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AMENDMENTS

23 - 156

Draft opinion
Carlos Zorrinho
(PE583.955v01-00)

Cross-border portability of online content services in the internal market

Proposal for a regulation
(COM(2015)0627 – C8-0392/2015 – 2015/0284(COD))

Amendment 23
David Borrelli, Dario Tamburrano

Proposal for a regulation
Citation 1 a (new)

Text proposed by the Commission

Amendment

**- having regard to the Charter of
Fundamental Rights of the European
Union,**

Or. en

Justification

The Charter is our essential, highest-level legal reference for personal data protection and privacy, which in turn are a basic issue for this Regulation, and accordingly it must be quoted in the “having regards”.

Amendment 24
Marco Zullo

Proposal for a regulation
Recital 1

Text proposed by the Commission

Amendment

(1) *Since* the internal market comprises an area without internal frontiers **relying, inter alia, on** the free movement of services and persons, it is necessary to **provide** that consumers can use online content services which offer access to content such as music, games, films or sporting events not only in their Member State of residence but also when they are temporarily present in other Member States of the Union. Therefore, barriers that hamper access and use of such online content services cross border should be eliminated.

(1) **The development of European identity and citizenship is also based on the smooth functioning of** the internal market, **which** comprises an area without internal frontiers **where** the free movement of services and persons **is guaranteed and encouraged**. It is **therefore** necessary to **ensure seamless access to online content services throughout the Union by providing** that consumers can use online content services which offer access to content such as music, games, films or sporting events not only in their Member State of residence but also when they are temporarily present in other Member States of the Union **for such purposes as leisure, business or study**. Therefore, barriers that hamper access and use of such online

content services cross border should be eliminated.

Or. it

Amendment 25
José Blanco López

Proposal for a regulation
Recital 1

Text proposed by the Commission

(1) Since the internal market comprises an area without internal frontiers relying, inter alia, on the free movement of services and persons, it is necessary to provide that consumers can use online content services which offer access to content such as music, games, films or sporting events not only in their Member State of residence but also when they are temporarily present in other Member States of the Union. Therefore, barriers that hamper access and use of such online content services cross border should be eliminated.

Amendment

(1) Since the internal market comprises an area without internal frontiers relying, inter alia, on the free movement of services and persons, it is necessary to provide that consumers can use online content services which offer access to content such as music, games, films or sporting events not only in their Member State of residence but also when they are temporarily present in other Member States of the Union. Therefore, barriers that hamper access and use of such online content services cross border should be eliminated, *as smooth, unfettered access for consumers to online audiovisual content throughout the Union is key to the smooth functioning of the digital single market.*

Or. es

Amendment 26
David Borrelli, Dario Tamburrano

Proposal for a regulation
Recital 1

Text proposed by the Commission

(1) *Since the internal market comprises* an area without internal frontiers *relying, inter alia, on* the free movement

Amendment

(1) *The development of a European identity and citizenship also relies on the smooth functioning of* an area without

of services and persons, it is necessary to provide that consumers can use online content services which offer access to content such as music, games, films or sporting events not only in their Member State of residence but also when they are temporarily present in other Member States of the Union. Therefore, barriers that hamper access and use of such online content services cross border should be eliminated.

internal frontiers *where* the free movement of services and persons *is guaranteed and encouraged*. It is necessary to provide that consumers can use online content services which offer access to content such as music, games, films or sporting events not only in their Member State of residence but also when they are temporarily present in other Member States of the Union *for such purposes as leisure, business or study*. Therefore, barriers that hamper access and use of such online content services cross border should be eliminated.

Or. en

Justification

The internal market, even with its very high importance, is not an end in itself; it descends from the free movement principle and it has been reinforced by the concept of European citizenship. Since the concept of “temporary presence” seems to us unfortunately ambiguous, its interpretation could be facilitated quoting some of the most frequent motivations that lead European citizens to move in a non-permanent way from their home Member State to other Member States.

Amendment 27 **José Blanco López**

Proposal for a regulation **Recital 1**

Text proposed by the Commission

(1) Since the internal market comprises an area without internal frontiers relying, inter alia, on the free movement of services and persons, it is necessary to provide that consumers can use online content services which offer access to content such as music, games, films or sporting events not only in their Member State of residence but also when they are temporarily present in other Member States of the Union. Therefore, barriers that hamper access and use of such online content services cross border should be eliminated.

Amendment

(1) Since the internal market comprises an area without internal frontiers relying, inter alia, on the free movement of services and persons, it is necessary to provide that consumers can use online content services which offer access to content such as music, games, films or sporting events not only in their Member State of residence but also when they are temporarily present in other Member States of the Union *for purposes such as holidays, travel or business trips*. Therefore, barriers that hamper *temporary* access and use of such

online content services cross border should be eliminated.

Or. en

Amendment 28
Aldo Patriciello

Proposal for a regulation
Recital 1

Text proposed by the Commission

(1) Since the internal market comprises an area without internal frontiers relying, inter alia, on the free movement of services and persons, it is necessary to provide that consumers can use online content services which offer access to content such as music, games, films or sporting events not only in their Member State of residence but also when they are temporarily present in other Member States of the Union. Therefore, barriers that hamper access and use of such online content services cross border should be eliminated.

Amendment

(1) Since the internal market comprises an area without internal frontiers relying, inter alia, on the free movement of services and persons, it is necessary to provide that consumers can use online content services which offer access to content such as music, games, films or sporting events not only in their Member State of residence but also when they are temporarily present in other Member States of the Union. Therefore, barriers that hamper access and use of such online content services cross border should be eliminated ***swiftly and by 2018 at the latest.***

Or. it

Amendment 29
José Blanco López

Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) The technological development leading to a proliferation of portable devices such as tablets and smartphones increasingly facilitates the use of online content services by providing access to them regardless of the consumers' location.

Amendment

(2) The technological development leading to a proliferation of portable devices such as tablets and smartphones increasingly facilitates the use of online content services by providing access to them regardless of the consumers' location.

There is a rapidly growing demand on the part of consumers for access to content and innovative online services not only in their *home country* but also when they are temporarily present in another Member State of the Union.

There is a rapidly growing demand on the part of consumers for access to content and innovative online services not only in their *Member State of residence* but also when they are temporarily present in another Member State of the Union. *It is therefore crucial to ensure that European cultural and linguistic diversity is protected and promoted, by adapting, strengthening and enforcing rules on copyright and related rights thus creating a legal framework for the European cultural and creative industry and helping it generate business and jobs and become more competitive, creative and innovative.*

Or. es

Amendment 30
José Blanco López

Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) The technological development leading to a proliferation of portable devices such as tablets and smartphones increasingly facilitates the use of online content services by providing access to them regardless of the consumers' location. There is a rapidly growing demand on the part of consumers for access to content and innovative online services not only in their *home country* but also when they are temporarily present in another Member State of the Union.

Amendment

(2) The technological development leading to a proliferation of portable devices such as tablets and smartphones increasingly facilitates the use of online content services by providing access to them regardless of the consumers' location. There is a rapidly growing demand on the part of consumers for access to content and innovative online services not only in their *Member State of residence* but also when they are temporarily present in another Member State of the Union.

Or. en

Amendment 31
David Borrelli, Dario Tamburrano

Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) The technological development leading to a proliferation of portable devices such as tablets and smartphones increasingly facilitates the use of online content services by providing access to them regardless of the consumers' location. ***There is a rapidly growing demand on the part of consumers for access to content and innovative online services not only in their home country but also when they are temporarily present in another Member State of the Union.***

Amendment

(2) The technological development leading to a proliferation of portable devices such as tablets and smartphones increasingly facilitates the use of online content services by providing access to them regardless of the consumers' location. ***At a time when business models are evolving, we are witnessing a growing demand on the part of consumers for cross-border portability when they move across the Union, as well as of cross-device portability in their daily lives.***

Or. en

Justification

It must be underlined that the respect for present business models does not mean protecting them from any change. Evolution is particularly strong, especially in the field of information and communication technologies, and it must follow demand. This dynamism is essential for keeping pace with consumers' expectations, and for maintaining European leadership. Portability is not only an issue in cross-border displacements; it is also a demand of consumers in their daily life, from work to commute to leisure time to home, and even between different spaces of their homes. Although cross-device portability is a slightly different issue, it is closely interconnected with the cross-border portability that is the scope of the Regulation, and it could certainly benefit from a convergent treatment. That is the reason why we think it deserves being mentioned in this context, albeit in a secondary position.

Amendment 32
Krišjānis Kariņš, Michal Boni

Proposal for a regulation
Recital 3

Text proposed by the Commission

(3) Consumers increasingly enter into contractual arrangements with service providers for the provision of online content services. However, consumers that are temporarily present in another Member State of the Union often cannot access and

Amendment

(3) Consumers increasingly enter into contractual arrangements with service providers for the provision of online content services. However, consumers that are temporarily present in another Member State of the Union often cannot access and

use the online content services that they have acquired the right to use in their home country.

use the online content services that they have acquired the right to use in their home country, *which is against the idea of Single Market and smooth, efficient development of EU Digital economy.*

Or. en

Amendment 33
Esther de Lange

Proposal for a regulation
Recital 3

Text proposed by the Commission

(3) Consumers increasingly enter into contractual arrangements with service providers for the provision of online content services. However, consumers that are temporarily present in another Member State of the Union often cannot access and use the online content services that they have acquired the right to use in their home country.

Amendment

(3) Consumers increasingly enter into *paid as well as unpaid* contractual arrangements with service providers for the provision of online content services. However, consumers that are temporarily present in another Member State of the Union often cannot access and use the online content services that they have acquired the right to use in their home country.

Or. en

Amendment 34
José Blanco López

Proposal for a regulation
Recital 3

Text proposed by the Commission

(3) Consumers increasingly enter into contractual arrangements with service providers for the provision of online content services. However, consumers that are temporarily present in another Member State of the Union often cannot access and use the online content services that they

Amendment

(3) Consumers increasingly enter into contractual arrangements with service providers for the provision of online content services. However, consumers that are temporarily present in another Member State of the Union often cannot access and use the online content services that they

have acquired the right to use in their *home country*.

have acquired the right to use in their *Member State of residence*.

Or. en

Amendment 35
David Borrelli, Dario Tamburrano

Proposal for a regulation
Recital 3

Text proposed by the Commission

(3) Consumers increasingly enter into contractual arrangements with service providers for the provision of online content services. However, consumers *that are temporarily present in another Member State of* the Union often cannot access and use the online content services that they have acquired the right to use in their home country.

Amendment

(3) Consumers increasingly enter into contractual arrangements with service providers for the provision of online content services. However, consumers *who are exercising their fundamental right of freedom of movement within* the Union often cannot access and use the online content services that they have acquired the right to use in their home country.

Or. en

Justification

The text should underline the fundamental right, rather than the material fact resulting from its exercise, in this case the non-permanent presence of a citizen in another Member State of the Union.

Amendment 36
José Blanco López

Proposal for a regulation
Recital 4

Text proposed by the Commission

(4) There are a number of barriers which hinder the provision of these services to consumers temporarily present in another Member State. Certain online services include content such as music, games or films which are protected by

Amendment

(4) There are a number of barriers which hinder the provision of these services to consumers temporarily present in another Member State. Certain online services include content such as music, games or films which are protected by

copyright and/or related rights under Union law. In particular, the obstacles to cross-border portability of online content services stem from the fact that the rights for the transmission of content protected by copyright and/or related rights such as audiovisual works are often licensed on a territorial basis as well as from the fact that online service providers may choose to serve specific markets only.

copyright and/or related rights under Union law. In particular, the obstacles to cross-border portability of online content services stem from the fact that the rights for the transmission of content protected by copyright and/or related rights such as audiovisual works are often licensed on a territorial basis as well as from the fact that online service providers may choose to serve specific markets only. ***Nonetheless, territorial licences play a key role in the financing and production of cultural content tailored to the EU's various markets, especially in the world of TV and cinema, thus making a decisive contribution to European cultural diversity.***

Or. es

Amendment 37

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) There are a number of barriers which hinder the provision of these services to consumers temporarily present in another Member State. Certain online services include content such as music, games or films which are protected by copyright and/or related rights under Union law. In particular, the obstacles to cross-border portability of online content services stem from the fact that the rights for the transmission of content protected by copyright and/or related rights such as audiovisual works are often licensed on a territorial basis as well as from the fact that online service providers may choose to serve specific markets only.

Amendment

(4) There are a number of barriers which hinder the provision of these services to consumers temporarily present in another Member State. Certain online services include content such as music, games or films which are protected by copyright and/or related rights under Union law. In particular, the obstacles to cross-border portability of online content services stem from the fact that the rights for the transmission of content protected by copyright and/or related rights such as audiovisual works are often licensed on a territorial basis as well as from the fact that online service providers may choose to serve specific markets only ***for economic interest, thus raising further barriers in***

Amendment 38
José Blanco López

Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) Therefore, increasingly, online content services are marketed in a package in which content which is not protected by copyright and/or related rights is not separable from content which is protected by copyright and/or related rights without substantially lessening the value of the service provided to consumers. This is especially the case with premium content such as sporting or other events of significant interest to consumers. In order to enable service providers to deliver to consumers full access to their online content services, it is indispensable that this Regulation also covers such content used by online content services and therefore that it applies to audiovisual media services in the meaning of Directive 2010/13/EU as well as to transmissions of broadcasting organisations in their entirety.

