Regulation are those services offered by broadcasting organisations which have a clear and subordinate relationship to <u>their</u> broadcasts. They include services giving access to television and radio programmes in a linear manner simultaneously to the broadcast and services giving access, within a defined time period after the broadcast, to television and radio programmes which have been previously broadcast by the broadcasting organisation (so-called catch-up services). In addition, <u>the</u> ancillary online services <u>covered by this</u>	(8) The ancillary online services covered by this Directive are those services offered by broadcasting organisations which have a clear and subordinate relationship to their broadcasts. They include services giving access to television and radio programmes in a strictly linear manner simultaneously to the broadcast and services giving access, within a defined time period after the broadcast, to television and radio programmes which have been previously broadcast by the broadcasting organisation (so-called catch-up services). In addition, the ancillary online services covered by this

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	<p>give access to material which enriches or otherwise expands television and radio programmes broadcast by the broadcasting organisation, including by way of previewing, extending, supplementing or reviewing the relevant programme's content. The provision of access to individual works or other protected subject matter that have been incorporated in a television or radio programme should not be regarded as an ancillary online service. Similarly, the provision of access to works or other protected subject matter independently of broadcast, such as services giving access to individual musical or audiovisual works, music albums or videos, do not fall under the definition of ancillary online service.</p>	<p>other protected subject matter that have been incorporated in a television or radio programme should not be regarded as an ancillary online service. Similarly, the provision of access to works or other protected subject matter independently of broadcast, such as services giving access to individual musical or audiovisual works, music albums or videos, do not fall under the definition of ancillary online service. [ALT. AMC K]</p>	<p><b><u>Regulation</u></b> include services, which give access to material which enriches or otherwise expands television and radio programmes broadcast by the broadcasting organisation, including by way of previewing, extending, supplementing or reviewing the relevant programme's content. The provision of access to individual works or other protected subject matter <b><u>which are not related to any</u></b> programme broadcast <b><u>by the broadcasting organisation, for example through video-on-demand</u></b> services <b><u>does</u></b> not fall <b><u>in the scope of this Regulation</u></b>.</p>	<p>Directive include services that give access to material which enriches or otherwise expands television and radio programmes broadcast by the broadcasting organisation, including by way of previewing, extending, supplementing or reviewing the relevant programme's content. This Directive should apply to both ancillary online services that are provided to users by broadcasting organisations together with the broadcasting service and to ancillary online services that, whilst having a clear and subordinate relationship with the broadcast, can be accessed by users separately from the broadcasting service without the precondition for the user to obtain access to the broadcast service, for example via a subscription. This is without prejudice to the broadcasting organisations' freedom to offer such ancillary online services free of charge or against the payment of money. The provision of access to</p>

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				individual works or other protected subject matter that have been incorporated in a television or radio programme, or to works or other protected subject matter which are not related to any programme broadcast by the broadcasting organisation, such as services giving access to individual musical or audiovisual works, music albums or videos, for example through video-on-demand services, do not fall in the scope of the services covered by this Directive.
20.			<b><u>(8a) This Regulation should apply to both ancillary online services that are provided to users by broadcasting organisations in a bundle with the broadcasting service and to ancillary online services that can be accessed by users separately from the broadcasting service without the precondition for the user to obtain access to the broadcast service, for example</u></b>	

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			<u>via a subscription. This is without prejudice to the broadcasting organisations' freedom to offer such ancillary online services free of charge or against the payment of money.</u>	
21.	(9) In order to facilitate the clearance of rights for the provision of ancillary online services across borders it is necessary to provide for the establishment of the country of origin principle as regards the exercise of copyright and related rights relevant for acts occurring in the course of the provision of, the access to or the use of an ancillary online service. That principle of country of origin should apply exclusively to the relationship between right holders (or entities representing right holders such as collective management organisations) and broadcasting organisations and solely for the purpose of the provision of, the access to or the use of an ancillary online	(9) In order to facilitate the clearance of rights <i>allowing the broadcaster to provide ancillary online services solely related to news and current affairs programmes</i> across borders it is necessary to provide for the establishment of the country of origin principle as regards the exercise of copyright and related rights relevant for acts occurring in the course of the provision of, the access to or the use of <i>those</i> ancillary online <i>services</i> . That principle of country of origin should apply exclusively to the relationship between right holders (or entities representing right holders such as collective management organisations) and broadcasting organisations and solely for the purpose of the	(9) In order to facilitate the clearance of rights for the provision of ancillary online services across borders it is necessary to provide for the establishment of the country of origin principle as regards the <u>acquisition and the exercise of the acquired</u> copyright and related rights relevant for acts occurring in the course of the provision of, the access to or the use of an ancillary online service. <u>This should cover the clearance of all rights that are necessary for the broadcasting organisation to be able to communicate or make available to the public their programmes when providing ancillary online services, including the clearance of any</u>	(9) In order to facilitate the clearance of rights for the provision of ancillary online services across borders, it is necessary to provide for the establishment of the country of origin principle as regards the exercise of copyright and related rights relevant for acts occurring in the course of the provision of, the access to or the use of an ancillary online service. This should cover the clearance of all rights that are necessary for the broadcasting organisation to be able to communicate or make available to the public their programmes when providing ancillary online services, including the clearance of any copyright and related rights in the works or other subject matter

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	<p>service. The principle of country of origin should not apply to any subsequent communication to the public or reproduction of content which is protected by copyright or related rights and which is contained in the ancillary online service.</p>	<p>provision of, the access to or the use of <i>those</i> ancillary online <i>services related to news and current affairs programmes</i>. The principle of country of origin should not apply to any subsequent communication to the public or reproduction of content which is protected by copyright or related rights and which is contained in the ancillary online service. [ALT. AMC L]</p>	<p><b><u>copyright and related rights in the works or other subject matter used in the programmes, for example the rights in phonograms or performances.</u></b> That principle of country of origin should apply exclusively to the relationship between right holders (or entities representing right holders such as collective management organisations) and broadcasting organisations and solely for the purpose of the provision of, the access to or the use of an ancillary online service. The principle of country of origin should not apply to any subsequent communication to the public or <b><u>making available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them and</u></b> reproduction of content which is protected by copyright or related rights and which is contained in the ancillary online service.</p>	<p>used in the programmes, for example the rights in phonograms or performances. That principle of country of origin should apply exclusively to the relationship between right holders (or entities representing right holders such as collective management organisations) and broadcasting organisations and solely for the purpose of the provision of, the access to or the use of an ancillary online service. The principle of country of origin should not apply to any subsequent communication to the public or making available to the public, by wire or wireless means, in such a way that members of the public may access it from a place and at a time individually chosen by them and reproduction of content which is protected by copyright or related rights and which is contained in the ancillary online service.</p>

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22.		<p><i>(9a) The country of origin principle provided for in this Regulation should not apply to ancillary online services which are primarily or solely targeted to a Member State other than that in which the broadcasting organisation has its principal place of establishment. Such a service, primarily or solely targeted at a particular Member State, is a service the programmes of which are clearly aimed at the population of a specific Member State other than that in which the broadcasting organisation has its principal place of establishment, and the audience of which is clearly limited to the population of that specific Member State, and in respect of which it is unlikely that listeners or viewers will be found outside the specific Member State at which the programmes are aimed. Aspects which make it possible to identify the target audience include in particular language,</i></p>		

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		<i>including the language used in subtitles, advertising, dubbing, the audience at which the promotion of the broadcasting service is aimed and/or the local character of the programming.</i> [AM 92, ALDE]		
23.			<b><u>(9a) The principle of country of origin provided for in this Regulation does not establish any obligation for broadcasting organisations to communicate or make available programmes in their ancillary online services or to provide such ancillary online services in a Member State other than the Member State of their principal establishment.</u></b>	
24.			<b><u>(9b) Taking into account the specificities of the financing and licensing mechanisms for certain audiovisual works, often based on exclusive territorial licensing, it is appropriate, as regards television programmes, to limit</u></b>	(9b) Taking into account the specificities of the financing and licensing mechanisms for certain audiovisual works, often based on exclusive territorial licensing, it is appropriate, as regards television programmes, to limit the scope of application of the

