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AMENDMENTS

20 - 257

Draft opinion

Marco Zullo

(PE583.879v01-00)

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 20

Nicola Danti, Evelyne Gebhardt, Sergio Gaetano Cofferati, Virginie Rozière, Olga Sehnalová, Biljana Borzan, Maria Grapini, Liisa Jaakonsaari, Sergio Gutiérrez Prieto, Marc Tarabella, Dietmar Köster, Evelyn Regner

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) *Guaranteeing permanent access to online content services for consumers throughout the European Union based on subscriptions contracted in the Member State of residence is an important element for the completion of the Single Market and the effective enforcement of the principles of free movement of persons and services.* Consumers *should be able to* use online 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 business or leisure travel, periods of study*. Therefore, barriers that hamper access and use of such online content services cross *borders* should be eliminated.

Or. en

Amendment 21

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

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.

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 free-flowing access for consumers to online audiovisual content throughout the Union is key to the smooth functioning of the digital single market.*

Or. es

Amendment 22 **Dita Charanzová**

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) ***Seamless access to online content services by consumers throughout the Union is important for the smooth functioning of the internal market.*** 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 **in such cases** should be eliminated.

Or. en

Amendment 23 **Maria Grapini**

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, ***on condition that copyright and intellectual property rights are respected.***

Or. ro

Amendment 24
José Blanco López, Sergio Gutiérrez Prieto

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.

Amendment 25

Emma McClarkin, Anneleen Van Bossuyt

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 *single* 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 *travelling for leisure or business*. Therefore, barriers that hamper access and use of *legally acquired* online content services cross border should be eliminated.

Or. en

Amendment 26

Notis Marias

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.

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.

Therefore, barriers that hamper access and use of such online content services cross border *must* be eliminated.

Or. el

Amendment 27
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. *In regard to this, ensuring that European cultural and linguistic diversity is protected and promoted, through the adaptation and strengthening of and compliance with rules on copyright and related rights as a legal framework for the European cultural and creative industry and the basis for its ability to generate business, competitiveness, employment, creativity and innovation, is crucial.*

Or. es

Amendment 28
Robert Rochefort

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. ***Access to online content services should therefore be made easier for subscribers temporarily present in a Member State of the Union other than their Member State of residence. The concept of 'temporary presence' should be tailored to the objective of this Regulation, namely to provide cross-border portability of online content services to subscribers residing temporarily in another EU Member State who return regularly to their Member State of residence.***

Or. fr

Amendment 29
Maria Grapini

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 home country but also when they are temporarily present in another Member State of the Union, ***since this is a question of consumer rights in***

the internal market.

Or. ro

Amendment 30

Eva Paunova, Ivan Štefanec, Birgit Collin-Langen

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 *development of technology and innovative services* 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.

Or. en

Amendment 31

Dita Charanzová

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

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

temporarily present in another Member State of the Union.

they are temporarily present in another Member State of the Union.

(This amendment applies throughout the text)

Or. en

Justification

COUNCIL TEXT

Amendment 32

Nicola Danti, Sergio Gaetano Cofferati, Virginie Rozière, Olga Sehnalová, Maria Grapini, Liisa Jaakonsaari, Marc Tarabella, Dietmar Köster, Anna Hedh

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 33

José Blanco López, Sergio Gutiérrez Prieto

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) The technological development

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.

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 34
Emma McClarkin

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 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 35
Maria Grapini

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 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, ***which limits the right to access online services and is potentially prejudicial.***

Or. ro

Amendment 36

Nicola Danti, Sergio Gaetano Cofferati, Virginie Rozière, Olga Sehnalová, Liisa Jaakonsaari, Maria Grapini, Marc Tarabella, Sergio Gutiérrez Prieto, Dietmar Köster, Anna Hedh

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 that are temporarily present in another Member State of the Union often cannot ***continue accessing and using*** the online content services that they have acquired the right to use in their ***Member State of residence***.

Or. en

Amendment 37

Lambert van Nistelrooij

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 ***both paid and non-paid*** 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 38
Emma McClarkin

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 that are temporarily present in another Member State of the Union often cannot access and use the online content services that they have ***legally*** acquired the right to use in their ***Member State of residence***.

Or. en

Amendment 39
Dita Charanzová

Proposal for a regulation
Recital 3

Text proposed by the Commission

(3) Consumers increasingly enter into

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*.

contractual arrangements with providers for the provision of online content services. However, consumers that are temporarily present in another Member State of the Union often cannot *continue accessing and using* the online content services that they have acquired the right to use in their *Member State of residence*.