Amendment

(6) Therefore, increasingly, online content services are marketed in a package in which content which is not protected by copyright and/or related rights is not separable from content which is protected by copyright and/or related rights without substantially lessening the value of the service provided to consumers. This is especially the case with premium content such as sporting or other events of significant interest to consumers. In order to enable service providers to deliver to consumers, ***who are temporarily present in a Member States other than their Member State of residence***, full access to their online content services, it is indispensable that this Regulation also covers such content used by online content services and therefore that it applies to audiovisual media services in the meaning of Directive 2010/13/EU as well as to transmissions of broadcasting organisations in their entirety. ***In this regard, it is crucial to fulfil the commitment to achieve the target of minimum download speeds of 30 Mbps or more for all and 50% of the EU to be subscribed to broadband above 100 Mbps by 2020.***

Amendment 39
Pilar del Castillo Vera, Michal Boni

Proposal for a regulation
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) *The provision of online content services for consumers temporarily present in another Member State can be hampered by the lack of infrastructure. In this context it is noteworthy that the Member States have committed to achieve the targets for minimum download speeds of 30 Mbps by 2020 in order to meet the conditions relating to high connectivity for all. In order to achieve this goal and due to the fact that rapidly growing wireless broadband traffic makes enhanced wireless network capacity a necessity, it will be of outmost importance to achieve a stronger pan European approach for spectrum management across the EU.*

Or. en

Amendment 40
David Borrelli, Dario Tamburrano

Proposal for a regulation
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) *The existence of telecommunication networks with a sufficient minimum performance is a prerequisite for making possible cross-border portability, as well as many other features of a Digital Single Market. In this context, it is essential that Member States shall fully meet their commitment to guarantee minimum download speeds of 30 Mbps by 2020 for all the territory of*

the Union, in order to provide reasonable connectivity for all European citizens.

Or. en

Justification

Following the lead of the Rapporteur, we absolutely agree that technical performance of our networks is an essential prerequisite for reaching key goals of the Union, first and foremost connectivity for all citizens, in all parts of the territory of the Union. Beyond overcoming the current digital divide, we are convinced that from this achievement many important functions of the market shall become available.

Amendment 41

Michal Boni, Krišjānis Kariņš, Esther de Lange, Gunnar Hökmark, Henna Virkkunen

Proposal for a regulation

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) In the context of infrastructure development, it is noteworthy that the Member States have committed to achieve the targets for minimum download speeds of 30 Mbps by 2020 in order to meet the conditions relating to high connectivity for all.

Or. en

Amendment 42

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Issues at the infrastructure level can also lead to artificial barriers for portability, especially for small or isolated communities, therefore measures to ensure it should also include further

deployment of appropriate infrastructures and support for technological neutrality and interoperability.

Or. en

Amendment 43
Marco Zullo

Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) Therefore, the objective of this Regulation is to adapt the legal framework in order to ensure that the licensing of rights no longer presents barriers to cross-border portability of online content services in the Union and that the cross-border portability can be ensured.

Amendment

(12) Therefore, the objective of this Regulation is to adapt the legal framework in order to ensure that the licensing of rights no longer presents barriers to cross-border portability of online content services in the Union and that the cross-border portability can be ensured. ***In order not to compromise the current financing system of the audio-visual sector, which might cause a loss both in revenues and in the cultural diversity of the offer, this Regulation should not substantially alter the territorial principle. It should not be possible to interpret portability as open cross-border access.***

Or. it

Amendment 44
José Blanco López

Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) Therefore, the objective of this Regulation is to adapt the legal framework in order to ensure ***that the licensing of rights no longer presents barriers to***

Amendment

(12) Therefore, the objective of this Regulation is to adapt the legal framework ***on copyright and related rights*** in order to ***provide and ensure cross-border***

cross-border portability of online content services in the Union and that the cross-border portability can be ensured.

portability of online content services in the Union to subscribers temporarily present in Member States other than their Member State of residence, without undermining the principle of territoriality as it plays a key role in the financing, production and distribution of European audiovisual content.

Or. en

Amendment 45
David Borrelli, Dario Tamburrano

Proposal for a regulation
Recital 12

Text proposed by the Commission

(12) Therefore, the objective of this Regulation is to adapt the legal framework in order to ensure that the licensing of rights no longer presents barriers to cross-border portability of online content services in the Union and that the cross-border portability can be ensured.

Amendment

(12) Therefore, the objective of this Regulation is to adapt the legal framework in order to ensure that the licensing of rights no longer presents barriers to cross-border portability of online content services in the Union and that the cross-border portability can be ensured *without additional costs for the customer, monetary or of any other kind, or any additional significant burden for the provider.*

Or. en

Justification

Following the lead of the Rapporteur, we consider that the goal of this Regulation is to provide an extra function to meet the demand of European customers, without imposing extra costs to consumers or providers; we prefer to adopt a slightly more extensive formulation of this principle.

Amendment 46
Esther de Lange

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) Therefore, the objective of this Regulation is to adapt the legal framework in order to ensure that the licensing of rights no longer presents barriers to cross-border portability of online content services in the Union and that the cross-border portability can be ensured.

Amendment

(12) Therefore, the objective of this Regulation is to adapt the legal framework in order to ensure that the licensing of rights no longer presents barriers to cross-border portability of online content services in the Union and that the cross-border portability can be ensured ***without additional licensing costs to consumers.***

Or. en

Amendment 47 José Blanco López

Proposal for a regulation Recital 12

Text proposed by the Commission

(12) Therefore, the objective of this Regulation is to adapt the legal framework in order to ensure that the licensing of rights ***no longer presents*** barriers to cross-border portability of online content services in the Union and that the cross-border portability can be ensured.

Amendment

(12) Therefore, the objective of this Regulation is to adapt the legal framework in order to ensure that the licensing of rights ***does not present*** barriers to cross-border portability of online content services in the Union and that the cross-border portability can be ensured ***in the cases provided for in this Regulation.***

Or. es

Amendment 48 Krišjānis Kariņš, Michał Boni

Proposal for a regulation Recital 12

Text proposed by the Commission

(12) Therefore, the objective of this Regulation is to adapt the legal framework in order to ensure that the licensing of

Amendment

(12) Therefore, the objective of ***Digital Single Market Strategy and of*** this Regulation is to adapt the legal framework

rights no longer presents barriers to cross-border portability of online content services in the Union and that the cross-border portability can be ensured.

in order to ensure that the licensing of rights no longer presents barriers to cross-border portability of online content services in the Union and that the cross-border portability can be ensured.

Or. en

Amendment 49

Michał Boni, Krišjānis Kariņš, Gunnar Hökmark, Pilar del Castillo Vera, Seán Kelly

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) Therefore, the objective of this Regulation is to adapt the legal framework in order to ensure that the licensing of rights no longer presents barriers to cross-border portability of online content services in the Union and that the cross-border portability can be ensured.

Amendment

(12) Therefore, the objective of this Regulation is to adapt the legal framework in order to ensure that the licensing of rights no longer presents barriers to cross-border portability of online content services in the Union and that the cross-border portability can be ensured ***without additional licensing costs.***

Or. en

Amendment 50

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) Therefore, the objective of this Regulation is to adapt the legal framework in order to ensure that the licensing of rights no longer presents barriers to cross-border portability of online content services in the Union and that the cross-border portability can be ensured.

Amendment

(12) Therefore, the objective of this Regulation is to adapt the legal framework in order to ensure that the licensing of rights no longer presents barriers to cross-border portability of online content services in the Union and that the cross-border portability can be ensured ***without additional costs.***

Amendment 51
Marco Zullo

Proposal for a regulation
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) In order to avoid both inconsistency with the current rules in the field of taxation and disproportionate administrative burdens, this Regulation should not affect the application of any provision related to taxation.

Or. it

Amendment 52
José Blanco López

Proposal for a regulation
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) In any case, a distinction shall be made between the portability of online content services and cross-border access thereto, which shall be excluded from the scope of this Regulation.

Or. es

Amendment 53
José Blanco López

Proposal for a regulation
Recital 13

Text proposed by the Commission

Amendment

(13) This Regulation should, therefore, apply to online content services that a service provider, after having obtained the relevant rights from right holders in a given territory, provides to its subscribers on the basis of a contract, by any means including streaming, downloading or any other technique which allows use of that content. A registration to receive content alerts or a mere acceptance of HTML cookies should not be regarded as a contract for the provision of online content service for the purposes of this Regulation.

(13) This Regulation should, therefore, apply to online content services that a service provider, after having obtained the relevant rights from right holders in a given territory, provides to its subscribers on the basis of a contract, by any means including streaming, downloading or any other technique which allows use of that content. A registration to receive content alerts or a mere acceptance of HTML cookies should not be regarded as a contract for the provision of online content service for the purposes of this Regulation. ***Online content services provided on the basis of pan-European licences under Directive 2014/26/EU shall also be excluded from the scope of this Regulation.***

Or. es

Amendment 54 **Marco Zullo**

Proposal for a regulation **Recital 13**

Text proposed by the Commission

(13) This Regulation should, therefore, apply to online content services that a service provider, after having obtained the relevant rights from right holders in a given territory, provides to its subscribers on the basis of a contract, by any means including streaming, downloading or any other technique which allows use of that content. A registration to receive content alerts ***or a*** mere acceptance of HTML cookies should not be regarded as a contract for the provision of online content service for the purposes of this Regulation.

Amendment

(13) This Regulation should, therefore, apply to online content services that a service provider, after having obtained the relevant rights from right holders in a given territory, provides to its subscribers on the basis of a contract, by any means including streaming, downloading or any other technique which allows use of that content. A registration to receive content alerts, mere acceptance of HTML cookies ***or payment of a universal mandatory fee such as a broadcasting licence fee,*** should not be regarded as a contract for the provision of online content service for the purposes of this Regulation.

Or. it

Amendment 55
Aldo Patriciello

Proposal for a regulation
Recital 13

Text proposed by the Commission

(13) This Regulation should, therefore, apply to online content services that a service provider, after having obtained the relevant rights from right holders in a given territory, provides to its subscribers on the basis of a contract, by any means including streaming, downloading or any other technique which allows use of that content. A registration to receive content alerts or a mere acceptance of HTML cookies should not be regarded as a contract for the provision of online content service for the purposes of this Regulation.

Amendment

(13) This Regulation should, therefore, apply to online content services that a service provider, after having obtained the relevant rights from right holders in a given territory, provides to its subscribers on the basis of a contract, by any means including streaming, **applications**, downloading or any other technique which allows use of that content. A registration to receive content alerts or a mere acceptance of HTML cookies should not be regarded as a contract for the provision of online content service for the purposes of this Regulation.

Or. it

Amendment 56
Eva Kaili

Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) This Regulation should apply only to online content services which subscribers can effectively access and use in the Member State in which they habitually reside without being limited to a specific location, as it is not appropriate to require service providers that **do not** offer portable services in their home country to do so across borders.

Amendment

(15) This Regulation should apply only to online content services which subscribers can effectively access and use in the Member State in which they habitually reside without being limited to a specific location, as it is not appropriate to require service providers that **are not able to** offer portable services in their home country to do so across borders.
Nevertheless, in order for this Regulation to have a meaningful and practical impact on the life of end-users, it is important

that rights holders increasingly are encouraged to allow service providers to offer portable services at national level.

Or. en

Amendment 57
Marco Zullo

Proposal for a regulation
Recital 15

Text proposed by the Commission

(15) This Regulation should apply only to online content services which subscribers can effectively access and use in the Member State in which they habitually reside without being limited to a specific location, as it is not appropriate to require service providers that do not offer portable services in *their home country* to do so across borders.

Amendment

(15) This Regulation should apply only to online content services which subscribers can effectively access and use in the Member State in which they habitually reside without being limited to a specific location, as it is not appropriate to require service providers that do not offer portable services in *the subscriber's Member State of residence* to do so across borders.

Or. it

Amendment 58
David Borrelli, Dario Tamburrano

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) This Regulation should apply to online content services which are provided against payment of money. Providers of such services are in a position to verify the Member State of residence of their subscribers. The right to use an online content service should be regarded as acquired against payment of money whether such payment is made directly to

Amendment

(16) This Regulation should apply to online content services which are provided against payment of money, *either through a service contract or through a compulsory television or broadcasting residence-based licence fee*. Providers of such services are in a position to verify the Member State of residence of their subscribers *or licensees*. The right to use

the provider of the online content service, or to another party such as a provider offering a package combining a telecommunications service and an online content service operated by another provider.

an online content service should be regarded as acquired against payment of money whether such payment is made directly to the provider of the online content service, or to another party such as a provider offering a package combining a telecommunications service and an online content service operated by another provider.

Or. en

Justification

We are staunch supporters of a healthy and independent public broadcasting and television system, in harmonic coexistence with private initiatives in the field, since we believe that such a public system is an essential tool for guaranteeing independent and complete information for citizens. It must have, among other outstanding traits that this is not the place to develop in due detail, a properly designed financing system, making it sustainable in the long term. In this context, we oppose compulsory residence-based licence fees. However, since some Member States have them in place, we consider that in the transitional period towards their removal, such States should take full responsibility for the delivery of broadcasting and/or television services, as a fair counterprestation to that fee. Otherwise we would be speaking about a tax masked under an improper name. With this principle in mind, we propose the assimilation of such compulsory fees to the payment for a service contract, under the scope of this Regulation.