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			<p><b><u>the scope of application of the country of origin principle set out in this Regulation to certain categories of programmes. These include programmes, such as news and current affairs as well as programmes which are controlled by a broadcasting organisation and financed exclusively by it whereas the funds for the financing may come from different sources, including national public funds and European Union funds. Productions that are fully financed and controlled by a broadcasting organisation should include productions carried out by a broadcasting organisation with the use of its own resources, including those carried out by the organisation's commercial subsidiaries, and should also include cases where production is outsourced to third parties as long as the works produced remain solely the broadcasting</u></b></p>	<p>country of origin principle set out in this Directive to certain categories of programmes. These include news and current affairs programmes as well as a broadcasting organisation's own productions which are exclusively financed by it whereas the funds for the financing used by the broadcasting organisation for its productions may come from public funds. For the purposes of this 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 not productions commissioned by the broadcasting organisation to producers that are independent from the broadcasting organisation nor to co-productions. For the same reasons, the principle of country of origin should not apply to the television broadcasts of sports events under this Directive. The</p>

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			<p><b><u>organisation's own with no rights maintained by the parties that the production was outsourced to. The latter case implies that the parties to whom the production was outsourced will not retain any exploitation rights in the works produced for any territory of the European Union. For the same reasons, the principle of country of origin should not apply to the broadcasts of sports events.</u></b></p>	<p>principle of the country of origin should apply only when programmes are used by the broadcasting organisation in its own ancillary online services. It should not apply to the licensing of a broadcasting organisation's own productions to third parties, including to other broadcasting organisations. The principle of country of origin should not affect the freedom of right holders and broadcasting organisations to agree, in compliance with Union law, on limitations, including geographic limitations, to the exploitation of their rights.</p>
25.				<p>(9ba) The principle of country of origin provided for in this Directive does not establish any obligation for broadcasting organisations to communicate or make available programmes in their ancillary online services or to provide such ancillary online services in a Member State other than the Member State of their principal establishment.</p>

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26.	<p>(10) Since the provision of, the access to or the use of an ancillary online service is deemed to occur solely in the Member State in which the broadcasting organisation has its principal establishment, while de facto the ancillary online service can be provided across borders to other Member States, it is necessary to ensure that in arriving at the amount of the payment to be made for the rights in question, the parties should take into account all aspects of the ancillary online service such as the features of the service, the audience, including the audience in the Member State in which the broadcasting organisation has its principal establishment and in other Member States in which the ancillary online service is accessed and used, and the language version.</p>	<p>(10) Since the provision of, the access to or the use of an ancillary online service <i>to news and current affairs programmes</i> is deemed to occur solely in the Member State in which the broadcasting organisation has its principal establishment, while de facto the ancillary online service can be provided across borders to other Member States, it is necessary to ensure that in arriving at the amount of the payment to be made for the rights in question, the parties should <i>use objective criteria and including the duration of the online availability</i>, the audience, including the audience in the Member State in which the broadcasting organisation has its principal establishment and in other Member States in which the ancillary online service is accessed and used, and <i>all</i></p>	<p>(10) Since the provision of, the access to or the use of an ancillary online service is deemed to occur solely in the Member State in which the broadcasting organisation has its principal establishment, while de facto the ancillary online service can be provided across borders to other Member States, it is necessary to ensure that <b><u>when determining</u></b> the amount of the payment to be made <b><u>by the broadcasting organisation</u></b> for the rights in question, the parties should take into account all aspects of the ancillary online service such as the features of the service, the audience, including the audience in the Member State in which the broadcasting organisation has its principal establishment and in other Member States in which the ancillary online service is accessed and used, <b><u>as well as the language versions provided. This should not</u></b></p>	<p>(10) Since the provision of, the access to or the use of an ancillary online service is deemed to occur solely in the Member State in which the broadcasting organisation has its principal establishment, while de facto the ancillary online service can be provided across borders to other Member States, it is necessary to ensure that in arriving at the amount of the payment to be made for the rights in question, the parties 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, including the audience in the Member State in which the broadcasting organisation has its principal establishment and in other Member States in which the ancillary online service is accessed and used, and the</p>

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		<i>available</i> language <i>versions</i> . [ALT. AMC M]	<b><u>affect the freedom of the parties to agree on specific methods for calculating the amount of the payment to be made.</u></b>	language versions provided. It should nevertheless remain possible to use specific methods 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, which are notably used by radio broadcasting organisations
27.	(11) Through the principle of contractual freedom it will be possible to continue limiting the exploitation of the rights affected by the principle of country of origin laid down in this Regulation, especially as far as certain technical means of transmission or certain language versions are concerned, provided that any such limitations of the exploitation of those rights are in compliance with Union law.	(11) <i>It is necessary to recall that through</i> the principle of contractual freedom <i>and in order to support existing licensing models, such as exclusive territorial licensing, which enables the financing mechanism vital to audiovisual production, optimal distribution and the promotion of cultural diversity, it is necessary</i> to continue limiting the exploitation of the rights affected by the principle of country of origin laid down in this Regulation provided that any such limitations of the		(11) Through the principle of contractual freedom it will be possible to continue limiting the exploitation of the rights affected by the principle of country of origin laid down in this Directive, provided that any such limitations of the exploitation of those rights are in compliance with Union law.

	COMMISSION PROPOSAL	EP TEXT	COUNCIL TEXT	COMPROMISE TEXT
		exploitation of those rights are in compliance with <i>national and</i> Union law. [ALT. AMC N]		
28.		<del>(11a) This regulation is not aimed at encouraging forum shopping practices. The principle of 'country of origin' should not apply to online services which are mainly or solely targeted at audiences other than the audience of the Member State in which the broadcasting organisation has its principal place of establishment, in order to limit practices whereby a broadcaster attempts to establish itself in other Member States to avoid disadvantageous financial obligations or to profit from more favourable licencing arrangements compared to the Member State in which it has its principal place of establishment. To assess whether the online service is targeting an audience outside of its Member State, the features of the service as well as the</del>		

	COMMISSION PROPOSAL	EP TEXT	COUNCIL TEXT	COMPROMISE TEXT
		<p><del>language versions used should be taken into account.</del> [AM 5, S&amp;D]</p> <p>EP decided to delete it in its mandate.</p>		
29.		<p><i>(11b) Based on the principle of contractual freedom and in order not to unreasonably prejudice existing licensing models such as exclusive territorial licensing, the cross-border retransmission from another or into another Member State is limited to the retransmission of cable-like or IPTV-like services within managed environments.</i> [ALT. AMC O]</p>		
30.		<p><i>(11c) This Regulation, in line with the principle of contractual freedom, does not prevent existing licensing models, such as territorial licensing, and is without prejudice to existing provisions of national contract law in the field of copyright regarding appropriate remuneration, as well as</i></p>		

	COMMISSION PROPOSAL	EP TEXT	COUNCIL TEXT	COMPROMISE TEXT
		<i>existing collective management solutions for retransmission within a Member State. [IMCO 7]</i>		
31.	(12) Operators of retransmission services offered on satellite, digital terrestrial, closed circuit IP-based, mobile and similar networks, provide services which are equivalent to those provided by operators of cable retransmission services when they retransmit simultaneously, in an unaltered and unabridged manner, for reception by the public, an initial transmission from another Member State of television or radio programmes, where this initial transmission is by wire or over the air, including by satellite but excluding online transmissions, and intended for reception by the public. They should therefore be within the scope of this Regulation and benefit from the mechanism introducing mandatory collective management of rights.	(12) Operators of retransmission services offered on satellite, digital terrestrial <i>or cable-like or IPTV-like services within managed environments</i> provide services which are equivalent to those provided by operators of cable retransmission services when they retransmit simultaneously, in an unaltered and unabridged manner, for reception by the public, an initial transmission from another Member State of television or radio programmes, where this initial transmission is by wire or over the air, including by satellite but excluding online transmissions, and intended for reception by the public. They should therefore be within the scope of this Regulation and benefit from the mechanism introducing mandatory collective management of rights.	(12) Operators of retransmission services <b><u>may use different techniques</u></b> when they retransmit simultaneously, in an unaltered and unabridged manner, for reception by the public, an initial transmission from another Member State of television or radio programmes. <b><u>Their services may be offered on satellite, digital terrestrial, closed circuit IP-based, mobile and similar networks or through internet access services as defined in Regulation (EU) 2015/2120 of the European Parliament and of the Council. Operators using these techniques for their retransmissions</u></b> should therefore be within the scope of this Regulation and benefit from the mechanism introducing mandatory collective management of rights. <b><u>In order</u></b>	(12) Operators of retransmission services may use different technologies when they retransmit simultaneously, in an unaltered and unabridged manner, for reception by the public, an initial broadcast transmission from another Member State of television or radio programmes. The programme-carrying signals may be obtained by operators of retransmission services from broadcasting organisations, which themselves transmit those to the public, in different ways, for example by capturing the signals transmitted by the broadcasting organisations or receiving the signals directly from them through the technical process of direct injection. Their services may be offered on satellite, digital terrestrial, closed circuit IP-based, mobile