(This amendment applies throughout the text with the words "service providers" replaced by "providers")

Or. en

Justification

COUNCIL TEXT

Amendment 40
José Blanco López, Sergio Gutiérrez Prieto

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 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 *Member State of residence*.

Or. en

Amendment 41
Birgit Collin-Langen

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 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 *Member State of residence*.

Or. de

Amendment 42
Robert Rochefort

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 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 *Member State of residence*.

Or. fr

Amendment 43
Birgit Collin-Langen

Proposal for a regulation
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) A person should be deemed to be present not merely temporarily if they stay

in the same place for at least six months, with the proviso that brief interruptions should be disregarded.

A person should be deemed to be present temporarily if the stay is limited to a particular period of less than 6 months.

Or. de

Amendment 44

José Blanco López, Sergio Gutiérrez Prieto

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. ***Nonetheless, territorial licences play a key role in the financing and production of cultural content adapted to suit the different markets in the Union, especially in the audiovisual and film sphere, making a decisive contribution to European cultural diversity.***

Or. es

Amendment 45
Notis Marias

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 *arbitrarily* choose to serve specific markets only, *thus depriving consumers of information and entertainment services*.

Or. el

Amendment 46
Enrico Gasbarra

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

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, *including devices which facilitate content accessibility for certain categories*. In particular, the obstacles to

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.

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.

Or. it

Amendment 47
Philippe Juvin

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 ***reasons why*** these services ***are not accessible*** 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, ***and*** 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. Online service providers ***can also*** choose to serve specific markets only.

Or. fr

Amendment 48
José Blanco López, Sergio Gutiérrez Prieto

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.***

Or. en

Amendment 49
Robert Rochefort

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

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 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.

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, *when the latter are temporarily present in a Member State 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 *within* the meaning of Directive 2010/13/EU as well as to transmissions of broadcasting organisations in their entirety.

Or. fr

Amendment 50

Nicola Danti, Sergio Gaetano Cofferati, Virginie Rozière, Olga Sehnalová, Maria Grapini, Liisa Jaakonsaari, Sergio Gutiérrez Prieto, Dietmar Köster

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

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 full access to their online content services *for the duration of the temporary stay in a Member State other than the Member State of residence*, it is

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.

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.

Or. en

Amendment 51 **Andreas Schwab**

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 full access to their online content services ***when they are temporarily in a Member State other than their Member State of residence***, 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.

Or. de

Justification

This is an addition to make it clear that the situation referred to is one in which a subscriber is temporarily in a Member State other than their Member State of residence.

Amendment 52 **Robert Rochefort**

Proposal for a regulation **Recital 10**

Text proposed by the Commission

(10) The acquisition of a licence for the relevant rights is not always possible, notably when rights in content are licensed on an exclusive basis. In order to ensure the territorial exclusivity, online service providers often undertake, in their licence contracts with right holders, including broadcasting organisations or events organisers, to prevent their subscribers from accessing and using their service outside the territory for which the service provider holds the licence. ***These contractual restrictions imposed on service providers require providers to take measures such as disallowing access to their services from IP addresses located outside the territory concerned. Therefore, one of the obstacles to the cross-border portability of online content services is to be found in the contracts concluded between the online service providers and their subscribers, which in turn reflect the territorial restriction clauses included in contracts concluded between those service providers and right holders.***

Amendment

(10) The acquisition of a licence for the relevant rights is not always possible, notably when rights in content are licensed on an exclusive basis. In order to ensure the territorial exclusivity, online service providers often undertake, in their licence contracts with right holders, including broadcasting organisations or events organisers, to prevent their subscribers from accessing and using their service outside the territory for which the service provider holds the licence. ***Without violating the principle of territoriality, this Regulation should meet the demand for portability access to online content services for any subscriber temporarily present in a Member State other than his or her Member State of residence.***

Or. fr

Amendment 53 **Philippe Juvin**

Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) In addition, the Court held in Joined cases C-403/08 and C-429/08, Football Association Premier League and Others, EU:C:2011:631, that ***certain restrictions to*** the provision of services cannot be justified in light of the objective of protecting intellectual property rights.