Amendment 59

Kaja Kallas, Fredrick Federley, Marietje Schaake, Morten Helveg Petersen

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) This Regulation should apply to online content services which are provided against payment of money. Providers of such services are in a position to verify the Member State of residence of their subscribers. The right to use an online content service should be regarded as acquired against payment of money whether such payment is made directly to the provider of the online content service, or to another party such as a provider

Amendment

(16) This Regulation should apply to online content services which are provided against payment of money ***including the payment of a mandatory fee such as a broadcasting fee***. Providers of such services are in a position to verify the Member State of residence of their subscribers. The right to use an online content service should be regarded as acquired against payment of money whether such payment is made directly ***or***

offering a package combining a telecommunications service and an online content service operated by another provider.

indirectly to the provider of the online content service, or to another party such as a provider offering a package combining a telecommunications service and an online content service operated by another provider.

Or. en

Amendment 60
David Borrelli, Dario Tamburrano

Proposal for a regulation
Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) Nowadays, numerous content services and other kinds of services offered online are provided to subscribers in return for a non-monetary counterprestation (e.g. personal navigation data, or other). It is sometimes implied that since in such a situation there is not monetary payment, the subscriber enjoys less rights than in a pay-for-subscribe agreement. Full and effective completion of the Digital single market will likely result in a situation in which its authorities will be called upon to regulate, in the public interest, such provider-subscriber agreements. The Commission should therefore bear this aspect in mind for the development and review of this Regulation.

Or. en

Justification

The proposed Regulation deals explicitly with online content services which are provided without payment of money, allowing an opt-in under certain conditions. We consider that this is a particular instance of a much wider case that has increasing presence in the digital world, and accordingly we consider it appropriate to introduce a recital pointing out this fact, and exhorting the Commission to develop a deeper treatment of this issue.

Amendment 61
Amjad Bashir

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) Online content services which are provided without payment of money **are also included** in the scope of this Regulation to the **extent that providers verify the Member State of residence of their subscribers. Online content services which are provided without the payment of money and whose providers do not verify the Member State of residence of their subscribers should be outside the scope of this Regulation as their inclusion would involve a major change to the way these services are delivered and involve disproportionate costs. As concerns verification of the subscriber's Member State of residence, information such as a payment of a licence fee for other services provided in the Member State of residence, the existence of a contract for internet or telephone connection, IP address or other means of authentication, should be relied upon, if they enable the provider to have reasonable indicators as to the Member State of residence of its subscribers.**

Amendment

(17) Online content services which are provided without payment of money **may not choose to verify the Member State of residence of their subscribers. The inclusion of such online content services in the scope of this regulation would involve a major change to the way those services are delivered and involve disproportionate costs. On the other hand, the exclusion of these services entirely from the scope of the regulation would mean that these services would not be able to take advantage of the legal mechanism provided for in this Regulation and enabling online content providers to offer their services on a portable basis across the European Union even if they decide to invest in means allowing the verification of their subscribers Member State of residence to the same degree of certainty as paid for services. Providers of online content services which are provided without payment of money should therefore have an option to elect to be included in the scope of this regulation and provided that they comply with the requirements on the verification of the Member State of residence to the same degree of certainty as content and services offered against the payment of money. In exercising the option to be included, these services should be obliged to comply with the provisions of this regulation in the same way as providers of online content services which are provided against the payment of money. Furthermore, they should inform subscribers, the relevant holders of copyright and related rights**

and those holding any other rights in the content of online content service of their decision to exercise that option. Such information could be provided on the provider's website.

Or. en

Amendment 62
José Blanco López

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) Online content services which are provided without payment of money *are also* included in the scope of this Regulation *to the extent that providers verify the Member State of residence of their subscribers. Online content services which are provided without the payment of money and whose providers do not verify the Member State of residence of their subscribers should be outside the scope of this Regulation as their inclusion would involve a major change to the way these services are delivered and involve disproportionate costs. As concerns verification of the subscriber's Member State of residence, information such as a payment of a licence fee for other services provided in the Member State of residence, the existence of a contract for internet or telephone connection, IP address or other means of authentication, should be relied upon, if they enable the provider to have reasonable indicators as to the Member State of residence of its subscribers.*

Amendment

(17) Online content services which are provided without payment of money *will have an option to be* included in the scope of this Regulation *if they so decide and provided that they comply with the requirements on the verification of* the Member State of residence *set out in* this Regulation *in the same way as providers of online content services which are provided against payment of money. If they so decide, they should inform subscribers and the holders of copyright and related rights of their decision to exercise that option.*

Or. en

Amendment 63
Marco Zullo

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) **Online** content services which are provided without payment of money **are also** included in the scope of this Regulation to the extent that providers verify the Member State of residence of their subscribers. Online content services which are provided without the payment of money and whose providers do not verify the Member State of residence of their subscribers should be outside the scope of this Regulation as their inclusion would involve a major change to the way these services are delivered and involve disproportionate costs. **As concerns verification of the subscriber's Member State of residence, information such as a payment of a licence fee for other services provided in the Member State of residence, the existence of a contract for internet or telephone connection, IP address or other means of authentication, should be relied upon, if they enable the provider to have reasonable indicators as to the Member State of residence of its subscribers.**

Amendment

(17) **Providers of online** content services which are provided without payment of money **should have the option to be** included in the scope of this Regulation to the extent that providers verify the Member State of residence of their subscribers. Online content services which are provided without the payment of money and whose providers do not verify the Member State of residence of their subscribers should be outside the scope of this Regulation as their inclusion would involve a major change to the way these services are delivered and involve disproportionate costs. **If they exercise that option, these providers should comply with the same obligations as are laid down in this Regulation for the providers of online content services which are provided against payment of money. Failing to verify the Member State of residence of the subscribers effectively and therefore not being included in the scope of this Regulation should mean that these providers cannot take advantage of the mechanism mentioned in Article 4 and are therefore unable to provide portability for the content offered.**

Or. it

Amendment 64

Kaja Kallas, Fredrick Federley, Jean-Marie Cavada, Marietje Schaake, Morten Helveg Petersen

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) Online content services which are provided without payment of money are also included in the scope of this Regulation to the extent that providers verify the Member State of residence of their subscribers. Online content services which are provided without the payment of money and whose providers do not verify the Member State of residence of their subscribers should be outside the scope of this Regulation as their inclusion would involve a major change to the way these services are delivered and involve disproportionate costs. As concerns verification of the subscriber's Member State of residence, ***information such as a payment of a licence fee for other services provided in the Member State of residence, the existence of a contract for internet or telephone connection, IP address or other means of authentication,*** should be relied upon, if ***they enable*** the provider to have reasonable indicators as to the Member State of residence of its subscribers.

Amendment

(17) Online content services which are provided without payment of money are also included in the scope of this Regulation to the extent that providers verify the Member State of residence of their subscribers. Online content services which are provided without the payment of money and whose providers do not verify the Member State of residence of their subscribers should be outside the scope of this Regulation as their inclusion would involve a major change to the way these services are delivered and involve disproportionate costs. As concerns verification of the subscriber's Member State of residence, ***a robust and secure electronic mean of identification, in particular the notified eIDs in accordance with the eIDAS regulation,*** should be relied upon, if ***it enables*** the provider to have reasonable indicators as to the Member State of residence of its subscribers.

Or. en

Amendment 65

Marco Zullo

Proposal for a regulation

Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) The only criterion for determining where a subscriber is resident for the purposes of this Regulation is the habitual residence of that subscriber. Criteria for determining residence set out in other pieces of legislation should not be used to interpret the concept in this Regulation, unless absolutely necessary.

Amendment 66

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) In order to ensure the cross-border portability of online content services it is necessary to require that online service providers enable their subscribers to use the service in the Member State of their temporary presence by providing them access to the same content on the same range and number of devices, for the same number of users and with the same range of functionalities as those offered in their Member State of residence. ***This*** obligation is mandatory and therefore the parties may not exclude it, derogate from it or vary its effect. Any action by a service provider which would prevent the subscriber from accessing or using the service while temporarily present in a Member State, for example restrictions to the functionalities of the service or to the quality of its delivery, would amount to a circumvention of the obligation to enable cross-border portability of online content services and therefore would be contrary to this Regulation.

Amendment

(18) In order to ensure the cross-border portability of online content services it is necessary to require that online service providers enable their subscribers to use the service in the Member State of their temporary presence by providing them access to the same content on the same range and number of devices, for the same number of users and with the same range of functionalities as those offered in their Member State of residence ***without prejudice to the possibility to access the local version of the content available in the Member State of temporary presence.*** ***This*** obligation is mandatory and therefore the parties may not exclude it, derogate from it or vary its effect. Any action by a service provider which would prevent the subscriber from accessing or using the service while temporarily present in a Member State, for example restrictions to the functionalities of the service or to the quality of its delivery, would amount to a circumvention of the obligation to enable cross-border portability of online content services and therefore would be contrary to this Regulation.

Amendment 67

David Borrelli, Dario Tamburrano

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) In order to ensure the cross-border portability of online content services it is necessary to require that online service providers enable their subscribers to use the service in the Member State of their temporary presence by providing them access to the same content on the same range and number of devices, for the same number of users and with the same range of functionalities as those offered in their Member State of residence. This obligation is mandatory and therefore the parties may not exclude it, derogate from it or vary its effect. Any action by a service provider which would prevent the subscriber from accessing or using the service while temporarily present in a Member State, for example restrictions to the functionalities of the service or to the quality of its delivery, would amount to a circumvention of the obligation to enable cross-border portability of online content services and therefore would be contrary to this Regulation.

Amendment

(18) In order to ensure the cross-border portability of online content services it is necessary to require that online service providers enable their subscribers to use the service in the Member State of their temporary presence by providing them access to the same content on the same range and number of devices, for the same number of users and with the same range of functionalities as those offered in their Member State of residence. This obligation is mandatory and therefore the parties may not exclude it, derogate from it or vary its effect, ***either through any contractual clause or unilaterally by the service provider***. Any action by a service provider which would prevent the subscriber from accessing or using the service while temporarily present in a Member State, for example restrictions to the functionalities of the service or to the quality of its delivery, would amount to a circumvention of the obligation to enable cross-border portability of online content services and therefore would be contrary to this Regulation.

Or. en

Justification

Following the lead of the Rapporteur, we consider important to make explicit that the basic obligation arising from this Regulation is absolutely mandatory and that no loopholes of any kind shall be tolerated.

Amendment 68
José Blanco López

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) In order to ensure the cross-border portability of online content services it is necessary to require that online service providers enable their subscribers to use the service in the Member State of their temporary presence by providing them access to the same content on the same range and number of devices, for the same number of users and with the same range of functionalities as those offered in their Member State of residence. This obligation is mandatory and therefore the parties may not exclude it, derogate from it or vary its effect. Any action by a service provider which would prevent the subscriber from accessing or using the service while temporarily present in a Member State, for example restrictions to the functionalities of the service or to the quality of its delivery, would amount to a circumvention of the obligation to enable cross-border portability of online content services and therefore would be contrary to this Regulation.

Amendment

(18) In order to ensure the cross-border portability of online content services it is necessary to require that online service providers enable their subscribers to use the service in the Member State of their temporary presence by providing them access to the same content on the same range and number of devices, for the same number of users and with the same range of functionalities as those offered in their Member State of residence. This obligation is mandatory and therefore the parties may not exclude it, derogate from it or vary its effect. Any action by a service provider which would prevent the subscriber from accessing or using the service while temporarily present in a Member State ***other than the Member State of residence***, for example restrictions to the functionalities of the service or to the quality of its delivery, would amount to a circumvention of the obligation to enable cross-border portability of online content services and therefore would be contrary to this Regulation.

Or. en

Amendment 69

Michał Boni, Krišjānis Kariņš, Gunnar Hökmark, Pilar del Castillo Vera, Seán Kelly

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) In order to ensure the cross-border portability of online content services it is necessary to require that online service providers enable their subscribers to use the service in the Member State of their temporary presence by providing them access to the same content on the same range and number of devices, for the same

Amendment

(18) In order to ensure the cross-border portability of online content services it is necessary to require that online service providers enable their subscribers to use the service in the Member State of their temporary presence by providing them access to the same content on the same range and number of devices, for the same

number of users and with the same range of functionalities as those offered in their Member State of residence. This obligation is mandatory and therefore the parties may not exclude it, derogate from it or vary its effect. Any action by a service provider which would prevent the subscriber from accessing or using the service while temporarily present in a Member State, for example restrictions to the functionalities of the service or to the quality of its delivery, would amount to a circumvention of the obligation to enable cross-border portability of online content services and therefore would be contrary to this Regulation.

number of users and with the same range of functionalities as those offered in their Member State of residence. This obligation is mandatory and therefore the parties may not exclude it, derogate from it or vary its effect. Any action by a service provider *or a right holder* which would prevent the subscriber from accessing or using the service while temporarily present in a Member State, for example restrictions to the functionalities of the service or to the quality of its delivery, would amount to a circumvention of the obligation to enable cross-border portability of online content services and therefore would be contrary to this Regulation.