	COMMISSION PROPOSAL	EP TEXT	COUNCIL TEXT	COMPROMISE TEXT
	<p>Retransmission services which are offered on the open internet should be excluded from the scope of this Regulation as those services have different characteristics. They are not linked to any particular infrastructure and their ability to ensure a controlled environment is limited when compared for example to cable or closed circuit IP-based networks.</p>	<p>Retransmission services which are offered on the open internet <i>other than cable-like or IPTV-like services within managed environments</i> should be excluded from the scope of this Regulation as those services have different characteristics. They are not linked to any particular infrastructure and their ability to ensure a controlled environment is limited when compared for example to cable or closed circuit IP-based networks. [ALT. AMC P]</p>	<p><b><u>to ensure sufficient safeguards against the unauthorised use of works and other subject-matter, retransmission</u></b> services which are offered <b><u>through</u></b> internet <b><u>access services</u></b> should be <b><u>included in</u></b> the scope of <b><u>the</u></b> Regulation <b><u>only where</u></b> those <b><u>retransmission</u></b> services are <b><u>provided to</u></b> a controlled <b><u>circle of users,</u></b> for example <b><u>through a subscription</u></b> or <b><u>user registration and where the level of security provided is comparable to the level of security for content transmitted over managed networks, such as</u></b> closed circuit IP-based networks, <b><u>which is particularly important in the case of content subject to paid-for subscriptions. These measures must be feasible and adequate.</u></b></p>	<p>and similar networks or through internet access services as defined in Regulation (EU) 2015/2120 of the European Parliament and of the Council. Operators using these technologies for their retransmissions should therefore be within the scope of this Directive and benefit from the mechanism introducing mandatory collective management of rights. In order to ensure sufficient safeguards against the unauthorised use of works and other subject matter, which is particularly important in the case of paid-for services, retransmission services which are offered through internet access services should be included in the scope of this Directive only when those retransmission services are provided in an environment where only authorised users can access the retransmissions and the level of content security provided is comparable to the level of security for content</p>

	COMMISSION PROPOSAL	EP TEXT	COUNCIL TEXT	COMPROMISE TEXT
				transmitted over managed networks, such as cable or closed-circuit IP-based networks, where content retransmitted is encrypted. These requirements should be feasible and adequate.
32.	<p>(13) In order to provide legal certainty to operators of retransmission services offered on satellite, digital terrestrial, closed circuit IP-based, mobile or similar networks, and to overcome disparities in national law regarding such retransmission services, rules similar to those that apply to cable retransmission as defined in Directive 93/83/EEC should apply. The rules established in that Directive include the obligation to exercise the right to grant or refuse authorisation to an operator of a retransmission service through a collective management organisation. This is without prejudice to Directive</p>	<p>(13) In order to provide legal certainty to operators of retransmission services offered on satellite, digital terrestrial <i>cable-like or IPTV-like services within managed environments</i> and to overcome disparities in national law regarding such retransmission services, rules similar to those that apply to cable retransmission as defined in Directive 93/83/EEC should apply. The rules established in that Directive include the obligation to exercise the right to grant or refuse authorisation to an operator of a retransmission service through a collective management organisation. This is without prejudice to Directive 2014/26/EU and in particular to its provisions concerning rights</p>	<p>(13) <b><u>Acts of retransmission need to be authorised by the holders of the exclusive right of retransmission. Right holders should obtain appropriate remuneration for the retransmission of their works and other subject matter.</u></b> In order to provide legal certainty to <b>the</b> operators of retransmission services and to overcome disparities in national law regarding such retransmission services, rules similar to those that apply to cable retransmission as defined in Directive 93/83/EEC, <b>which</b> include the obligation to exercise the right to grant or refuse authorisation to an operator of a retransmission service through a collective management</p>	<p>(13) To retransmit initial transmissions of radio and TV programmes, operators of retransmission services need to obtain an authorisation of the holders of the exclusive right of communication to the public. In order to provide legal certainty to the operators of retransmission services and to overcome disparities in national law regarding such retransmission services, rules similar to those that apply to cable retransmission as defined in Directive 93/83/EEC, which include the obligation to exercise the right to grant or refuse authorisation to an operator of a retransmission service through a collective management organisation,</p>

	COMMISSION PROPOSAL	EP TEXT	COUNCIL TEXT	COMPROMISE TEXT
	2014/26/EU <sup>7</sup> and in particular to its provisions concerning rights of right holders with regard to the choice of a collective management organisation.	of right holders with regard to the choice of a collective management organisation. <i>The right to refuse authorisation as such remains intact, and only the manner of exercising that right is regulated to some extent. This also implies that it is always possible to decide whether or not grant the right of retransmission.</i> [ALT. AMC Q]	organisation, <b><u>should apply</u></b> . This is without prejudice to <b><u>the collective exercise of the single equitable remuneration right for performers and phonogram producers for the communication to the public of commercial phonograms as provided for in Article 8(2) of Directive 2006/115/EC. This is also without prejudice to</u></b> Directive 2014/26/EU and in particular to its provisions concerning rights of right holders with regard to the choice of a collective management organisation.	should apply. Under those rules, the right to grant or refuse authorisation as such remains intact, and only the exercise of that right is regulated to some extent. Right holders should obtain appropriate remuneration for the retransmission of their works and other subject matter. When determining reasonable licensing terms, including the license fee, for a retransmission in accordance with Directive 2014/26/EU, the economic value of the use of the rights in trade, including the value allocated to the means of retransmission should, inter alia, be taken into account. This is without prejudice to the collective exercise of the single equitable remuneration right for performers and phonogram producers for the communication to the public of commercial phonograms as provided for in Article 8(2) of

<sup>7</sup> Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market, OJ L 84, 20.3.2014, p. 72–98.

	COMMISSION PROPOSAL	EP TEXT	COUNCIL TEXT	COMPROMISE TEXT
				Directive 2006/115/EC and to Directive 2014/26/EU and in particular to its provisions concerning rights of right holders with regard to the choice of a collective management organisation.
33.		<i>(13a) Collective management organisations should be able to apply provisions on the exercise of the right in retransmission laid down in this Regulation through the extension of a collective agreement with an operator of a retransmission service also to the rights of right holders not represented by the organisation, where such a system is provided by virtue of national law. [AMC 22]</i>	<b><u>(13a) This Regulation should not exclude the application of national law provisions allowing for agreements concluded between a collective management organisation and retransmission operators, for the retransmission rights that are subject to mandatory collective management under this Regulation, to be extended to apply to the rights of right holders who are not represented by that collective management organisation, without the possibility for the rightholders to exclude their works or other subject-matter from the application of this mechanism, as long as those national law provisions are in</u></b>	(13a) This Directive should allow agreements to be concluded between a collective management organisation and retransmission operators, for the rights that are subject to mandatory collective management under this Directive, to be extended to apply to the rights of right holders who are not represented by that collective management organisation, without the possibility for the right holders to exclude their works or other subject-matter from the application of this mechanism. In cases when there is more than one collective management organisation that manages the rights of the relevant category for its territory, it should be for

	COMMISSION PROPOSAL	EP TEXT	COUNCIL TEXT	COMPROMISE TEXT
			<b><u>compliance with Union law. In those cases, when it is for a Member State to determine which collective management organisation or organisations shall have the right to grant or refuse the authorisation for a retransmission, it should be possible for such determination to follow from the operation of national legislation.</u></b>	the Member State for whose territory the operator of retransmission services seek to clear the rights for a retransmission to determine which collective management organisation or organisations have the right to grant or refuse the authorisation for a retransmission.
34.				(13b) To ensure the efficient collective management of rights and the accurate distribution of revenues collected under the mandatory collective management mechanism introduced by this Directive, it is important that collective management organisations maintain proper records of membership, licences and use of works and other subject matter, in accordance with the transparency obligations set out in Directive 2014/26/EU.