Amendment

(11) In addition, the Court held in Joined cases C-403/08 and C-429/08, Football Association Premier League and Others, EU:C:2011:631, that ***a restriction on*** the provision of services cannot be justified in light of the objective of protecting intellectual property rights ***if it goes beyond what is necessary to achieve that objective.***

Or. fr

Amendment 54
Robert Rochefort

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 ***concerning copyright and related rights with a view to bringing about a common approach to the provision*** of online content services ***to subscribers temporarily present in a Member State other than their Member State of residence.*** The ***concept of*** cross-border portability ***should be clearly distinguished from that of cross-border access, which does not lie within the scope of this Regulation.***

Or. fr

Amendment 55
José Blanco López, Sergio Gutiérrez Prieto

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 *on copyright and related rights* in order to *provide and* ensure *cross-border 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 56

Eva Paunova, Andreas Schwab, Ivan Štefanec, Lambert van Nistelrooij

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. *Open cross-border access is not the objective of this Regulation. Therefore, cross-border portability should be distinguished from open cross-border access.*

Or. en

Amendment 57

Emma McClarkin, Anneleen Van Bossuyt

Proposal for a regulation

Recital 12

Text proposed by the Commission

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.***

(12) Therefore, the objective of this Regulation is to adapt the legal framework in order to ***permit cross-border portability of online content services to subscribers that have legally acquired content and that are temporarily present in a Member State other than that of their Member State of residence within the European Union, whilst maintaining, and in accordance with, the principle of territoriality.***

Or. en

Amendment 58

Nicola Danti, Virginie Rozière, Olga Sehnalová, Biljana Borzan, Maria Grapini, Liisa Jaakonsaari, Marc Tarabella, Sergio Gutiérrez Prieto, Anna Hedh

Proposal for a regulation

Recital 12

Text proposed by the Commission

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.***

(12) Therefore, the objective of this Regulation is to ***provide a*** legal framework ***for the provision of online content services based on a robust enforcement mechanism underpinning a legal fiction designed to permit*** portability of online content services ***to consumers who are temporarily present in a Member State other than that of residence without additional costs.***

Or. en

Amendment 59

Dita Charanzová

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 any additional cost to the subscriber.***

Or. en

Amendment 60

José Blanco López, Sergio Gutiérrez Prieto

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 61

Lambert van Nistelrooij

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-

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.

border portability of online content services in the Union and that the cross-border portability can be ensured *with no additional costs to consumers*.

Or. en

Amendment 62
Philippe Juvin

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) The objective of this Regulation is to adapt the legal framework in order to *establish a common approach enabling* online content services *to be provided to subscribers temporarily present in a Member State other than their Member State of residence*.

Or. fr

Amendment 63
Julia Reda

Proposal for a regulation
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) Since the objective of this Regulation is to increase consumers' access to the content they already have legal access to, regardless of their temporary presence in another Member state, no provision in this Regulation should limit the access to content already enjoyed by consumers today. Particularly, the legal fiction set out in Article 4 only applies to online content services that a service provider is lawfully providing online in the Member State of residence.

It does not limit the possibility for a service provider to additionally provide subscribers access to the local repertoire offered by that service provider in the Member state of temporary presence. If a service provider operates in both the Member state of a subscriber's habitual residence and the Member state of temporary presence, the subscriber should have the option to access both repertoires.

Or. en

Amendment 64
Jiří Maštálka

Proposal for a regulation
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) As portability applies to previously acquired online content, it should be understood as an essential component of cross-border access. Therefore, the objective of this Regulation is also to ensure cross-border access for private and public users such as libraries and educational and cultural projects and institutions that need to access online content while being present in another Member State.

Or. en

Amendment 65
Birgit Collin-Langen

Proposal for a regulation
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) Subscribers also often encounter difficulties when they wish to use their

paid-for on-line content services in a Member State other than their Member State of residence.

Or. de

Amendment 66
José Blanco López, Sergio Gutiérrez Prieto

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 67
Nicola Danti, Virginie Rozière, Maria Grapini, Liisa Jaakonsaari

Proposal for a regulation
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) This Regulation should not affect the application of any provision of the Union related to taxation.

Or. en

Amendment 68
José Blanco López, Sergio Gutiérrez Prieto

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 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 69
Notis Marias

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.

Or. el

Amendment 70
Emma McClarkin

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. **Neither the** registration to receive content alerts or a mere acceptance of HTML cookies **nor the exchange or transfer of data should** be regarded as a contract for the provision of online content service for the purposes of this Regulation.

Or. en

Amendment 71
Eva Paunova, Ivan Štefanec, Birgit Collin-Langen

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

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 **online**. 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

purposes of this Regulation.

service for the purposes of this Regulation.