Or. en

Amendment 70
David Borrelli, Dario Tamburrano

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) Requiring that the delivery of online content services to subscribers temporarily present in Member States other than their Member State of residence be of the same quality as in the Member State of residence could result in high costs for service providers and thus ultimately for subscribers. Therefore, it is not appropriate for this Regulation to require that the provider of an online content service take measures to ensure quality of delivery of such services beyond the quality available via the local online access chosen by a subscriber while temporarily present in another Member State. In such cases the provider shall not be liable if the quality of delivery of the service is lower. Nevertheless, if the provider expressly agrees to guarantee certain quality of

Amendment

(19) Requiring that the delivery of online content services to subscribers temporarily present in Member States other than their Member State of residence be of the same quality as in the Member State of residence could result in high costs for service providers and thus ultimately for subscribers. Therefore, it is not appropriate for this Regulation to require that the provider of an online content service take measures to ensure quality of delivery of such services beyond the quality available via the local online access chosen by a subscriber while temporarily present in another Member State. In such cases the provider shall not be liable if the quality of delivery of the service is lower, *provided that the quality loss can be clearly attributed to objective reasons such as*

delivery to subscribers while temporarily present in other Member States, the provider shall be bound by such agreement.

poor performance of the local network infrastructure. The service provider should however inform the consumer of the possible reduction in quality.

Nevertheless, if the provider expressly agrees to guarantee certain quality of delivery to subscribers while temporarily present in other Member States, the provider shall be bound by such agreement, ***without however being able to charge any additional cost for it or imposing any additional administrative burden to the subscriber. The competent market surveillance authority should regularly monitor the pertinence of the justifications given by providers for a lower quality of delivery.***

Or. en

Justification

Following the lead of the Rapporteur, we consider that issues concerning the impact of the network infrastructure on the final service quality as perceived by the consumer can benefit from more detail. In our view, the basic pillars for such an approach are a fair, transparent, ex-ante information to the consumer, and an ex-post monitoring by surveillance authorities. Furthermore, as already amended, always following the lead of the Rapporteur, we want to underline once more that the goal of this Regulation is to provide an extra function to meet the demand of European consumers, without imposing extra costs to consumers or providers; we prefer to adopt a slightly more extensive formulation of this principle.

Amendment 71 Amjad Bashir

Proposal for a regulation Recital 19

Text proposed by the Commission

(19) Requiring that the delivery of online content services to subscribers temporarily present in Member States other than their Member State of residence be of the same quality as in the Member State of residence could result in high costs for service providers and thus ultimately for

Amendment

(19) Requiring that the delivery of online content services to subscribers temporarily present in Member States other than their Member State of residence be of the same quality as in the Member State of residence could result in high costs for service providers and thus ultimately for

subscribers. Therefore, it is not appropriate for this Regulation to require that the provider of an online content service take measures to ensure quality of delivery of such services beyond the quality available via the local online access chosen by a subscriber while temporarily present in another Member State. In such cases the provider shall not be liable if the quality of delivery of the service is lower. Nevertheless, if the provider expressly agrees to guarantee certain quality of delivery to subscribers while temporarily present in other Member States, the provider shall be bound by such agreement.

subscribers. Therefore, it is not appropriate for this Regulation to require that the provider of an online content service take measures to ensure quality of delivery of such services beyond the quality available via the local online access chosen by a subscriber while temporarily present in another Member State. In such cases the provider shall not be liable if the quality of delivery of the service is lower. Nevertheless, if the provider expressly agrees to guarantee certain quality of delivery to subscribers while temporarily present in other Member States, the provider shall be bound by such agreement. ***Providers of online content services should provide subscribers advance notification concerning any variation in the quality that may be delivered or experienced when accessing content in a Member state other than the Member state of residence. Such information could be provided on the provider's website.***

Or. en

Amendment 72

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) Requiring that the delivery of online content services to subscribers temporarily present in Member States other than their Member State of residence be of the same quality as in the Member State of residence could result in high costs for service providers and thus ultimately for subscribers. Therefore, it is not appropriate for this Regulation to require that the provider of an online content service take measures to ensure quality of delivery of

Amendment

(19) Requiring that the delivery of online content services to subscribers temporarily present in Member States other than their Member State of residence be of the same quality as in the Member State of residence could result in high costs for service providers and thus ultimately for subscribers. Therefore, it is not appropriate for this Regulation to require that the provider of an online content service take measures to ensure quality of delivery of

such services beyond the quality available via the local online access chosen by a subscriber while temporarily present in another Member State. In such cases the provider shall not be liable if the quality of delivery of the service is lower.

Nevertheless, if the provider expressly agrees to guarantee certain quality of delivery to subscribers while temporarily present in other Member States, the provider shall be bound by such agreement.

such services beyond the quality available via the local online access chosen by a subscriber while temporarily present in another Member State. In such cases the provider shall not be liable if the quality of delivery of the service is lower *for reasons*

that can be attributed to objective issues. Nevertheless, if the provider expressly agrees to guarantee certain quality of delivery to subscribers while temporarily present in other Member States, the provider shall be bound by such agreement *without the right to make differentiations in the conditions of the offer, such as additional fees compared to the use in the Member State of residence.*

Or. en

Amendment 73
José Blanco López

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) Requiring that the delivery of online content services to subscribers temporarily present in Member States other than their Member State of residence be of the same quality as in the Member State of residence could result in high costs for service providers and thus ultimately for subscribers. Therefore, it is not appropriate for this Regulation to require that the provider of an online content service take measures to ensure quality of delivery of such services beyond the quality available via the local online access chosen by a subscriber while temporarily present in another Member State. In such cases the provider shall not be liable if the quality of delivery of the service is lower. Nevertheless, if the provider expressly agrees to guarantee certain quality of

Amendment

(19) Requiring that the delivery of online content services to subscribers temporarily present in Member States other than their Member State of residence be of the same quality as in the Member State of residence could result in high costs for service providers and thus ultimately for subscribers. Therefore, it is not appropriate for this Regulation to require that the provider of an online content service take measures to ensure quality of delivery of such services beyond the quality available via the local online access chosen by a subscriber while temporarily present in another Member State. In such cases the provider shall not be liable if the quality of delivery of the service is lower. Nevertheless, if the provider expressly agrees to guarantee certain quality of

delivery to subscribers while temporarily present in other Member States, the provider shall be bound by such agreement.

delivery to subscribers while temporarily present in other Member States, the provider shall be bound by such agreement.

The provider should provide its subscribers in advance with general information concerning the quality of delivery of an online content service in Member States other than the Member State of residence.

Or. en

Amendment 74

Michał Boni, Krišjānis Kariņš, Esther de Lange, Gunnar Hökmark, Pilar del Castillo Vera, Henna Virkkunen, Seán Kelly

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) Requiring that the delivery of online content services to subscribers temporarily present in Member States other than their Member State of residence be of the same quality as in the Member State of residence could result in high costs for service providers and thus ultimately for subscribers. Therefore, it is not appropriate for this Regulation to require that the provider of an online content service take measures to ensure quality of delivery of such services beyond the quality available via the local online access chosen by a subscriber while temporarily present in another Member State. In such cases the provider shall not be liable if the quality of delivery of the service is lower. Nevertheless, if the provider expressly agrees to guarantee certain quality of delivery to subscribers while temporarily present in other Member States, the provider shall be bound by such agreement.

Amendment

(19) Requiring that the delivery of online content services to subscribers temporarily present in Member States other than their Member State of residence be of the same quality as in the Member State of residence could result in high costs for service providers and thus ultimately for subscribers. Therefore, it is not appropriate for this Regulation to require that the provider of an online content service take measures to ensure quality of delivery of such services beyond the quality available via the local online access chosen by a subscriber while temporarily present in another Member State. In such cases the provider shall not be liable if the quality of delivery of the service is lower. ***The service provider should however inform the consumer at the subscription stage of the possible limitation in quality.*** Nevertheless, if the provider expressly agrees to guarantee certain quality of delivery to subscribers while temporarily present in other Member States, the provider shall be bound by such agreement.

Amendment 75
Krišjānis Kariņš

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) Requiring that the delivery of online content services to subscribers temporarily present in Member States other than their Member State of residence be of the same quality as in the Member State of residence could result in high costs for service providers and thus ultimately for subscribers. Therefore, it is not appropriate for this Regulation to require that the provider of an online content service take measures to ensure quality of delivery of such services beyond the quality available via the local online access chosen by a subscriber while temporarily present in another Member State. In such cases the provider shall not be liable if the quality of delivery of the service is lower. Nevertheless, if the provider expressly agrees to guarantee certain quality of delivery to subscribers while temporarily present in other Member States, the provider shall be bound by such agreement.

Amendment

(19) Requiring that the delivery of online content services to subscribers temporarily present in Member States other than their Member State of residence be of the same quality as in the Member State of residence could result in high costs for service providers and thus ultimately for subscribers. Therefore, it is not appropriate for this Regulation to require that the provider of an online content service take measures to ensure quality of delivery of such services beyond the quality available via the local online access chosen by a subscriber while temporarily present in another Member State. In such cases the provider shall not be liable if the quality of delivery of the service is lower ***than that of a quality of the Member State of residence as technological development vary across the Union***. Nevertheless, if the provider expressly agrees to guarantee certain quality of delivery to subscribers while temporarily present in other Member States, the provider shall be bound by such agreement.

Amendment 76
Kaja Kallas, Fredrick Federley, Marietje Schaake, Morten Helveg Petersen

Proposal for a regulation
Recital 19

Text proposed by the Commission

(19) Requiring that the delivery of online content services to subscribers temporarily present in Member States other than their Member State of residence be of the same quality as in the Member State of residence could result in high costs for service providers and thus ultimately for subscribers. Therefore, it is not appropriate for this Regulation to require that the provider of an online content service take measures to ensure quality of delivery of such services beyond the quality available via the local online access chosen by a subscriber while temporarily present in another Member State. In such cases the provider shall not be liable if the quality of delivery of the service is lower. Nevertheless, if the provider expressly agrees to guarantee certain quality of delivery to subscribers while temporarily present in other Member States, the provider shall be bound by such agreement.

Amendment

(19) Requiring that the delivery of online content services to subscribers temporarily present in Member States other than their Member State of residence be of the same quality as in the Member State of residence could result in high costs for service providers and thus ultimately for subscribers. Therefore, it is not appropriate for this Regulation to require that the provider of an online content service take measures to ensure quality of delivery of such services beyond the quality available via the local online access chosen by a subscriber while temporarily present in another Member State. In such cases the provider shall not be liable if the quality of delivery of the service is lower ***to the extent that it does not discriminate on the basis of place of residence***. Nevertheless, if the provider expressly agrees to guarantee certain quality of delivery to subscribers while temporarily present in other Member States, the provider shall be bound by such agreement.

Or. en

Amendment 77
José Blanco López

Proposal for a regulation
Recital 20

Text proposed by the Commission

(20) In order to ensure that providers of online content services comply with the obligation to provide cross-border portability of their services without acquiring the relevant rights in another Member State, it is necessary to stipulate that those service providers which lawfully provide portable online content services in the Member State of residence of

Amendment

(20) In order to ensure that providers of online content services comply with the obligation to provide cross-border portability of their services without acquiring the relevant rights in another Member State, it is necessary to stipulate that those service providers which lawfully provide portable online content services in the Member State of residence of

subscribers are always entitled to provide such services to those subscribers when they are temporarily present in another Member State. This should be achieved by establishing that the provision, the access to and the use of such online content service should be deemed to occur in the Member State of the subscriber's residence.

subscribers are always entitled to provide such services to those subscribers when they are temporarily present in another Member State. This should be achieved by establishing that the provision, the access to and the use of such online content service should be deemed to occur in the Member State of the subscriber's residence. ***This Regulation does not prevent a provider from offering its subscriber who is temporarily present in another Member State an online content service that the provider lawfully provides in that Member State.***

Or. en

Amendment 78
David Borrelli, Dario Tamburrano

Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) Service providers should not be liable for breach of any contractual provisions contrary to the obligation to enable their subscribers to use the service in the Member State of their temporary presence. Therefore clauses in contracts designed to prohibit or limit the cross-border portability of online content services should be unenforceable.

Amendment

(22) Service providers should not be liable for breach of any contractual provisions contrary to the obligation to enable their subscribers to use the service in the Member State of their temporary presence. Therefore clauses in contracts designed to prohibit or limit the cross-border portability of online content services should be unenforceable. ***Neither the service providers nor the holders of rights relevant for the provision of online content services should be allowed to circumvent this Regulation through the choice of the law of a non-member country as the law applicable to contracts concluded between them or to contracts concluded between providers and subscribers.***

Or. en

Justification

Following the lead of the Rapporteur, we consider important to make explicit that the basic obligation arising from this Regulation is absolutely mandatory and that no loopholes of any kind shall be tolerated.

Amendment 79

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 22

Text proposed by the Commission

(22) Service providers should not be liable for breach of any contractual provisions contrary to the obligation to enable their subscribers to use the service in the Member State of their temporary presence. Therefore clauses in contracts designed to prohibit or limit the cross-border portability of online content services should be ***unenforceable***.

Amendment

(22) Service providers should not be liable for breach of any contractual provisions contrary to the obligation to enable their subscribers to use the service in the Member State of their temporary presence. Therefore clauses in contracts designed to prohibit or limit the cross-border portability of online content services should be ***considered null and void on the territory of the European Union, regardless of the law applicable by contractual choice***.