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35.	<p>(14) Any rights held by broadcasting organisations themselves in respect of their broadcasts, including rights in the content of the programmes, should be exempted from the mandatory collective management of rights applicable for retransmissions. Operators of retransmission services and broadcasting organisations generally have ongoing commercial relations and as a result the identity of broadcasting organisations is known to operators of retransmission services and hence the clearance of rights with broadcasting organisations is comparatively simple. Thus, to obtain the necessary licences from broadcasting organisations, operators of retransmission services do not face the same burden as they face to obtain licences from holders of rights in works and other protected subject matter included in the retransmitted television and radio programmes. Therefore,</p>		<p>(14) Any rights held by broadcasting organisations themselves in respect of their broadcasts, including rights in the content of the programmes, should be exempted from the mandatory collective management of rights applicable for retransmissions. Operators of retransmission services and broadcasting organisations generally have ongoing commercial relations and as a result the identity of broadcasting organisations is known to operators of retransmission services and hence the clearance of rights with broadcasting organisations is comparatively simple. Thus, to obtain the necessary licences from broadcasting organisations, operators of retransmission services do not face the same burden as they face to obtain licences from holders of rights in works and other protected subject matter included in the retransmitted television and radio programmes. Therefore,</p>	<p>(14) Any rights held by broadcasting organisations themselves in respect of their broadcasts, including rights in the content of the programmes, should be exempted from the mandatory collective management of rights applicable for retransmissions. Operators of retransmission services and broadcasting organisations generally have ongoing commercial relations and as a result the identity of broadcasting organisations is known to operators of retransmission services and hence the clearance of rights with broadcasting organisations is comparatively simple. Thus, to obtain the necessary licences from broadcasting organisations, operators of retransmission services do not face the same burden as they face to obtain licences from holders of rights in works and other protected subject matter included in the retransmitted television and radio programmes. Therefore,</p>

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	there is no need for the simplification of the licensing process with regard to rights held by broadcasting organisations.		there is no need for the simplification of the licensing process with regard to rights held by broadcasting organisations. <b><u>It is however necessary to ensure that where broadcasting organisations and operators of retransmission services enter into negotiations, they negotiate in good faith regarding the licensing of rights for the retransmissions covered by this Regulation. Directive 2014/26/EU provides for similar rules applying to collective management organisations.</u></b>	there is no need for the simplification of the licensing process with regard to rights held by broadcasting organisations. It is however necessary to ensure that where broadcasting organisations and operators of retransmission services enter into negotiations, they negotiate in good faith regarding the licensing of rights for the retransmissions covered by this Directive. Directive 2014/26/EU provides for similar rules applying to collective management organisations.
36.		<i>(14b) The exemption provided for in this Regulation for the rights in retransmission exercised by broadcasting organisations in respect of their own transmission should not limit the choice of holders of rights to transfer their rights to a collective management organisation and thereby have a direct share in the</i>		(14b) The rules provided for in this Directive for the rights in retransmission exercised by broadcasting organisations in respect of their own transmissions should not limit the choice of holders of rights to transfer their rights either to a broadcasting organisation or to a collective management organisation and thereby have a

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		<i>remuneration paid by the operator of a retransmission service. [AM 153, S&amp;D, AM 156, GUE and ITRE 17]</i>		direct share in the remuneration paid by the operator of a retransmission service.
37.		<i>(14a) Broadcasters that transmit their programme-carrying signals through a direct injection process to distributors which in accordance with the Berne Convention are third parties in relation to the broadcaster for reception by the public should be jointly liable with their distributors for the single and indivisible acts of communication to the public and making available to the public, as defined in Article 3 of Directive 2001/29/EC, which they carry out together. Such broadcasting organisations and such distributors should therefore obtain an authorisation from the right holders in question for their respective participation in such acts. [AM 146, ALDE, AM 147, S&amp;D and ITRE 15]</i>		(X) In order to ensure legal certainty and to maintain a high level of protection for rightholders, it is appropriate to provide that when broadcasting organisations transmit by direct injection their programme-carrying signals only to signal distributors without the broadcasting organisations also directly transmitting their programmes to the public, and the signal distributors send these to their users to allow them to watch or listen to the programmes, only one single act of communication to the public is deemed to occur in which both the broadcasting organisations and the signal distributors participate with their respective contributions. The broadcasting organisations and the signals distributors should therefore obtain authorisation

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				<p>from the rightholders for their specific contribution to the single act of communication to the public. The participation of the broadcasting organisations and signal distributors in the single act of communication to the public should not give rise to joint liability of the broadcasting organisation and the signal distributor for the act of communication to the public. Member States should remain free to provide at national level for the modalities for obtaining authorisation for such a single act of communication to the public including the relevant payments to be made to the rightholders, taking into account the respective exploitation of the works and other subject matter by the broadcasting organisations and signal distributors related to the single act of communication to the public. As signal distributors face, in a similar manner as operators of retransmission services, a significant burden for</p>

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				rights clearance, except for the rights held by broadcasting organisations, Member States should be allowed to provide that signal distributors also benefit from a mechanism of mandatory collective management of rights for their transmissions in the same way and to the same extent as operators of retransmission services for retransmissions covered by Directive 93/83/EEC and this Directive. In cases where signal distributors merely provide broadcasting organisations with technical means, within the meaning of the case-law of the Court of Justice of the European Union, to ensure or improve the reception of the broadcast, the signal distributors should not be considered to be participating in an act of communication to the public.
38.				(Y) When broadcasting organisations transmit their

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				programme-carrying signals directly to the public, thereby carrying out an initial act of transmission, and at the same time simultaneously pass the signals to other organisations through the technical process of direct injection for example to ensure the quality of the signals for retransmission purposes, the transmissions by these other organisations constitute a separate act of communication to the public from the one carried out by the broadcasting organisation. In these situations the rules on retransmissions laid down in this Directive and in Directive 93/83/EEC should apply.
39.	(15) In order to prevent circumvention of the application of the country of origin principle through the extension of the duration of existing agreements concerning the exercise of copyright and related rights relevant for the provision of an ancillary online service as well	(15) In order to prevent circumvention of the application of the country of origin principle <i>applicable to news and current affairs programmes</i> through the extension of the duration of existing agreements concerning the exercise of copyright and related rights relevant for the	(15) In order to prevent circumvention of the application of the country of origin principle through the extension of the duration of existing agreements concerning the <u>acquisition</u> of copyright and related rights relevant for the provision of an ancillary online service as well	(15) In order to prevent circumvention of the application of the country of origin principle through the extension of the duration of existing agreements concerning the exercise of copyright and related rights relevant for the provision of an ancillary online service as well

	COMMISSION PROPOSAL	EP TEXT	COUNCIL TEXT	COMPROMISE TEXT
	as the access to or the use of an ancillary online service, it is necessary to apply the principle of country of origin also to existing agreements but with a transitional period.	provision of an ancillary online service as well as the access to or the use of an ancillary online service, it is necessary to apply <i>this</i> principle also to existing agreements but with a transitional period. [ALT. AMC R]	as the access to or the use of <u>the</u> online service, it is necessary to apply the principle of country of origin also to existing agreements but with a transitional period. <u>The Regulation therefore provides for a period of 2 years for existing contracts to be adapted, where necessary in light of this Regulation. The country of origin principle should not, therefore, apply to existing contracts which expire before [the date mentioned in Article 7(2) + 2 years].</u>	as the access to or the use of the online service, it is necessary to apply the principle of country of origin also to existing agreements but with a transitional period, during which the principle should not apply to those contracts allowing for time to adapt them, where necessary, in accordance with this Directive. It is also necessary to provide for a transitional period in order to allow broadcasters, signal distributors and rightholders to adapt to the new rules set out in Article X on the exploitation of works and other subject matter through direct injection
40.		<i>(15a) Broadcasters that transmit their programme-carrying signals through a direct injection process to distributors for reception by the public should be jointly liable with their distributors for the single and indivisible acts of communication to the public</i>		

	COMMISSION PROPOSAL	EP TEXT	COUNCIL TEXT	COMPROMISE TEXT
		<i>and making available to the public, as defined in Article 3 of Directive 2001/29/EC, which they carry out together. Such broadcasting organisations and distributors should therefore obtain a separate authorisation from the right holders in question for their respective participation in such acts. [AM 166, S&amp;D, AM 167, EPP and CULT 15]</i>		
41.	(16) This Regulation respects fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union. Whilst there may be an interference with the exercise of the rights of right holders insofar as mandatory collective management is required for the exercise of the right of communication to the public with regard to retransmission services, it is necessary to prescribe such a condition in a targeted manner for specific services and in order to allow	(16) This Regulation respects fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union. Whilst there <i>is</i> an interference with the exercise of the rights of right holders insofar as mandatory collective management <i>takes place</i> for the exercise of the right of communication to the public with regard to retransmission services, it is necessary to prescribe such a condition in a targeted manner <i>and to limit it to</i> specific services <i>which are similar to cable and satellite</i>		(16) This Directive respects fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union. Whilst there may be an interference with the exercise of the rights of right holders insofar as mandatory collective management takes place for the exercise of the right of communication to the public with regard to retransmission services, it is necessary to prescribe such a condition in a targeted manner and to limit it to specific services.