Or. en

Amendment 72
José Blanco López, Sergio Gutiérrez Prieto

Proposal for a regulation
Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) For the purposes of this Regulation, consumers may not state that they are habitually resident in more than one Member State.

Or. es

Amendment 73
Enrico Gasbarra

Proposal for a regulation
Recital 15

Text proposed by the Commission

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 their home country to do so across borders.

(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, ***except for services which aim to facilitate access to culture and remove digital barriers for persons with disabilities.***

Or. it

Amendment 74
Emma McClarkin, Anneleen Van Bossuyt

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 *their* Member State *of residence* 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 *within* their *Member State of residence of the subscriber* to do so across borders.

Or. en

Amendment 75
Jiří Maštálka

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 *and device*, as it is not appropriate to require service providers that do not offer portable services in their home country to do so across borders.

Or. en

Amendment 76
Birgit Collin-Langen

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 *their* Member State *of residence* without being limited to a specific location, as it is not appropriate to require service providers that do not offer portable services in their *Member State of residence* to do so across borders.

Or. de

Amendment 77
Notis Marias

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 appropriate **for** service providers that do not offer portable services in their home country to do so across borders.

Or. el

Amendment 78
Nicola Danti, Sergio Gaetano Cofferati, Virginie Rozière, Olga Sehnalová, Maria Grapini, Liisa Jaakonsaari

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 *their* Member State *of residence* 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.

Or. en

Amendment 79
Jiří Maštálka

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

Amendment

(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 *and their temporary presence in another Member State*. 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 offering a package combining a telecommunications service and an online content service operated by another provider. *The payment of a mandatory fee such as a broadcasting license fee should not be regarded as a payment of money to receive an online content service.*

Or. en

Amendment 80

Eva Paunova, Andreas Schwab, Ivan Štefanec, Birgit Collin-Langen

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

Amendment

(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 offering a package combining a telecommunications service and an online content service operated by another provider. ***The payment of a universal mandatory fee such as a broadcasting license fee should not be regarded as a payment in the context of this Regulation.***

Or. en

Amendment 81

Kaja Kallas, Marietje Schaake

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,

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

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

whether such payment is made directly *or 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 82 **Notis Marias**

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

Amendment

(16) This Regulation should apply to online content services which are provided against payment of money. 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 offering a package combining a telecommunications service and an online content service operated by another provider.

Or. el

Amendment 83 **Emma McClarkin**

Proposal for a regulation **Recital 16**

Text proposed by the Commission

(16) This Regulation should apply to

Amendment

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

online content services which are provided against payment of money. 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 offering a package combining a telecommunications service and an online content service operated by another provider. ***Neither contributions towards license fees, nor the transfer or exchange of data shall be deemed as payment by the consumer.***

Or. en

Amendment 84
Emma McClarkin

Proposal for a regulation
Recital 16 a (new)

Text proposed by the Commission

Amendment

(16a) Packages or bundles of online content services which are provided against payment of money may also host free-to-air content that may not be portable independently from the package or bundle. Insofar as such free-to-air content is not separable and is provided within packages or bundles, these services are covered in their entirety by this regulation.

Or. en

Amendment 85
Julia Reda

Proposal for a regulation
Recital 16 a (new)

(16a) Since the Regulation is mandatory for all online services provided against payment of money, verification of habitual residence based on the means of payment should in any case be considered sufficient, in order to provide service providers with an easily implementable, effective, non-intrusive and proportionate means of verification.

Or. en

**Amendment 86
Emma McClarkin**

**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**

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**

subscribers.

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 87

Eva Paunova, Andreas Schwab, Ivan Štefanec

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***

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 if they decide so and provided that they comply with the requirements on the verification of the Member State of residence. If they exercise this option, they 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 payment of money.***

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.

Or. en

Amendment 88

José Blanco López, Sergio Gutiérrez Prieto

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 89

Notis Marias

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, information such as IP address should be relied upon, if they enable the provider to have reasonable indicators as to the Member State of residence of its subscribers.

Or. el

Amendment 90

Kaja Kallas, Marietje Schaake, Jean-Marie Cavada

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) Online content services which are

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, *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.

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 91
Dita Charanzová

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

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, 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.

services are delivered and involve disproportionate costs. As concerns verification of the subscriber's Member State of residence ***upon subscription***, 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 ***at the time of registration*** 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.

Or. en

Amendment 92

Julia Reda

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

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, 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 or other means of authentication, should be relied upon, if they enable the provider to have reasonable

reasonable indicators as to the Member State of residence of its subscribers.

indicators as to the Member State of residence of its subscribers.