Or. en

Amendment 80

José Blanco López

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) Service providers ***should ensure that their subscribers are properly informed about the conditions of enjoyment of online content services in Member States other than the Member State of residence of the subscribers. The Regulation enables right holders to***

Amendment

(23) Service providers ***within the scope of this Regulation should be obliged to*** make use of effective means in order to verify ***the Member State of residence of their subscribers. To that effect, the providers should rely on the verification means listed in this Regulation. Providers***

require that the service provider make use of effective means in order to verify that the online content service is provided in conformity with this Regulation. It is necessary, however, to ensure that the required means are reasonable and do not go beyond what is necessary in order to achieve this purpose. Examples of the necessary technical and organisational measures may include sampling of IP address instead of constant monitoring of location, transparent information to the individuals about the methods used for the verification and its purposes, and appropriate security measures.

Considering that for purposes of the verification what matters is not the location, but rather, in which Member State the subscriber is accessing the service, precise location data should not be collected and processed for this purpose. Similarly, where authentication of a subscriber is sufficient in order to deliver the service provided, identification of the subscriber should not be required.

and right holders should be allowed to enter into agreements on particular verification means, whether listed or not in this Regulation. The use of such means should always be reasonable and should not go beyond what is necessary in order to achieve the purpose of establishing the Member State of residence.

Or. en

Amendment 81

David Borrelli, Dario Tamburrano

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) Service providers should ensure that their subscribers are properly informed about the conditions of enjoyment of online content services in Member States other than the Member State of residence of the subscribers. The Regulation enables right holders to require that the service provider make use of effective means in order to verify that the online content service is provided in conformity with this

Amendment

(23) Service providers should ensure that their subscribers are properly informed about the conditions of enjoyment of online content services in Member States other than the Member State of residence of the subscribers. The Regulation enables right holders to require that the service provider make use of effective means in order to verify that the online content service is provided in conformity with this

Regulation. It is necessary, however, to ensure that the required means are reasonable and do not go beyond what is necessary in order to achieve this purpose. **Examples of the necessary technical and organisational measures may include sampling of IP address instead of constant monitoring of location, transparent information to the individuals about the methods used for the verification and its purposes, and appropriate security measures.** Considering that for purposes of the verification what matters is not the location, but rather, in which Member State **the subscriber** is accessing the service, precise location data should not be collected **and** processed for this purpose. Similarly, where authentication of **a** subscriber is sufficient in order to deliver the service provided, identification of the subscriber **should not be required**.

Regulation. It is necessary, however, to ensure that the required means are **non-intrusive for consumers, highly respectful of their privacy rights, non-burdensome for providers**, reasonable and do not go beyond what is necessary in order to achieve this purpose. **Notably, they should take into account that a reasonable balance must be found between the capability of the verification system to detect any practices of cross-border access not authorized by this Regulation, and the comprehensive operational cost for providers carrying out those verifications.** Considering that for purposes of the verification what matters is not the **specific physical location of the subscriber**, but rather, in which Member State **she or he** is accessing the service, precise location data should not be collected, **transmitted**, processed **or stored** for this purpose. Similarly, where authentication of **the** subscriber is sufficient in order to deliver the service provided, **her or his** identification **should not be required**. **The verification process should be designed to ensure privacy and data protection of the subscriber in every moment, in a non-cumulative way, using as far as possible information already lawfully available to the provider, and in any case the lightest and simplest methods available.**

Or. en

Justification

Following the lead of the Rapporteur, we consider that the verifications system must be as simple and respectful of individual rights as technically possible; otherwise two major risks arise: on the one hand, to run into contradiction with our system of fundamental rights, and on the other hand, to create unacceptable burden for the provider, damaging the right to free enterprise and ultimately the single market that we are aiming to reinforce. As with any verification system, the design decisions must accept a limited amount of undetected non-compliances, for the sake of obtaining an appropriate balance. A verification system intended to be 100% proof will very likely be an overly intrusive, highly expensive system. An appropriately balanced system, together with education of the consumers, can achieve results that perfectly preserve the rights of all parties involved.

Amendment 82

Kaja Kallas, Fredrick Federley, Jean-Marie Cavada, Marietje Schaake, Morten Helveg Petersen

Proposal for a regulation

Recital 23

Text proposed by the Commission

(23) Service providers should ensure that their subscribers are properly informed about the conditions of enjoyment of online content services in Member States other than the Member State of residence of the subscribers. The Regulation ***enables right holders to require*** that the service provider make use of effective means in order to verify that the online content service is provided in conformity with this Regulation. It is necessary, however, to ensure that the required means are reasonable and do not go beyond what is necessary in order to achieve this purpose. ***Examples of the necessary*** technical and organisational measures ***may include sampling of IP address*** instead of constant monitoring of location, transparent information to the individuals about the methods used for the verification and its purposes, and appropriate security measures. Considering that for purposes of the verification what matters is not the location, but rather, in which Member State the subscriber is accessing the service, precise location data should not be collected and processed for this purpose. Similarly, where authentication of a subscriber is sufficient in order to deliver the service provided, identification of the subscriber should not be required.

Amendment

(23) Service providers should ensure that their subscribers are properly informed about the conditions of enjoyment of online content services in Member States other than the Member State of residence of the subscribers. The Regulation ***requires*** that the service provider make use of effective means in order to verify that the online content service is provided in conformity with this Regulation. It is necessary, however, to ensure that the required means ***leave room for service providers to innovate with the online means of authentication they provide to consumers to subscribe and access online content***, are reasonable and do not go beyond what is necessary in order to achieve this purpose. Technical and organisational measures ***should be based on electronic means of identification at the time of subscription*** instead of constant monitoring of location, ***on*** transparent information to the individuals about the methods used for the verification and its purposes, and appropriate security measures. Considering that for purposes of the verification what matters is not the location, but rather, in which Member State the subscriber is accessing the service, precise location data should not be collected and processed for this purpose. Similarly, where authentication of a subscriber is sufficient in order to deliver the service provided, identification of the subscriber should not be required. ***The subscriber should be able to access the information on the Member state of***

residence verified and registered at the time of subscription.

Or. en

Amendment 83
Krišjānis Kariņš

Proposal for a regulation
Recital 23

Text proposed by the Commission

(23) Service providers should ensure that their subscribers are properly informed about the conditions of enjoyment of online content services in Member States other than the Member State of residence of the subscribers. The Regulation enables right holders to require that the service provider make use of effective means in order to verify that the online content service is provided in conformity with this Regulation. It is necessary, however, to ensure that the required means are reasonable and do not go beyond what is necessary in order to achieve this purpose. Examples of the necessary technical and organisational measures may include sampling of IP address instead of constant monitoring of location, transparent information to the individuals about the methods used for the verification and its purposes, and appropriate security measures. Considering that for purposes of the verification what matters is not the location, but rather, in which Member State the subscriber is accessing the service, precise location data should not be collected and processed for this purpose. Similarly, where authentication of a subscriber is sufficient in order to deliver the service provided, identification of the subscriber should not be required.

Amendment

(23) Service providers should ensure that their subscribers are properly informed about the conditions **and the extent** of enjoyment of online content services in Member States other than the Member State of residence of the subscribers. The Regulation enables right holders to require that the service provider make use of effective means in order to verify that the online content service is provided in conformity with this Regulation. It is necessary, however, to ensure that the required means are reasonable and do not go beyond what is necessary in order to achieve this purpose. Examples of the necessary technical and organisational measures may include sampling of IP address instead of constant monitoring of location, transparent information to the individuals about the methods used for the verification and its purposes, and appropriate security measures. Considering that for purposes of the verification what matters is not the location, but rather, in which Member State the subscriber is accessing the service, precise location data should not be collected and processed for this purpose. Similarly, where authentication of a subscriber is sufficient in order to deliver the service provided, identification of the subscriber should not be required.

Amendment 84
Marco Zullo

Proposal for a regulation
Recital 23

Text proposed by the Commission

(23) Service providers should ensure that their subscribers are properly informed about the conditions of enjoyment of online content services in Member States other than the Member State of residence of the subscribers. The Regulation ***enables right holders to require that*** the service provider make use of effective means in order to verify that the online content service is provided in conformity with this Regulation. It is necessary, however, to ensure that the required means are reasonable and do not go beyond what is necessary in order to achieve this purpose. Examples of the necessary technical and organisational measures may include sampling of IP address instead of constant monitoring of location, transparent information to the individuals about the methods used for the verification and its purposes, and appropriate security measures. Considering that for purposes of the verification what matters is not the location, but rather, in which Member State the subscriber is accessing the service, precise location data should not be collected and processed for this purpose. Similarly, where authentication of a subscriber is sufficient in order to deliver the service provided, identification of the subscriber should not be required.

Amendment

(23) Service providers should ensure that their subscribers are properly informed about the conditions of enjoyment of online content services in Member States other than the Member State of residence of the subscribers. The Regulation ***requires*** the service provider ***to*** make use of effective means in order to verify that the online content service is provided in conformity with this Regulation. It is necessary, however, to ensure that the required means ***of verification and authentication*** are reasonable and do not go beyond what is necessary in order to achieve this purpose. Examples of the necessary technical and organisational measures may include sampling of IP address instead of constant monitoring of location, transparent information to the individuals about the methods used for the verification and its purposes, and appropriate security measures. Considering that for purposes of the verification what matters is not the location, but rather, in which Member State the subscriber is accessing the service, precise location data should not be collected and processed for this purpose. Similarly, where authentication of a subscriber is sufficient in order to deliver the service provided, identification of the subscriber should not be required.

Or. it

Amendment 85
Marco Zullo

Proposal for a regulation
Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) For the purposes of this Regulation, a consumer cannot claim his habitual residence in more than one Member State. In order to determine their subscribers' Member State of residence, providers should rely on a list of verification means which are considered effective and proportionate.

Or. it

Amendment 86
José Blanco López

Proposal for a regulation
Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) For the purposes of this Regulation, consumers may not state that they are habitually resident in more than one Member State.

Or. es

Amendment 87
Marco Zullo

Proposal for a regulation
Recital 23 b (new)

Text proposed by the Commission

Amendment

(23b) In order to take due account of the needs of industry and consumers, the power to adopt acts in accordance with

Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amendment of the list of means for the verification of the subscriber's Member State of residence. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016, on Better Law-Making^{1 a}. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

^{1 a} * OJ L 123, 12.5.2016, p.1.

Or. it

Amendment 88
José Blanco López

Proposal for a regulation
Recital 24

Text proposed by the Commission

(24) This Regulation respects fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union. Accordingly, this Regulation should be interpreted and applied in accordance with those rights and principles, in particular the right to respect for private and family life, the right to protection of personal data, the freedom of expression and the freedom to conduct a

Amendment

(24) This Regulation respects fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union. Accordingly, this Regulation should be interpreted and applied in accordance with those rights and principles, in particular the right to respect for private and family life, the right to protection of personal data, the **right to property, including intellectual property**

business. Any processing of personal data under this Regulation should respect fundamental rights, including the right to respect for private and family life and the right to protection of personal data under Articles 7 and 8 of the Charter of Fundamental Rights of the European Union and must be in compliance with Directives 95/46/EC²⁷ and 2002/58/EC²⁸. In particular, service providers must ensure that any processing of personal data under this Regulation must be necessary and proportionate in order to achieve the relevant purpose.

²⁷ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data OJ L 281, 23.11.1995, p. 31–50.

²⁸ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.07.2002, p 37), called, as amended by Directives 2006/24/EC and 2009/136/EC, the "e-Privacy Directive".

rights, the freedom of expression and the freedom to conduct a business. Any processing of personal data under this Regulation should respect fundamental rights, including the right to respect for private and family life and the right to protection of personal data under Articles 7 and 8 of the Charter of Fundamental Rights of the European Union and must be in compliance with Directives 95/46/EC²⁷ and 2002/58/EC²⁸. In particular, service providers must ensure that any processing of personal data under this Regulation must be necessary and proportionate in order to achieve the relevant purpose.

²⁷ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data OJ L 281, 23.11.1995, p. 31–50.

²⁸ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.07.2002, p 37), called, as amended by Directives 2006/24/EC and 2009/136/EC, the "e-Privacy Directive".

Or. en

Amendment 89

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) This Regulation respects

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Amendment

(24) This Regulation respects

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fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union. Accordingly, this Regulation should be interpreted and applied in accordance with those rights and principles, in particular the right to respect for private and family life, the right to protection of personal data, the freedom of expression and the freedom to conduct a business. Any processing of personal data under this Regulation should respect fundamental rights, including the right to respect for private and family life and the right to protection of personal data under Articles 7 and 8 of the Charter of Fundamental Rights of the European Union and must be in compliance with *Directives 95/46/EC*²⁷ and 2002/58/EC²⁸. In particular, service providers must ensure that any processing of personal data under this Regulation must be necessary and proportionate in order to achieve the relevant purpose.

²⁷ *Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data OJ L 281, 23.11.1995, p. 31–50.*

²⁸ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.07.2002, p 37), called, as amended by Directives 2006/24/EC and 2009/136/EC, the "e-Privacy Directive".

fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union. Accordingly, this Regulation should be interpreted and applied in accordance with those rights and principles, in particular the right to respect for private and family life, the right to protection of personal data, the freedom of expression and the freedom to conduct a business. Any processing of personal data under this Regulation should respect fundamental rights, including the right to respect for private and family life and the right to protection of personal data under Articles 7 and 8 of the Charter of Fundamental Rights of the European Union and must be in compliance with *the Regulation (EU) 2016/679*, and 2002/58/EC²⁸. In particular, service providers must ensure that any processing of personal data under this Regulation must be necessary and proportionate in order to achieve the relevant purpose.