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	more widespread cross-border dissemination of television and radio programmes by facilitating the clearance of these rights.	<i>retransmissions and take place in a managed environment.</i> [ALT. AMC S]		
42.	(17) In order to achieve the objective of promoting the cross-border provision of ancillary online services and of facilitating retransmissions of television and radio programmes originating in other Member States, it is appropriate to adopt a Regulation, which directly applies in Member States. A Regulation is necessary in order to guarantee a uniform application of the rules across Member States and their entering into force at the same time with regard to all the concerned transmissions and retransmissions. The direct applicability of a Regulation reduces legal fragmentation and provides greater uniformity by introducing a harmonised set of rules which promote the free circulation of television and			

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	radio programmes originating in other Member States.			
43.	(18) A review of the Regulation should be undertaken after the Regulation has been in force for a period of time, in order to assess, among others, to what extent the cross-border provision of ancillary online services has increased to the benefit of European consumers and hence also to the benefit of improved cultural diversity in the Union.	(18) <i>In line with the principles of better regulation, a review of the Regulation should be undertaken after the Regulation has been in force for a period of time, in order to assess <b>the impact of the Regulation, including the provisions on direct injection, on Europe's creative industries, on the financing of European audio-visual works and on rightholders. The review should also take into account the extent to which</b> the cross-border provision of ancillary online services, <b>and the level on investment in new content,</b> has increased to the benefit of European consumers and <b>businesses, and</b> hence also to the benefit of improved cultural diversity in the Union. [AMC 24]</i>		(18) In line with the principles of better regulation, a review of the Directive, including its provisions on direct injection, should be undertaken after the Directive has been in force for a period of time, in order to assess, among others, its benefits for European consumers, its impact on the creative industries in the European Union, and on the level of investment in new content, and hence also to the benefit of improved cultural diversity in the Union.
44.	(19) Since the objective of this Regulation, namely	(19) Since the objective of this Regulation, namely	(19) Since the objective of this Regulation, namely	(19) Since the objective of this Directive, namely

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	<p>promoting the cross-border provision of ancillary online services and facilitating retransmissions of television and radio programmes originating in other Member States, cannot be sufficiently achieved by Member States and can therefore, by reason of the scale and effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve its objective. As concerns the cross-border provision of ancillary online services, this Regulation establishes enabling mechanisms to facilitate the clearance of copyright and related rights. This Regulation does not oblige broadcasting organisations to provide such services across borders. Neither does this</p>	<p>promoting the cross-border provision of ancillary online services <i>to news and current affairs programmes</i> and facilitating retransmissions of television and radio programmes originating in other Member States, cannot be sufficiently achieved by Member States and can therefore, by reason of the scale and effects, be <i>in some cases</i> better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve its objective. As concerns the cross-border provision of <i>certain</i> ancillary online services <i>of broadcasters</i>, this Regulation does not oblige broadcasting organisations to provide such services across borders. Neither does this Regulation oblige operators of</p>	<p>promoting the cross-border provision of ancillary online services and facilitating retransmissions of television and radio programmes originating in other Member States, cannot be sufficiently achieved by Member States and can therefore, by reason of the scale and effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve its objective. As concerns the cross-border provision of ancillary online services, this Regulation establishes enabling mechanisms to facilitate the clearance of copyright and related rights. This Regulation does not oblige broadcasting organisations to provide such services across borders. Neither does this</p>	<p>promoting the cross-border provision of ancillary online services for certain types of programmes and facilitating retransmissions of television and radio programmes originating in other Member States, cannot be sufficiently achieved by Member States and can therefore, by reason of the scale and effects, be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve its objective. As concerns the cross-border provision of ancillary online services, this Directive does not oblige broadcasting organisations to provide such services across borders. Neither does this Directive oblige operators of retransmission services to include in their</p>

	COMMISSION PROPOSAL	EP TEXT	COUNCIL TEXT	COMPROMISE TEXT
	Regulation oblige operators of retransmission services to include in their services television or radio programmes originating in other Member States. This Regulation concerns only the exercise of certain retransmission rights to the extent necessary to simplify the licensing of copyright and related rights for such services and only with regard to television and radio programmes originating in other Member States of the Union,	retransmission services to include in their services television or radio programmes originating in other Member States. This Regulation concerns only the exercise of certain retransmission rights to the extent necessary to simplify the licensing of copyright and related rights for such services and only with regard to television and radio programmes originating in other Member States of the Union. [ALT. AMC T]	Regulation oblige operators of retransmission services to include in their services television or radio programmes originating in other Member States. This Regulation concerns only the exercise of certain retransmission rights to the extent necessary to simplify the licensing of copyright and related rights for such services and only with regard to television and radio programmes originating in other Member States of the Union. <b><u>This Regulation should be without prejudice to the possibility for the Member States to apply rules as those established in this Regulation and in the Council Directive 93/83/EEC to situations where both the initial transmission and the retransmission take place within their territory.</u></b>	services television or radio programmes originating in other Member States. This Directive concerns only the exercise of certain retransmission rights to the extent necessary to simplify the licensing of copyright and related rights for such services and only with regard to television and radio programmes originating in other Member States of the Union.
45.				(19a) Member States should be able to apply the rules on retransmission established in this Directive and in the Council

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				Directive 93/83/EEC to situations where both the initial transmission and the retransmission take place within their territory.
46.		<i>(19a) The retransmission of programmes from other Member States is an act subject to copyright and, in some cases, related rights. Online services should therefore obtain the authorisation of every right holder for each part of the retransmitted programme. In accordance with this Regulation, authorisations should be granted contractually, unless a temporary exception is provided for under existing legal licencing schemes, [AM 189 and AM 190, EPP]</i>		
47.				(19b) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents*, Member States have undertaken

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				to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified,
48.	HAVE ADOPTED THIS REGULATION:			HAVE ADOPTED THIS DIRECTIVE:
49.			<b><u>CHAPTER I</u></b> <b><u>GENERAL PROVISIONS</u></b>	<b><u>CHAPTER I</u></b> <b><u>GENERAL PROVISIONS</u></b>
50.		<i>Article -1</i> <i>Subject matter</i>		<i>Article -1</i> <i>Subject matter</i>
51.		<i>(1) This Regulation establishes legal mechanisms to facilitate the clearance of copyright and related rights relevant for the cross-border</i>		This Directive lays down rules, which aim at enhancing the cross-border access to more radio and television programmes, by facilitating the

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		<i>provision of ancillary online services and to facilitate digital retransmissions over a closed environment.</i>		clearance of rights for the provision of on-line services for ancillary to the broadcasts 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 radio and television programmes through the process of direct injection.
52.		<i>(2) Those legal mechanisms include the establishment of the country of origin principle as regards the exercise of those rights. The legal mechanisms also include provisions on mandatory collective management of copyright and related rights relevant for retransmission, on legal presumptions of representation by collective management organisations and on the exercise of retransmission rights by broadcasting organisations. [AMC 1]</i>		