²⁸ Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.07.2002, p 37), called, as amended by Directives 2006/24/EC and 2009/136/EC, the "e-Privacy Directive".

Or. en

Amendment 90
José Blanco López

Proposal for a regulation
Recital 25

Text proposed by the Commission

(25) This Regulation should not affect the application of the rules of competition, and in particular Articles 101 and 102 of the Treaty. The rules provided for in this Regulation should not be used to restrict competition in a manner contrary to the Treaty.

Amendment

(25) This Regulation should not affect the application of the rules of competition, and in particular Articles 101 and 102 of the Treaty. The rules provided for in this Regulation should not be used to restrict competition in a manner contrary to the Treaty. ***Nor shall this Regulation apply to online content services for which pan-European licences already exist under Directive 2014/26/EU.***

Or. es

Amendment 91
David Borrelli, Dario Tamburrano

Proposal for a regulation
Recital 26

Text proposed by the Commission

(26) Contracts under which content is licensed are usually concluded for a relatively long duration. Consequently, and in order to ensure that all consumers residing in the Union can enjoy the cross-border portability feature of online content services on an equal basis in time and without any undue delay, this Regulation should also apply to contracts concluded and rights acquired before the date of its application if they are relevant for the cross-border portability of an online content service provided after that date. This is also necessary in order to ensure a level playing field for service providers operating in the internal market, by enabling providers who concluded contracts with right holders for a long duration to offer cross-border portability to

Amendment

(26) Contracts under which content is licensed are usually concluded for a relatively long duration. Consequently, and in order to ensure that all consumers residing in the Union can enjoy the cross-border portability feature of online content services on an equal basis in time and without any undue delay, this Regulation should also apply to contracts concluded and rights acquired before the date of its application if they are relevant for the cross-border portability of an online content service provided after that date. ***Such ex-post applicability should not involve any additional costs for the customer, monetary or of any other kind, nor any significant additional burden for the provider.*** This is also necessary in order to ensure a level playing field for

their subscribers, independently of the provider's possibility to renegotiate such contracts. Moreover, this provision should ensure that when service providers make arrangements necessary for the cross-border portability of their services, they will be able to offer such portability with regard to the entirety of their online content. Finally, it should also allow right holders not having to renegotiate their existing licensing contracts in order to enable the offering of the cross-border portability of services by providers.

service providers operating in the internal market, by enabling providers who concluded contracts with right holders for a long duration to offer cross-border portability to their subscribers, independently of the provider's possibility to renegotiate such contracts. Moreover, this provision should ensure that when service providers make arrangements necessary for the cross-border portability of their services, they will be able to offer such portability with regard to the entirety of their online content. Finally, it should also allow right holders not having to renegotiate their existing licensing contracts in order to enable the offering of the cross-border portability of services by providers.

Or. en

Justification

As already amended in preceding sections of the text, always following the lead of the Rapporteur, we want to underline once more that the goal of this Regulation is to provide an extra function to meet the demand of European consumers, without imposing extra costs of any kind to consumers or providers; we prefer to adopt a slightly more extensive formulation of this principle.

Amendment 92 **Esther de Lange**

Proposal for a regulation **Recital 26**

Text proposed by the Commission

(26) Contracts under which content is licensed are usually concluded for a relatively long duration. Consequently, and in order to ensure that all consumers residing in the Union can enjoy the cross-border portability feature of online content services on an equal basis in time and without any undue delay, this Regulation should also apply to contracts concluded

Amendment

(26) Contracts under which content is licensed are usually concluded for a relatively long duration. Consequently, and in order to ensure that all consumers residing in the Union can enjoy the cross-border portability feature of online content services on an equal basis in time and without any undue delay, this Regulation should also apply to contracts concluded

and rights acquired before the date of its application if they are relevant for the cross-border portability of an online content service provided after that date. This is also necessary in order to ensure a level playing field for service providers operating in the internal market, by enabling providers who concluded contracts with right holders for a long duration to offer cross-border portability to their subscribers, independently of the provider's possibility to renegotiate such contracts. Moreover, this provision should ensure that when service providers make arrangements necessary for the cross-border portability of their services, they will be able to offer such portability with regard to the entirety of their online content. Finally, it should also allow right holders not having to renegotiate their existing licensing contracts in order to enable the offering of the cross-border portability of services by providers.

and rights acquired before the date of its application if they are relevant for the cross-border portability of an online content service provided after that date. This is also necessary in order to ensure a level playing field for service providers operating in the internal market, *especially for SMEs*, by enabling providers who concluded contracts with right holders for a long duration to offer cross-border portability to their subscribers, independently of the provider's possibility to renegotiate such contracts. Moreover, this provision should ensure that when service providers make arrangements necessary for the cross-border portability of their services, they will be able to offer such portability with regard to the entirety of their online content. Finally, it should also allow right holders not having to renegotiate their existing licensing contracts in order to enable the offering of the cross-border portability of services by providers.

Or. en

Amendment 93
Krišjānis Kariņš, Michał Boni

Proposal for a regulation
Recital 29

Text proposed by the Commission

(29) Since the objective of this Regulation, namely the adaptation of the legal framework so that cross-border portability of online content services is provided in the Union, cannot be sufficiently achieved by Member States and can therefore, by reason of its 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

Amendment

(29) Since the objective of this Regulation, namely the adaptation of the legal framework so that cross-border portability of online content services is provided in the Union, cannot be sufficiently achieved by Member States and can therefore, by reason of its 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. Therefore, this Regulation does not substantially affect the way the rights are licensed and does not oblige right holders and service providers to renegotiate contracts. Moreover, this Regulation does not require that the provider takes measures to ensure the quality of delivery of online content services outside the Member State of residence of the subscriber. Finally, this Regulation does not apply to service providers who offer services without payment of money and who do not verify the subscriber's Member State of residence. Therefore, it does not impose any disproportionate costs,

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. Therefore, this Regulation does not substantially affect the way the rights are licensed and does not oblige right holders and service providers to renegotiate contracts. Moreover, this Regulation does not require that the provider takes measures to ensure the quality of delivery of online content services outside the Member State of residence of the subscriber. Finally, this Regulation does not apply to service providers who offer services without payment of money and who do not verify the subscriber's Member State of residence. Therefore, it does not impose any disproportionate costs *to online content service providers, right holders or end-users*

Or. en

Amendment 94
Krišjānis Kariņš

Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

This Regulation introduces a common approach to ensuring that subscribers to online content services in the Union, when temporarily present in a Member State, can access and use these services.

Amendment

This Regulation introduces a common approach to ensuring that subscribers to online content services in the Union, when temporarily present in a Member State *other than the Member State of the residence*, can access and use these services *in the same manner as they can do so when present in their Member State of the residence*.

Or. en

Amendment 95
David Borrelli, Dario Tamburrano

Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

This Regulation introduces a common approach to ensuring that subscribers to online content services in the Union, when temporarily present in a Member State, can access and use these services.

Amendment

This Regulation introduces a common approach to ensuring that subscribers to online content services in the Union, when temporarily present in a Member State, can access and use these services ***without incurring in any additional costs or administrative burdens.***

Or. en

Justification

As already amended in the recitals section of the text, always following the lead of the Rapporteur, we want to underline once more that the goal of this Regulation is to provide an extra function to meet the demand of European consumers, without imposing extra costs to consumers or providers; we prefer to adopt a slightly more extensive formulation of this principle.

Amendment 96
José Blanco López

Proposal for a regulation
Article 1 – paragraph 1

Text proposed by the Commission

This Regulation introduces a common approach to ensuring that subscribers to online content services in ***the Union, when temporarily present in a Member State,*** can access and use these services.

Amendment

This Regulation introduces a common approach ***in the Union*** to ensuring that subscribers to ***portable*** online content services in ***their Member States of residence*** can access and use these services ***when temporarily present in a Member State.***

Or. en

Amendment 97

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Michal Boni, Krišjānis Kariņš, Esther de Lange, Gunnar Hökmark, Pilar del Castillo Vera, Henna Virkkunen

**Proposal for a regulation
Article 1 – paragraph 1**

Text proposed by the Commission

This Regulation introduces a common approach to ensuring that subscribers to online content services in the Union, when temporarily present in a Member State, can access and use these services.

Amendment

This Regulation introduces a common approach to ensuring that subscribers to online content services in the Union, when temporarily present in a Member State ***other than Member State of residence***, can access and use these services.

Or. en

Amendment 98

Michel Reimon

on behalf of the Verts/ALE Group

**Proposal for a regulation
Article 2 – paragraph 1 – point a**

Text proposed by the Commission

(a) "Subscriber" means any consumer who, on the basis of a contract for the provision of an online content service with a provider, may access and use such service in the Member State of residence;

Amendment

(a) "Subscriber" means any consumer who, on the basis of a contract for the provision of an online content service with a provider, ***conditioned or not by a payment of money***, may access and use such service in the Member State of residence;

Or. en

Amendment 99

Cornelia Ernst

**Proposal for a regulation
Article 2 – paragraph 1 – point a**

Text proposed by the Commission

(a) "Subscriber" means any consumer

Amendment

(a) "Subscriber" means any consumer

who, on the basis of a contract for the provision of an online content service with a provider, may access and use such service *in the Member State of residence*;

who, on the basis of a contract for the provision of an online content service with a provider, may access and use such service;

Or. en

Amendment 100
Amjad Bashir

Proposal for a regulation
Article 2 – paragraph 1 – point c

Text proposed by the Commission

(c) "Member State of residence" means the Member State where the subscriber *is habitually residing*;

Amendment

(c) "Member State of residence" means the Member State, *established on the basis of Article 3B*, where the subscriber *has his or her actual and stable residence to which he or she returns to regularly*;

Or. en

Amendment 101
Michal Boni, Krišjānis Kariņš, Esther de Lange, Gunnar Hökmark

Proposal for a regulation
Article 2 – paragraph 1 – point c

Text proposed by the Commission

(c) "Member State of residence" means the Member State where the subscriber is habitually residing;

Amendment

(c) "Member State of residence" means the Member State where the subscriber is habitually residing *where he/she returns to after a temporary presence in another country*;

Or. en

Amendment 102
Krišjānis Kariņš

Proposal for a regulation
Article 2 – paragraph 1 – point c

Text proposed by the Commission

(c) "Member State of residence" means the Member State where the subscriber is habitually residing;

Amendment

(c) "Member State of residence" means the Member State where the subscriber is habitually residing ***determined and verified during the process of subscription;***

Or. en

Amendment 103
José Blanco López

Proposal for a regulation
Article 2 – paragraph 1 – point c

Text proposed by the Commission

(c) "Member State of residence" means the Member State where the subscriber *is habitually residing;*

Amendment

(c) "Member State of residence" means the Member State where the subscriber ***has her or his actual and stable residence to which she or he returns regularly;***

Or. en

Amendment 104
Michał Boni, Krišjānis Kariņš, Esther de Lange, Gunnar Hökmark

Proposal for a regulation
Article 2 – paragraph 1 – point d

Text proposed by the Commission

(d) "Temporarily present" means a presence of a subscriber in a Member State other than the Member State of residence;

Amendment

(d) "Temporarily present" means a presence of a subscriber in a Member State other than the Member State of residence, ***whatever the effective duration of such presence, provided that the Member State of residence was verified in accordance with article 2 - paragraph 1 - point e - subparagraph 2 - point 2;***

Amendment 105
José Blanco López

Proposal for a regulation
Article 2 – paragraph 1 – point d

Text proposed by the Commission

(d) "Temporarily present" means *a* presence of a subscriber in a Member State other than the Member State of residence;

Amendment

(d) "Temporarily present *in a Member State*" means *the* presence of a subscriber in a Member State other than the Member State of residence *for a limited period of time*;

Or. en

Amendment 106
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 2 – paragraph 1 – point d

Text proposed by the Commission

(d) "Temporarily present" means a presence of a subscriber in a Member State other than the Member State of residence;

Amendment

(d) "Temporarily present" means a presence, *for a limited period of time*, of a subscriber in a Member State other than the Member State of residence;

Or. en

Amendment 107
Marco Zullo

Proposal for a regulation
Article 2 – paragraph 1 – point d

Text proposed by the Commission

(d) "Temporarily present" means a

Amendment

(d) "Temporarily present *in a Member*

presence of a subscriber in a Member State other than the Member State of residence;

State" means a presence of a subscriber in a Member State other than the Member State of residence;

Or. it

Amendment 108
Amjad Bashir

Proposal for a regulation
Article 2 – paragraph 1 – point d

Text proposed by the Commission

(d) "Temporarily present" means *a* presence of a subscriber in a Member State other than the Member State of residence;

Amendment

(d) "Temporarily present" means *the transitory* presence of a subscriber in a Member State other than the Member State of residence;

Or. en

Amendment 109
Cornelia Ernst

Proposal for a regulation
Article 2 – paragraph 1 – point e – subparagraph 1

Text proposed by the Commission

(e) "Online content service" means a service as defined by Articles 56 and 57 of the Treaty on the Functioning of the European Union that a service provider is lawfully providing online *in the Member State of residence* on a portable basis and which is an audiovisual media service within the meaning of Directive 2010/13/EU or a service the main feature of which is the provision of access to and use of works, other protected subject matter or transmissions of broadcasting organisations, whether in a linear or an on-demand manner,

Amendment

(e) "Online content service" means a service as defined by Articles 56 and 57 of the Treaty on the Functioning of the European Union that a service provider is lawfully providing online on a portable basis and which is an audiovisual media service within the meaning of Directive 2010/13/EU or a service the main feature of which is the provision of access to and use of works, other protected subject matter or transmissions of broadcasting organisations, whether in a linear or an on-demand manner,

Amendment 110

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point e – subparagraph 1

Text proposed by the Commission

(e) "Online content service" means a service as defined by Articles 56 and 57 of the Treaty on the Functioning of the European Union that a service provider is lawfully providing online in *the* Member State *of residence* on a portable basis and which is an audiovisual media service within the meaning of Directive 2010/13/EU or a service the main feature of which is the provision of access to and use of works, other protected subject matter or transmissions of broadcasting organisations, whether in a linear or an on-demand manner,

Amendment

(e) "Online content service" means a service as defined by Articles 56 and 57 of the Treaty on the Functioning of the European Union that a service provider is lawfully providing online in *a* Member State on a portable basis and which is an audiovisual media service within the meaning of Directive 2010/13/EU or a service the main feature of which is the provision of access to and use of works, other protected subject matter or transmissions of broadcasting organisations, whether in a linear or an on-demand manner,

Or. en

Amendment 111

Amjad Bashir

Proposal for a regulation

Article 2 – paragraph 1 – point e – subparagraph 2

Text proposed by the Commission

which is provided to a subscriber on agreed terms either:

- (1) against payment of money; or*
- (2) without payment of money provided that the subscriber's Member State of residence is verified by the provider;*

Amendment

deleted

Amendment 112

Kaja Kallas, Fredrick Federley, Marietje Schaake, Morten Helveg Petersen

Proposal for a regulation

Article 2 – paragraph 1 – point e – subparagraph 2 – point 1

Text proposed by the Commission

Amendment

(1) against payment of money; or

(1) against payment of money
*including a mandatory fee such as a
broadcasting licence fee;*; or

Amendment 113

Michal Boni, Krišjānis Kariņš, Esther de Lange, Gunnar Hökmark, Pilar del Castillo Vera

Proposal for a regulation

Article 2 – paragraph 1 – point e – subparagraph 2 – point 2

Text proposed by the Commission

Amendment

(2) without payment of money provided that the subscriber's Member State of residence is verified by the provider;

(2) without payment of money provided that the subscriber's Member State of residence is verified by the provider *based on online declaration by the subscriber on their Member State of residence or the fiscal residence of the subscriber or on the possession of an identity card or billing and postal address or bank details or any other valid document that confirms the subscriber's residence;*

Amendment 114

Kaja Kallas, Fredrick Federley, Jean-Marie Cavada, Marietje Schaake, Morten Helveg Petersen

Proposal for a regulation

Article 2 – paragraph 1 – point e – subparagraph 2 – point 2

Text proposed by the Commission

(2) without payment of money provided that the subscriber's Member State of residence is verified by the provider;

Amendment

(2) without payment of money provided that the subscriber's Member State of residence is verified by the provider ***on the basis of electronic identification means, in particular notified eIDs in accordance with Regulation (EU) No 910/2014;***

Or. en

Justification

There is a necessity to ensure that consumers will not have to scan or send paper documents to prove their residence but rather be able to rely on online means of identification that are reliable and secure

Amendment 115

José Blanco López

Proposal for a regulation

Article 2 – paragraph 1 – point e – subparagraph 2 – point 2

Text proposed by the Commission

(2) without payment of money provided that the subscriber's Member State of residence is verified by the provider;

Amendment

(2) without payment of money provided that the subscriber's Member State of residence is verified by the provider ***in accordance with this Regulation;***

Or. en

Amendment 116

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 2 – paragraph 1 – point e – subparagraph 2 – point 2

Text proposed by the Commission

Amendment

(2) without payment of money provided that the subscriber's Member State of residence *is* verified by the provider;

(2) without payment of money provided that the subscriber's Member State of residence ***shall be*** verified by ***due diligence of*** the provider;

Or. en

Amendment 117
Marco Zullo

Proposal for a regulation

Article 2 – paragraph 1 – point e – subparagraph 2 – point 2

Text proposed by the Commission

Amendment

(2) without payment of money provided that the subscriber's Member State of residence is verified by the provider;

(2) without payment of money provided that the subscriber's Member State of residence is ***effectively*** verified by the provider;

Or. it

Amendment 118
Amjad Bashir

Proposal for a regulation

Article 2 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) "Portable" means that subscribers can effectively access and use the online content service on a device that is easily carried in the Member State of residence without being limited to a specific location.

Or. en

Amendment 119

Amjad Bashir

Proposal for a regulation

Article 2 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) *"Portable" means that subscribers can effectively access and use the online content service in the Member State of residence without being limited to a specific location.*

deleted

Or. en

Amendment 120

Cornelia Ernst

Proposal for a regulation

Article 2 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) "Portable" means that subscribers can effectively access and use the online content service *in the Member State of residence* without being limited to a specific location.

(f) "Portable" means that subscribers can effectively access and use the online content service without being limited to a specific location.

Or. en

Amendment 121

Amjad Bashir

Proposal for a regulation

Article 3 – paragraph 1

Text proposed by the Commission

Amendment

(1) The provider of an online content service shall enable a subscriber who is temporarily present in a Member State to access and use the online content service.

(1) The provider of an online content service *provided against payment of money* shall enable a subscriber who is temporarily present in a Member State to access and use the online content service *subject to effective and proportionate*

*means of authentication and verification
in accordance with this regulation.*

Or. en

Amendment 122

Michal Boni, Krišjānis Kariņš, Esther de Lange, Gunnar Hökmark, Pilar del Castillo Vera

Proposal for a regulation

Article 3 – paragraph 1

Text proposed by the Commission

(1) The provider of an online content service shall enable a subscriber who is temporarily present in a Member State to access and use the online content service.

Amendment

(1) The provider of an online content service *subject to the payment of money or without payment of money but subject to prior verification of the subscriber's Member State of residence*, shall enable a subscriber who is temporarily present in a Member State to access and use the online content service.

Or. en

Amendment 123

Marco Zullo

Proposal for a regulation

Article 3 – paragraph 1

Text proposed by the Commission

(1) The provider of an online content service shall enable a subscriber who is temporarily present in a Member State to access and use the online content service.

Amendment

(1) The provider of an online content service *against payment of money* shall enable a subscriber who is temporarily present in a Member State to access and use the online content service.

Or. it

Amendment 124

Krišjānis Kariņš, Michał Boni

Proposal for a regulation

Article 3 – paragraph 1

Text proposed by the Commission

(1) The provider of an online content service shall enable a subscriber who is temporarily present in a Member State to access and use the online content service.

Amendment

(1) The provider of an online content service shall enable a subscriber who is temporarily present in a Member State to access and use the online content service *for which user has a legal subscription.*

Or. en

Amendment 125

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 3 – paragraph 1

Text proposed by the Commission

(1) The provider of an online content service shall enable a subscriber who is temporarily present in a Member State to access and use the online content service.

Amendment

(1) The provider of an online content service shall enable a subscriber who is temporarily present in a Member State to access and use the online content service, *without additional costs.*

Or. en

Amendment 126

Cornelia Ernst

Proposal for a regulation

Article 3 – paragraph 2

Text proposed by the Commission

(2) *The obligation set out in paragraph 1 shall not extend to any quality requirements applicable to the delivery of an online content service that the provider is subject to when providing*

Amendment

deleted

this service in the Member State of residence, unless otherwise expressly agreed by the provider.

Or. en

Amendment 127
Eva Kaili

Proposal for a regulation
Article 3 – paragraph 3

Text proposed by the Commission

(3) The provider of an online content service *shall inform the subscriber of the quality of delivery of the online content service provided in accordance with paragraph 1.*

Amendment

(3) The provider *and the related holders of copyright* of an online content service *subject to payment or without payment of money but subject to prior certification* of the *subscriber's country of residence shall not prevent a subscriber who is temporarily present in a Member State from accessing and using the online content service.*

Or. en

Amendment 128
Michał Boni, Krišjānis Kariņš, Esther de Lange, Gunnar Hökmark, Pilar del Castillo Vera, Henna Virkkunen, Seán Kelly

Proposal for a regulation
Article 3 – paragraph 3

Text proposed by the Commission

(3) The provider of an online content service shall *inform* the subscriber *of* the quality of delivery of the online content service provided in accordance with paragraph 1.

Amendment

(3) The provider of an online content service shall *provide* the subscriber *with information concerning limitations to* the quality of delivery of the online content service provided in accordance with paragraph 1 *prior to providing that service.*

Or. en

Amendment 129
David Borrelli, Dario Tamburrano

Proposal for a regulation
Article 3 – paragraph 3

Text proposed by the Commission

(3) The provider of an online content service shall ***inform the subscriber of*** the quality of delivery of the online content service provided in accordance with paragraph 1.

Amendment

(3) The provider of an online content service shall ***document in the contract concluded with the subscriber*** the quality of delivery of the online content service provided in accordance with paragraph 1.

Or. en

Justification

From a perspective of enhancing the concept already present in the proposed text, we consider that the duty of information to the subscriber must be met through contractual documents, for the sake of legal clarity and certainty to all parties involved.

Amendment 130
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Article 3 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(3a) Provision of portable services should not be conditioned by additional technical requirements and shall be done under a technologically neutral and interoperable hardware and software environment.

Or. en

Amendment 131
José Blanco López

Proposal for a regulation
Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Verification of the Member State of residence

- 1. The provider of an online content service that enables a subscriber who is temporarily present in a Member State to access and use the online content service shall make use of effective means in order to verify the Member State of residence of the subscriber. These means shall be reasonable and shall not go beyond what is necessary in order to achieve their purpose.**
- 2. In order to comply with the obligation set out in paragraph 1, the provider shall rely on at least two of the following verification means:**
 - (a) an identity card or any other valid document confirming subscriber's Member State of residence;**
 - (b) the billing address or the postal address of the subscriber;**
 - (c) bank details such as the bank account or local credit or debit card of the subscriber;**
 - (d) the place of installation of a set top box or a similar device used for the supply of services to the subscriber;**
 - (e) the subscriber being a party to a contract for internet or telephone connection in the Member State;**
 - (f) the subscriber paying a licence fee for other services provided in the Member State, such as public service broadcasting;**
 - (g) sampling or periodic checking of the Internet Protocol (IP) address to identify the Member State where the subscriber accesses and uses the online content service or identifying that**

Member State by other means of geolocation;

3. The processing of personal data pursuant to the verification shall be carried out in compliance with Regulation 2016/679/EU of the European Parliament and of the Council and Directive 2002/58/EC of the European Parliament and of the Council.

4. The provider shall be entitled to request the subscriber to provide the information necessary for the verification of the Member State of residence. If the subscriber fails to provide that information and consequently the provider is unable to effectively verify the Member State of residence, as required by this Regulation, the provider shall not, on the basis of this Regulation, enable the subscriber to access the online content service when she or he is temporarily present in a Member State.

Or. en

Amendment 132
Amjad Bashir

Proposal for a regulation
Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3 a

Providers of online content without payment of money and the option to comply with this regulation

(1) The Providers of an online content service provided without payment of money may choose to enable its subscribers who are temporarily present in a Member State to access and use the online content service in accordance with this Regulation only where the provider

verifies the subscribers Member State of residence in compliance with Article 3b.

(2) The Providers of an online content service provided without payment of money, shall inform subscribers, the relevant holders of copyright and related rights and those holding any other rights in the content of the online content service where they choose to apply this Regulation to the online content service. Such notification shall be given prior to the provisions of access and use of the online content service on a portable basis by means that are adequate and proportionate.

(3) Where the provider choose to offer an online content service in accordance with paragraph 1, this Regulation shall apply to that provider.

Or. en

Amendment 133
Marco Zullo

Proposal for a regulation
Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

1. The provider of an online content service provided without payment of money may decide to allow its subscribers who are temporarily present in a Member State to access the service in accordance with this Regulation.

2. In order for the provisions of this Regulation to be applicable to providers in accordance with paragraph 1, the provider shall verify the subscribers' Member State of residence as required by this Regulation.

Amendment 134
Amjad Bashir

Proposal for a regulation
Article 3 b (new)

Text proposed by the Commission

Amendment

Article 3 b

Verification of the Member State of residence

(1) Providers of online content service provided against payment of money shall make use of effective means in order to verify the Member State of residence of its subscribers. These means shall be reasonable and not go beyond what is necessary in order to achieve their purpose.

(2) In order to comply with the obligation set out in paragraph 1, the provider shall rely on the following verification means, or equivalent means as agreed between rights holders and service providers:

(a) an identity card or any other valid document confirming subscriber's Member State of residence, to include electronic identification means;

(b) the billing address or postal address of the subscriber;

(c) bank details such as bank account, local credit or debit card of the subscriber;

(d) physical visitation to the place of installation of a set top box or a similar device used for supply of services to the subscribers;

(e) a subscriber being party to a contract for internet or telephone connection in the member state of

residence;

(f) payment of a license fee by a subscriber for other services provided in the Member state of residence;

(g) sampling or periodic checking of Internet Protocol (IP) address to identify where the subscriber accesses content and predominantly uses the online content service be it internal or external to the Member State of residence, or by other geo-locational means equivalent to this;

(h) registration on national, regional or local electoral rolls, if publicly available; or;

(i) the payment of national, regional or local/poll taxes, if available.