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53.	<i>Article 1 Definitions</i>			<i>Article 1 Definitions</i>
54.	For the purpose of this Regulation, the following definitions shall apply:			For the purpose of this Directive, the following definitions shall apply:
55.	(a) "ancillary online service" means an online service consisting in the provision to the public, by or under the control and responsibility of a broadcasting organisation, of radio or television programmes simultaneously with or for a defined period of time after their broadcast by the broadcasting organisation as well as of any material produced by or for the broadcasting organisation which is ancillary to such broadcast;		(a) "ancillary online service" means an online service, <b><u>whether bundled with or provided separately from a broadcast service,</u></b> consisting in the provision to the public, by or under the control and responsibility of a broadcasting organisation, of radio or television programmes simultaneously with or for a defined period of time after their broadcast by the broadcasting organisation, as well as of any material produced by or for the broadcasting organisation which is ancillary to such <b><u>a</u></b> broadcast;	(a) "ancillary online service" means an online service consisting in the provision to the public, by or under the control and responsibility of a broadcasting organisation, of radio or television programmes simultaneously with or for a defined period of time after their broadcast by the broadcasting organisation, as well as of any material which is ancillary to such a broadcast;
56.	(b) "retransmission" means any simultaneous, unaltered and unabridged retransmission, other than cable retransmission as defined in Directive 93/83/EEC	(b) "retransmission" means any simultaneous, unaltered and unabridged retransmission, other than cable retransmission as defined in Directive 93/83/EEC	(b) "retransmission" means any simultaneous, unaltered and unabridged retransmission, other than cable retransmission as defined in Directive 93/83/EEC,	(b) "retransmission" means any simultaneous, unaltered and unabridged retransmission, other than cable retransmission as defined in Directive 93/83/EEC, intended for reception by the

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	and other than retransmission provided over an internet access service as defined in Regulation (EU) 2015/2120 of the European Parliament and of the Council <sup>8</sup> , intended for reception by the public of an initial transmission from another Member State, by wire or over the air, including that by satellite but excluding online transmission, of television or radio programmes intended for the reception by the public, provided that such retransmission is made by a party other than the broadcasting organisation which made the initial transmission or under whose control and responsibility such transmission was made.	<i>limited to cable-like or IPTV-like services which are</i> intended for reception by the public of an initial transmission from another Member State, by wire or over the air, including that by satellite but excluding online transmission, of television or radio programmes intended for the reception by the public, provided that such retransmission is made by a party other than the broadcasting organisation which made the initial transmission or under whose control and responsibility such transmission was made; [ALT. AMC A]	intended for reception by the public of an initial transmission from another Member State <b><u>of television or radio programmes intended for the reception by the public, where such initial transmission is</u></b> by wire or over the air, including that by satellite but excluding online transmission, provided that:  <b><u>(i) the</u></b> retransmission is made by a party other than the broadcasting organisation which made the initial transmission or under whose control and responsibility such transmission was made, <b><u>and</u></b>  <b><u>(ii) the retransmission over an internet access service as defined in Regulation (EU) 2015/2120 of the European Parliament and of the Council</u></b>	public of an initial transmission from another Member State of television or radio programmes intended for the reception by the public, where such initial transmission is by wire or over the air, including that by satellite but excluding online transmission, provided that:  (i) the retransmission is made by a party other than the broadcasting organisation which made the initial transmission or under whose control and responsibility such transmission was made regardless of the way the party carrying out the retransmission obtains the programme-carrying signals from the broadcasting organisation for retransmission purpose, and

<sup>8</sup> Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union, OJ L 310, 26.11.2015, p. 1.

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			<b><u>is provided to a controlled circle of users.</u></b>	(ii) the retransmission over an internet access service as defined in Regulation (EU) 2015/2120 of the European Parliament and of the Council is carried out in a managed environment.
57.		<i>(bb) "managed environments" are exclusively defined as cable-like services or IPTV-like services with secured and restricted access, where a retransmission operator provides an end to end encrypted retransmission service to its contractually authorised users. [ALT. AMC C]</i>		(ba) "managed environment" means an environment where a retransmission operator provides a secure retransmission to authorised users.
58.		<i>(ba) "direct injection" means a two- or more step process by which broadcasting organisations transmit their programme-carrying signals for reception by the public to distributors that are organisations other than those broadcasting organisations in accordance with the Berne</i>		(bb) "direct injection" means a technical process by which a broadcasting organisation transmits its programme-carrying signals to organisations other than broadcasting organisations in such a way that the programme-carrying signals are not accessible to the public during that transmission.

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		<p><i>Convention point to point via a private line – by wire or over the air, including by satellite – in such a way that the programme-carrying signals cannot be received by the general public during such transmission; the distributors then offer these programmes to the public simultaneously, in an unaltered and unabridged form, for viewing or listening on cable networks, microwave systems, digital terrestrial, IP-based and mobile networks or similar networks; [ALT. AMC B]</i></p>		
59.			<p><b><u>CHAPTER II</u></b> <b><u>BROADCASTING</u></b> <b><u>ORGANISATIONS'</u></b> <b><u>ANCILLARY ONLINE</u></b> <b><u>SERVICES</u></b></p>	<p><b><u>CHAPTER II</u></b> <b><u>BROADCASTING</u></b> <b><u>ORGANISATIONS'</u></b> <b><u>ANCILLARY ONLINE</u></b> <b><u>SERVICES</u></b></p>

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60.	<p><i>Article 2</i> <i>Application of the principle of 'country of origin' to ancillary online services</i></p>	<p><i>Article 2</i> <i>Application of the principle of 'country of origin' to online services to broadcasts of news and current affairs programmes</i></p>		<p><i>Article 2</i> <i>Application of the principle of 'country of origin' to ancillary online services</i></p>
61.	<p>(1) The acts of communication to the public and of making available occurring when providing an ancillary online service by or under the control and responsibility of a broadcasting organisation as well as the acts of reproduction which are necessary for the provision of, the access to or the use of the ancillary online service shall, for the purposes of exercising copyright and related rights relevant for these acts, be deemed to occur solely in the Member State in which the broadcasting organisation has its principal establishment.</p>	<p>(1) The acts of communication to the public and of making available occurring when providing an ancillary online service <i>to an initial broadcast of exclusively news and current affairs programmes</i> by or under the control and responsibility of a broadcasting organisation, as well as the acts of reproduction <i>of such news and current affairs programmes</i> which are necessary for the provision of, the access to or the use of <i>such</i> ancillary online service shall, for the purposes of <i>acquiring and</i> exercising <i>the acquired</i> copyright and related rights relevant for these acts, be deemed to occur solely in the Member State in which the broadcasting organisation has its principal establishment.</p>	<p>(1) The acts of communication to the public and of making available <b><u>to the public, by wire or wireless means, in such a way that members of the public may access works or other subject matter from a place and at a time individually chosen by them,</u></b> occurring when providing an ancillary online service by or under the control and responsibility of a broadcasting organisation as well as the acts of reproduction which are necessary for the provision of, the access to or the use of <b><u>such</u></b> online service shall, for the purposes of <b><u>acquiring and</u></b> exercising <b><u>the acquired</u></b> copyright and related rights relevant for these acts, be deemed to occur solely in the Member State in which the</p>	<p>(1) The acts of communication to the public and of making available to the public, by wire or wireless means, in such a way that members of the public may access works or other subject matter from a place and at a time individually chosen by them, occurring when providing to the public</p> <p>(a) radio programmes, and</p> <p>(b) television programmes which are:</p> <p>(i) news and current affairs, or</p> <p>(ii) fully financed own productions of the broadcasting organisation</p> <p>in an ancillary online service by or under the control and</p>

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			broadcasting organisation has its principal establishment.	responsibility of a broadcasting organisation as well as the acts of reproduction which are necessary for the provision of, the access to or the use of such online service for the same programmes shall, for the purposes of exercising copyright and related rights relevant for these acts be deemed to occur solely in the Member State in which the broadcasting organisation has its principal establishment.  Paragraph 1(b) shall not apply to the broadcasts of sports events and works and other subject matter included in them.
62.			<b><u>(1a) As regards television programmes, paragraph 1 shall only apply to any copyright and related rights that are required for the inclusion in the ancillary online service of a broadcasting organisation of programmes which are:</u></b>	

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			<p><b><u>(a) related to news and current affairs or</u></b></p> <p><b><u>(b) fully financed and controlled by a broadcasting organisation</u></b></p> <p><b><u>Paragraph 1 shall not apply to the broadcasts of sports events and works and other subject matter included in them.</u></b></p>	
63.	<p>(2) When fixing the amount of the payment to be made for the rights subject to the country of origin principle as set out in paragraph 1, the parties shall take into account all aspects of the ancillary online service such as the features of the ancillary online service, the audience, and the language version.</p>	<p>(2) When fixing the amount of the payment to be made for the rights subject to the country of origin principle as set out in paragraph 1, the parties shall take into account all aspects of the ancillary online service such as features of the ancillary online service, <b><i>including the duration of online availability</i></b>, the audience, and <b><i>all available language versions</i></b>.</p>	<p>(2) When fixing the amount of the payment to be made for the rights subject to the country of origin principle as set out in paragraph 1, the parties shall take into account all aspects of the ancillary online service such as features of the ancillary online service, the audience, and the language version.</p>	<p>(2) Member States shall ensure that, when fixing the amount of the payment to be made for the rights subject to the country of origin principle as set out in paragraph 1, the parties take into account all aspects of the ancillary online service such as features of the ancillary online service, including the duration of online availability of the programmes provided in that service, the audience, and the language versions provided.</p> <p>This shall not preclude the option of calculating the amount of the payments to be made, on</p>

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				the basis of the broadcasting organisation's revenues.
64.		<i>(2a) Paragraph 2 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.</i>		
65.		<i>(2b) Paragraphs 1 and 2 are without prejudice to the principles of territoriality and contractual freedom under copyright and any right provided under Directive 2001/29/EC. On this basis, the parties shall be entitled to continue agreeing on the introduction of limits on the exploitation of the rights referred to in paragraph 1, provided that any such limitations are in compliance</i>	<b><u>(3) The principle of country of origin set out in paragraph 1 does not affect the freedom of right holders and broadcasting organisations to agree, in compliance with Union law, on limitations, including geographic limitations, to the exploitation of their rights referred to in that paragraph.</u></b>	(3) The principle of country of origin set out in paragraph 1 is without prejudice to the contractual freedom of the holders of copyright and related rights and of broadcasting organisations to agree, in compliance with Union law, on the introduction of limitations on the exploitation of those rights, including those under Directive 2001/29/EC.

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		<i>with Union and national law.</i> [ALT. AMC D]		
66.		<i>(2c) The retransmission of the initial transmission of a television or radio programme from one Member State to other Member States by means of an ancillary online service as defined in this Regulation shall take place in compliance with the applicable copyright, related rights, and rights to other subject matter and on the basis of individual or collective contractual agreements between copyright owners, holders of related rights, holders of rights to other subject matter, and retransmission service operators. [AM 265, EPP]</i>		
67.			<b><u>CHAPTER III</u></b> <b><u>RETRANSMISSION OF</u></b> <b><u>TELEVISION AND RADIO</u></b> <b><u>PROGRAMMES</u></b>	<b><u>CHAPTER III</u></b> <b><u>RETRANSMISSION OF</u></b> <b><u>TELEVISION AND RADIO</u></b> <b><u>PROGRAMMES</u></b>

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68.	<i>Article 3 Exercise of the rights in retransmission by right holders other than broadcasting organisations</i>	<i>Article 3 Exercise of the rights in retransmission <b>other than by cable</b> by right holders other than broadcasting organisations</i>		<i>Article 3 Exercise of the rights in retransmission by right holders other than broadcasting organisations</i>
69.		<b>(-1) The right of retransmission is an exclusive right and has to be authorised by the holders of copyright and other related rights.</b>		(-1) Acts of retransmission of programmes have to be authorised by the holders of the exclusive right of communication to the public.
70.	(1) Holders of copyright and related rights other than broadcasting organisations may exercise their rights to grant or refuse the authorisation for a retransmission only through a collective management organisation.	(1) Holders of copyright and related rights other than broadcasting organisations <b>shall</b> exercise their rights to <b>allow access to retransmission services within managed environments</b> only through a collective management organisation	(1) Holders of copyright and related rights may exercise their rights to grant or refuse the authorisation for a retransmission only through a collective management organisation.	(1) Member States shall ensure that holders of copyright and related rights other than broadcasting organisations may exercise their rights to grant or refuse the authorisation for a retransmission only through a collective management organisation.
71.	(2) Where a right holder has not transferred the management of the right referred to in paragraph 1 to a collective management organisation, the collective management organisation which manages rights of the same category for	Deleted	(2) Where a right holder has not transferred the management of the right referred to in paragraph 1 to a collective management organisation, the collective management organisation which manages rights of the same category for	(2) Where a right holder has not transferred the management of the right referred to in paragraph 1 to a collective management organisation, the collective management organisation which manages rights of the same category for the territory of the

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	the territory of the Member State for which the operator of the retransmission service seeks to clear rights for a retransmission shall be deemed to be mandated to manage the right on behalf of that right holder.		<p>the territory of the Member State for which the operator of the retransmission service seeks to clear rights for a retransmission shall be deemed to <b>have</b> the right <b><u>to grant or refuse the authorisation for a retransmission for</u></b> that right holder.</p> <p><b><u>If, in such a situation,</u></b> 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 whose territory the operator of the retransmission service seeks to clear rights for a retransmission to <b>decide</b> which collective management <b><u>organisation or organisations shall have</u></b> the right <b><u>to grant or refuse the authorisation for a retransmission.</u></b></p>	Member State for which the operator of the 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 right holder.
72.	(3) Where more than one collective management organisation manages rights of that category for the territory of that Member State, the right		(3) Deleted ( <i>merged with paragraph 2 above</i> )	(3) In situations referred to in paragraph 2 where more than one collective management organisation manages rights of that category for the territory of

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	holder shall be free to choose which of those collective management organisations is deemed to be mandated to manage his or her right. If in such a situation the right holder does not choose the collective management organisation, it shall be for the Member State for whose territory the operator of the retransmission service seeks to clear rights for a retransmission to indicate which of the collective management organisations is deemed to be mandated to manage the right of that right holder.			that Member State, it shall be for the Member State for whose territory the operator of the retransmission service seeks to clear rights for a retransmission to decide which collective management organisation or organisations shall have the right to grant or refuse the authorisation for a retransmission.
73.	(4) A right holder shall have the same rights and obligations resulting from the agreement between the operator of the retransmission service and the collective management organisation which is deemed to be mandated to manage his or her right as the right holders who have mandated that collective management organisation and shall be able to	Deleted	(4) A right holder shall have the same rights and obligations resulting from the agreement between the operator of the retransmission service and the collective management organisation <b><u>or organisations which act in accordance with paragraph 2,</u></b> as the right holders who have mandated that collective management organisation <b><u>or organisations</u></b>	(4) Member States shall ensure that a right holder has the same rights and obligations resulting from the agreement between the operator of the retransmission service and the collective management organisation or organisations which act in accordance with paragraph 2, as the right holders who have mandated that collective management organisation or

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	claim those rights within a period, to be fixed by the Member State concerned, which shall not be shorter than three years from the date of the retransmission which includes his or her work or other protected subject matter.		and shall be able to claim those rights within a period, to be fixed by the Member State concerned, which shall not be shorter than three years from the date of the retransmission which includes his or her work or other protected subject matter.	organisations and shall be able to claim those rights within a period, to be fixed by the Member State concerned, which shall not be shorter than three years from the date of the retransmission which includes his or her work or other protected subject matter.
74.	(5) A Member State may provide that, where a right holder authorises the initial transmission within its territory of a work or other protected subject matter, the right holder shall be deemed to have agreed not to exercise his or her rights in retransmission on an individual basis but to exercise them in accordance with this Regulation.	Deleted [ALT. AMC D]	(5) Deleted	
75.		<i>(5a) Collective management organisations shall maintain a database providing information related to the management of copyright and related rights covered by this Article, including information on the</i>		

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		<i>right holder, the type of use, the territory and period of time.</i>		
76.		<i>(5b) The possibility to call upon mediation and the prevention of the abuse of negotiating positions as provided for in Article 11 and Article 12(1) of Council Directive 93/83/EEC shall also be available for the purposes of this Regulation. [AMC 8]</i>		
77.		<i>Article 3a Exploitation of broadcasting programmes through retransmission</i>		
78.		<i>The retransmission of works or other protected subject-matter included in a television or radio programme initially communicated to the public by a broadcasting organisation is an act of communication to the public of such a programme, irrespective of whether the retransmission service operator uses the same technical means or different technical means than those used for the initial</i>		

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		<i>act of broadcasting and irrespective of whether or not such retransmission takes place within the actual or intended area of reception of the initial broadcast. [AM 304, S&amp;D and AM 305, ALDE]</i>		
79.	<i>Article 4 Exercise of the rights in retransmission by broadcasting organisations</i>			<i>Article 4 Exercise of the rights in retransmission by broadcasting organisations</i>
80.	Article 3 shall not apply to the rights exercised by a broadcasting organisation in respect of its own transmission, irrespective of whether the rights concerned are its own or have been transferred to it by other holders of copyright or by holders of related rights.		<b>(1)</b> Article 3 shall not apply to the rights exercised by a broadcasting organisation in respect of its own transmission, irrespective of whether the rights concerned are its own or have been transferred to it by other holders of copyright or by holders of related rights.	<b>(1)</b> Member States shall ensure that Article 3 shall not apply to the rights exercised by a broadcasting organisation in respect of its own transmission, irrespective of whether the rights concerned are its own or have been transferred to it by other holders of copyright or by holders of related rights.
81.			<b><u>(2) Where broadcasting organisations and the operators of the retransmission services enter into negotiations regarding authorisation for retransmission under this</u></b>	<b>(2)</b> Member States shall provide that, where broadcasting organisations and the operators of the retransmission services enter into negotiations regarding authorisation for retransmission under this Directive, those