Unless the Member State of residence can be sufficiently established on the basis of a single verification means, the provider shall rely on a combination of such means.

(3) The provider and the holders of copyright and related rights or those holding any other rights in the content of an online content service may agree on the use and number of particular means referred to in paragraph 2 or, to take account of new technological developments, any other means of equivalence in accordance with paragraph 1 to verify the Member state of residence.

(4) Online content service providers, using the means in paragraph 2, should ensure subscribers are demonstrating regular return in predominantly accessing content within the Member State of residence.

(5) The provider shall be entitled to request the subscriber to provide such information as is necessary for the verification of the Member State of residence in accordance with paragraphs 2 and 4. If the subscriber fails to provide

such adequate information as to determine the Member State of residence the provider shall prevent the subscriber from accessing or using the online content service when he or she is temporarily present in a Member State other than the Member State of residence.

Or. en

Amendment 135
Marco Zullo

Proposal for a regulation
Article 3 b (new)

Text proposed by the Commission

Amendment

Article 3b

1. The provider of an online content service shall verify the Member State of residence of its subscribers effectively. In doing so, it shall use verification means in accordance with paragraphs 2 to 4 of this Article.

The verification means referred to in the first subparagraph shall be proportionate to the purpose of this Regulation and shall not constitute an excessive burden for the consumer.

2. The list under paragraph 1 shall include:

(a) an identity card or any other valid document confirming the subscriber's Member State of residence;

(b) the billing address or the postal address of the subscriber;

(c) bank details such as bank account, credit or debit card of the subscriber;

(d) the subscriber being a party to a contract for an internet or telephone connection in the Member State;

(e) sampling or periodic checking of residence by means of Internet Protocol (IP) address or any other means of geolocation.

3. The Commission shall adopt delegated acts in accordance with Article 7b concerning the amendment of the list of means for the verification of the subscriber's Member State of residence referred to in paragraph 2 of this Article by adding further means to that list, provided that the required means are proportionate and reasonable and do not go beyond what is necessary in order to achieve the purpose of this Regulation. The Commission shall consult with experts and representatives from industry and consumers to determine such means of verification.

4. If necessary to determine the Member State of residence with a sufficient degree of certainty, the provider may use a combination of means.

Or. it

Amendment 136
José Blanco López

Proposal for a regulation
Article 4 – paragraph 1

Text proposed by the Commission

The provision of an online content service *to*, as well as the access to and the use of this service by, *a* subscriber, *in accordance with Article 3(1)*, shall be deemed to occur solely in the Member State of residence *including for the purposes of Directive 96/9/EC, Directive 2001/29/EC, Directive 2006/115/EC, Directive 2009/24 and Directive 2010/13/EU.*

Amendment

The provision of an online content service *under this Regulation to a subscriber who is temporarily present in a Member State*, as well as the access to and the use of this service by *that* subscriber shall be deemed to occur solely in the Member State of residence.

Or. en

Amendment 137

Michał Boni, Krišjānis Kariņš, Esther de Lange, Gunnar Hökmark, Henna Virkkunen

Proposal for a regulation

Article 5 – paragraph 1

Text proposed by the Commission

(1) Any contractual provisions including those between holders of copyright and related rights, those holding any other rights relevant for the use of content in online content services and service providers, as well as between service providers and subscribers which **are contrary to Articles 3(1) and 4** shall be unenforceable.

Amendment

(1) Any contractual provisions including those between holders of copyright and related rights, those holding any other rights relevant for the use of content in online content services and service providers, as well as **those** between service providers and subscribers which **may have the effect of preventing the application of this Regulation**, shall be unenforceable.

Or. en

Amendment 138

José Blanco López

Proposal for a regulation

Article 5 – paragraph 1

Text proposed by the Commission

(1) Any contractual provisions including those between holders of copyright and related rights, those holding any other rights relevant for the use of content in online content services and service providers, as well as between service providers and subscribers which are contrary to **Articles 3(1) and 4** shall be unenforceable.

Amendment

(1) Any contractual provisions including those between holders of copyright and related rights, those holding any other rights relevant for the use of content in online content services and service providers, as well as between service providers and subscribers which are contrary to **this Regulation** shall be unenforceable.

Or. en

Amendment 139

Cornelia Ernst

Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission

Amendment

(2) *Notwithstanding paragraph 1, holders of copyright and related rights or those holding any other rights in the content of online content services may require that the service provider make use of effective means in order to verify that the online content service is provided in conformity with Article 3(1), provided that the required means are reasonable and do not go beyond what is necessary in order to achieve their purpose.* **deleted**

Or. en

Amendment 140

Kaja Kallas, Fredrick Federley, Jean-Marie Cavada, Marietje Schaake

Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission

Amendment

(2) *Notwithstanding paragraph 1, holders of copyright and related rights or those holding any other rights in the content of online content services may require that the service provider make use of effective means in order to verify that the online content service is provided in conformity with Article 3(1), provided that the required means are reasonable and do not go beyond what is necessary in order to achieve their purpose.* **deleted**

Or. en

Justification

Situations whereby service providers would have to adapt their means of verification depending on the expectations of each right holder should be avoided.

Amendment 141

Marco Zullo

Proposal for a regulation

Article 5 – paragraph 2

Text proposed by the Commission

(2) *Notwithstanding paragraph 1, holders of copyright and related rights or those holding any other rights in the content of online content services may require that the service provider make use of effective means in order to verify that the online content service is provided in conformity with Article 3(1), provided that the required means are reasonable and do not go beyond what is necessary in order to achieve their purpose.*

Amendment

(2) *The holder of copyright and related rights and those holding any other rights in the content provided may authorise access, thereby exempting the provider from the verification of the Member State of residence.*

Or. it

Amendment 142

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 5 – paragraph 2

Text proposed by the Commission

(2) Notwithstanding paragraph 1, holders of copyright and related rights or those holding any other rights in the content of online content services may require that the service provider make use of effective means in order to verify that the online content service is provided in conformity with Article 3(1), provided that the required means are reasonable *and* do

Amendment

(2) Notwithstanding paragraph 1, holders of copyright and related rights or those holding any other rights in the content of online content services may require that the service provider make use of effective means in order to verify that the online content service is provided in conformity with Article 3(1), provided that the required means *fall under due*

not go beyond what is necessary in order to achieve their purpose.

diligence, are reasonable, do not go beyond what is necessary in order to achieve their purpose **and do not create additional burden or requirements for the provider or the subscriber**.

Or. en

Amendment 143
David Borrelli, Dario Tamburrano

Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission

(2) Notwithstanding paragraph 1, holders of copyright and related rights or those holding any other rights in the content of online content services may require that the service provider make use of effective means in order to verify that the online content service is provided in conformity with Article 3(1), provided that the required means are reasonable and do not go beyond what is necessary in order to achieve their purpose.

Amendment

(2) Notwithstanding paragraph 1, holders of copyright and related rights or those holding any other rights in the content of online content services may require that the service provider make use of effective means in order to verify that the online content service is provided in conformity with Article 3(1), provided that the required means are ***non-intrusive for consumers, highly respectful of their privacy rights, non-burdensome for providers***, reasonable and do not go beyond what is necessary in order to achieve their purpose.

Or. en

Justification

Following the lead of the Rapporteur, as already emphasized in several other sections of the proposal, we want to underline the high importance of an equilibrium which respects consumers' rights and providers' operational necessities of efficiency.

Amendment 144
José Blanco López

Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission

(2) Notwithstanding paragraph 1, holders of copyright and related rights or those holding any other rights in the content of online content services may ***require that*** the service provider make use of effective means in order to verify that the online content service is provided in conformity with ***Article 3(1), provided that the required means are reasonable and do not go beyond what is necessary in order to achieve their purpose.***

Amendment

(2) Notwithstanding paragraph 1, holders of copyright and related rights or those holding any other rights in the content of online content services may ***contractually oblige*** the service provider to make use of effective means ***as stated in Article 3A*** in order to verify that the online content service is provided in conformity with ***this Regulation.***

Or. en

Amendment 145
José Blanco López

Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

The processing of personal data carried out within the framework of this Regulation ***including, in particular, for purposes of verification under Article 5(2),*** shall be carried out in compliance with Directives 95/46/EC and 2002/58/EC.

Amendment

The processing of personal data carried out within the framework of this Regulation shall be carried out in compliance with Directives 95/46/EC and 2002/58/EC.

Or. en

Amendment 146
David Borrelli, Dario Tamburrano

Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

The processing of personal data carried out within the framework of this Regulation ***including, in particular, for purposes of***

Amendment

The processing of personal data carried out within the framework of this Regulation ***shall comply with the Charter of***

verification under Article 5(2), shall be carried out in compliance with Directives 95/46/EC and 2002/58/EC.

Fundamental Rights of the European Union and Directives 95/46/EC and 2002/58/EC.

Or. en

Justification

As we expressed in the “having regards” section, this mention appears to us essential for the credibility of the Regulation and its recognition by consumers and citizens in general as a positive tool contributing to a better Union.

Amendment 147
José Blanco López

Proposal for a regulation
Article 7 – paragraph 1

Text proposed by the Commission

This Regulation shall apply also to contracts concluded and rights acquired before the date of its application if they are relevant for the provision, the access to and the use of an online content service in accordance with Article 3 after that date.

Amendment

This Regulation shall apply also to contracts concluded and rights acquired before the date of its application if they are relevant for the provision, the access to and the use of an online content service in accordance with Article 3 **and 3A** after that date.

Or. en

Amendment 148
David Borrelli, Dario Tamburrano

Proposal for a regulation
Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

Application of the principles of technology neutrality and cross-device portability

Subscribers shall have complete freedom to choose the types of devices or

technologies from those available on the Union market in order to access online content, and to change freely between them, provide that it is guaranteed that in every moment they are accessing to their subscription whilst expecting the maximum number of devices specified in their service contract.

Or. en

Justification

In coherence with concepts expressed at the recitals, and following the lead of the Rapporteur (although respectfully extending his perspective), we consider that principle of technology neutrality, as well as one the operational consequence of cross-device portability, should be addressed by the Regulation.

Amendment 149
Marco Zullo

Proposal for a regulation
Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

Three years after the entry into force of this Regulation the Commission shall assess the implementation of this Regulation and submit to the European Parliament and the Council a report on this.

The report shall assess, in particular, whether or not there has been a significant variation in the revenues of right holders and prices charged to consumers.

Or. it

Amendment 150
Michał Boni, Krišjānis Kariņš, Gunnar Hökmark, Pilar del Castillo Vera

Proposal for a regulation
Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

The Commission shall, not later than on 3 years review the application of this Regulation and submit a report to the European Parliament and the Council. The Commission should pay particular attention to whether the solutions created and implemented have a positive or a negative impact on development of Digital Single Market.

Or. en

Amendment 151
Marco Zullo

Proposal for a regulation
Article 7 b (new)

Text proposed by the Commission

Amendment

Article 7b

Exercise of the delegation

- 1. The power to adopt delegated acts shall be conferred on the Commission subject to the conditions laid down in this Article.***
- 2. The power to adopt delegated acts referred to in Article 3b(3) shall be conferred on the Commission for an indeterminate period of time from...^{1 a}.***
- 3. The delegation of power referred to in Article 3b(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that Decision. It shall take effect on the day following the publication***

of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 3b(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of [two months] of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [two months] at the initiative of the European Parliament or of the Council.

^{1 a} Date of entry into force of this Regulation.

Or. it

Amendment 152
David Borrelli, Dario Tamburrano

Proposal for a regulation
Article 7 b (new)

Text proposed by the Commission

Amendment

Article 7b

Evaluation and reporting

Three years after the entry into force of this Regulation the Commission shall assess the implementation of this Regulation and submit a report setting out its conclusions to the European Parliament and the Council.

The report shall assess the actual use made of cross-border portability, and of verification means, with a particular focus on the respect of privacy rights of the consumers and on the administrative burden imposed on providers.

The report shall assess the need for a review of the Regulation and it shall be accompanied, if necessary, by a legislative proposal to this end.

Or. en

Justification

Following the lead of the Rapporteur, we consider that the dynamism of the information and communication technologies makes it advisable to plan for an evaluation exercise already from the very beginning of the legislative process.

Amendment 153

Marco Zullo

Proposal for a regulation

Article 8 – paragraph 2 – subparagraph 1

Text proposed by the Commission

It shall apply from [date: **6** months following the day of its publication].

Amendment

It shall apply from [date: **12** months following the day of its publication].

Or. it

Amendment 154

Michał Boni, Krišjānis Kariņš, Gunnar Hökmark, Pilar del Castillo Vera, Henna Virkkunen

Proposal for a regulation

Article 8 – paragraph 2 – subparagraph 1

Text proposed by the Commission

It shall apply from [date: **6** months following the day of its publication].

Amendment

It shall apply from [date: **12** months following the day of its publication].

Or. en

Amendment 155
José Blanco López

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 1

Text proposed by the Commission

It shall apply from [date: **6** months following the day of its publication].

Amendment

It shall apply from [date: **12** months following the day of its publication].

Or. en

Amendment 156
Amjad Bashir

Proposal for a regulation
Article 8 – paragraph 2 – subparagraph 1

Text proposed by the Commission

It shall apply from [date: **6** months following the day of its publication].

Amendment

It shall apply from [date: **12** months following the day of its publication].

Or. en