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			<b><u>Regulation, those negotiations shall be conducted in good faith.</u></b>	negotiations are conducted in good faith.
82.				Article 4a Mediation
83.				Member States shall ensure that the possibility to call upon the assistance of one or more mediators as provided for in Article 11 of the Directive 93/83/EEC is also available where no agreement is concluded between the collective management organisation and the retransmission operator or the retransmission operator and the broadcasting organisation regarding the authorisation for retransmission of broadcasts.
84.			<b><u>Article 4a</u></b> <b><u>Retransmissions of an initial transmission originating in the same Member State</u></b>	Article 4a  Retransmissions of an initial transmission originating in the same Member State
85.			<b><u>Member States may apply the rules of this Chapter and of</u></b>	Member States may apply the rules of this Chapter and of

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			<b><u>Chapter III of Directive 93/83/EEC to situations where both the initial transmission and the retransmission take place within their territory.</u></b>	Chapter III of Directive 93/83/EEC to situations where both the initial transmission and the retransmission take place within their territory.
86.				<b><u>CHAPTER</u></b>  <b><u>TRANSMISSION OF PROGRAMMES THROUGH DIRECT INJECTION</u></b>
87.		<i>Article 4a Exploitation of broadcasting programmes through a direct injection process</i>		<i>Article X Transmission of programmes through direct injection</i>
88.		<i>Broadcasters that transmit their programme-carrying signals through a direct injection process to distributors that are organisations other than those broadcasting organisations in accordance with the Berne Convention for reception by the public shall be jointly liable with their distributors for the single and indivisible acts of</i>		(1) 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 these programme-

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		<i>communication to the public and making available to the public, as provided for in Article 3 of Directive 2001/29/EC, which they carry out together. Such broadcasting organisations and such distributors should therefore obtain an authorisation from the right holders in question for their respective participation in such acts. [ALT. AMC F]</i>		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 for which they shall obtain authorisation from rightholders. Member States may provide for the modalities for obtaining authorisation from rightholders.
89.				(2) Member States may provide that the rules on the exercise of rights set out in Articles 3, 4 and 4a apply mutatis mutandis to the exercise by holders of copyright and related rights of the right to grant or refuse the authorisation to signal distributors for a transmission referred to in paragraph 1 carried out by one of the technical means referred to in Article 1(3) of Directive 93/83/EEC or Article 1 (b) of this Directive.

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90.			<b><u>CHAPTER IV</u></b> <b><u>FINAL PROVISIONS</u></b>	<b><u>CHAPTER IV</u></b> <b><u>FINAL PROVISIONS</u></b>
91.				<i>Article Xa</i> <i>Amendment to Directive</i> <i>93/83/EEC</i>
92.				In Article 1 of Directive 93/83/EEC, paragraph 3 is replaced by the following:  "3. For the purposes of this Directive, 'cable retransmission' means the simultaneous, unaltered and unabridged retransmission by a cable or microwave system for reception by the public of an initial transmission from another Member State, by wire or over the air, including that by satellite, of television or radio programmes intended for reception by the public, regardless of the way the operator of a cable retransmission service obtains

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				the programme-carrying signals from the broadcasting organisation for retransmission purposes.”
93.	<i>Article 6 Review</i>			<i>Article 6 Review</i>
94.	(1) No later than [3 years after the date mentioned in Article 7(2) to be inserted by OPOCE], the Commission shall carry out a review of this Regulation and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee.	(1) No later than [3 years after the date mentioned in Article 7(2) to be inserted by OPOCE], the Commission shall carry out a review of this Regulation and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee. <b>The report shall be made easily and effectively accessible to the public. [AM 328, EFDD]</b>		(1) By [6 years after the entry into force of this directive], the Commission shall carry out a review of this Directive and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee. The report shall be published and made available to the public on the website of the Commission.
95.	(2) Member States shall provide the Commission with the necessary information for the preparation of the report referred to in paragraph 1.	(2) Member States shall provide the Commission, <b>in a timely and accurate manner</b> , with the necessary information for the preparation of the report referred to in paragraph 1. <b>[AM 329, EFDD]</b>		(2) Member States shall provide the Commission, in a timely manner, with the relevant and necessary information for the preparation of the report referred to in paragraph 1.

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96.				<i>Article (new) Transposition</i>
97.				<p>1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 2 years after the entry into force of this Directive. They shall immediately inform the Commission thereof.</p> <p>When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.</p> <p>2. Member States shall communicate to the Commission the text of the measures of national law which they adopt in the field covered by this Directive.</p>

	COMMISSION PROPOSAL	EP TEXT	COUNCIL TEXT	COMPROMISE TEXT
98.	<i>Article 5 Transitional provision</i>	Deleted		<i>Article 5 Transitional provision</i>
99.	Agreements on the exercise of copyright and related rights relevant for the acts of communication to the public and the making available occurring in the course of provision of an ancillary online service as well as for the acts of reproduction which are necessary for the provision of, the access to or the use of an ancillary online service which are in force on <i>[the date mentioned in Article 7(2), to be inserted by OPOCE ]</i> shall be subject to Article 2 as from <i>[the date mentioned in Article 7(2) + 2 years, to be inserted by OPOCE]</i> if they expire after that date.	Deleted [AM 320-322, EPP, AM 323, ECR, CULT 26 and ITRE 35]	Agreements on the exercise of copyright and related rights relevant for the acts of communication to the public and the making available <b><u>to the public, by wire or wireless means, in such a way that members of the public may access works or other subject matter from a place and at a time individually chosen by them,</u></b> occurring in the course of provision of an ancillary online service as well as for the acts of reproduction which are necessary for the provision of, the access to or the use of <b><u>such</u></b> online service which are in force on <i>[the date mentioned in Article 7(2), to be inserted by OPOCE ]</i> shall be subject to Article 2 as from <i>[the date mentioned in Article 7(2) + 2 years, to be inserted by OPOCE]</i> if they expire after that date.	Agreements on the exercise of copyright and related rights relevant for the acts of communication to the public and the making available to the public, by wire or wireless means, in such a way that members of the public may access works or other subject matter from a place and at a time individually chosen by them, occurring in the course of provision of an ancillary online service as well as for the acts of reproduction which are necessary for the provision of, the access to or the use of such online service which are in force on <i>[the date mentioned in (Article on transposition), to be inserted by OPOCE ]</i> shall be subject to Article 2 as from <i>[the date mentioned in (Article on transposition)+ 2 years, to be</i>

	COMMISSION PROPOSAL	EP TEXT	COUNCIL TEXT	COMPROMISE TEXT
				<p>inserted by OPOCE] if they expire after that date.</p> <p>Authorisations obtained for the acts of communication to the public falling under Article [X/DI] which are in force on [the date mentioned in (Article on transposition), to be inserted by OPOCE ] shall be subject to Article [X/DI] as from [the date mentioned in (Article on transposition)+ 4 years, to be inserted by OPOCE] if they expire after that date.</p>
100.	<i>Article 7 Final provisions</i>			<i>Article 7 Entry into force</i>
101.	(1) This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .			(1) This Directive shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .
102.	(2) It shall apply from [6 months following the day of its publication, to be inserted by OPOCE].	(2) It shall apply from [ <del>6</del> 18 months following the day of its publication, to be inserted by OPOCE]. [AM 331, ECR and AM 332, EPP]	(2) It shall apply from [ <u>24</u> months following the day of its publication, to be inserted by OPOCE].	

	COMMISSION PROPOSAL	EP TEXT	COUNCIL TEXT	COMPROMISE TEXT
103.	This Regulation shall be binding in its entirety and directly applicable in all Member States.			
104.				<i>Article 7a</i> <i>Addressees</i>
105.				This Directive is addressed to the Member States.
106.	Done at Brussels,			Done at Brussels,