Or. en

Amendment 93
Julia Reda

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. ***The provision of cross-border portability should be implemented in a way that also gives subscribers the possibility to access the local repertoire made available by the content service provider to its subscribers in the Member State of temporary presence. These obligations are*** 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.

Or. en

Amendment 94
Dita Charanzová

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 online service providers **to** enable their subscribers to use the service in the Member State of their temporary presence by providing them **with** 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 **it is not open to** the parties **to** exclude it, derogate from it or vary its effect, **either pursuant to contract or by a unilateral act on the part of 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

Amendment 95
José Blanco López, Sergio Gutiérrez Prieto

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

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.

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 96

Nicola Danti, Sergio Gaetano Cofferati, Virginie Rozière, Biljana Borzan, Maria Grapini, Liisa Jaakonsaari, Dietmar Köster, Evelyn Regner, Anna Hedh, Evelyne Gebhardt

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

Amendment

(19) ***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.*** 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

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.

could result in high costs for service providers and thus ultimately for subscribers. Therefore, *whilst* this Regulation *does not impose disproportionate requirements to guarantee the same* 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, *the provider should explicitly and duly inform the subscriber on a durable medium about the quality of the delivery of an online content service in a Member State other than that of residence and about clear technical settings preventing the service provider from guaranteeing identical quality standards in the country of temporary stay*. In such cases the provider shall not be liable if the quality of delivery of the service is lower. *This information should be regarded as material for the purposes of Article 7(5) of Directive 2005/29/EC*. *Moreover*, 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 97 Notis Marias

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*

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 *is essential*. If the provider expressly agrees to guarantee certain quality of delivery to subscribers while

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.

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

Or. el

Amendment 98
Birgit Collin-Langen

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

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.

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 their Member State of residence, in particular information that the quality of delivery may vary from the quality of delivery of the online content service in the Member State of residence. Such information may be provided on the provider's website.

Or. de

Amendment 99

Emma McClarkin, Anneleen Van Bossuyt

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. 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 100
Dita Charanzová

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 **should** not be liable if the quality of delivery of the service is lower **where the reasons for this can be attributed to objective issues such as the inadequacy of national infrastructure. The service provider should, however, inform the consumer of the possible reduction in quality.** Nevertheless, if the provider expressly agrees to guarantee **a** certain quality of delivery to subscribers while **they are** temporarily present in other Member States, the provider **should** be bound by such agreement, **without any**

additional cost to the subscriber.

Or. en

Amendment 101

José Blanco López, Sergio Gutiérrez Prieto

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. 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. ***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 102

Kaja Kallas, Marietje Schaake

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 103
Birgit Collin-Langen

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

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.

that those service providers which lawfully provide portable online content services in the Member State of residence of subscribers *in return for payment* 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 and in particular the legal mechanism localising the provision of, the access to, and the use of an online content service in the Member State of the subscriber's residence should 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. de

Amendment 104

Eva Paunova, Ivan Štefanec

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 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

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.

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 and in particular the legal mechanism localising the provision of, the access to and the use of an online content service in the Member State of the subscriber's residence does not prevent a service 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 105
Emma McClarkin

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 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.

Amendment

(20) In order to ensure that providers of online content services ***which*** 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. ***This should not prevent the service providers of online content from offering its subscribers who are temporarily present in another Member State online content that the online content service providers lawfully provide in that Member***

State of temporary presence.

Or. en

Amendment 106

José Blanco López, Sergio Gutiérrez Prieto

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 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.

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. ***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 107

Dita Charanzová

Proposal for a regulation

Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) This Regulation, and in particular the legal mechanism localising the provision of, access to and the use of an online content service in the Member State of residence of the subscriber, should not prevent a provider from offering to a subscriber who is temporarily present in another Member State an online content service that the provider lawfully provides in that other Member State.

Or. en

Amendment 108

Dita Charanzová

Proposal for a regulation

Recital 20 b (new)

Text proposed by the Commission

Amendment

(20b) Nothing in this Regulation should be interpreted as precluding a service provider from offering its services to a subscriber permanently located in another Member State.

Or. en

Amendment 109

Philippe Juvin

Proposal for a regulation

Recital 21

Text proposed by the Commission

Amendment

(21) For the licensing of copyright and related rights, this means that relevant acts of reproduction, communication to the public and making available of works and

(21) For the licensing of copyright and related rights, this means that relevant acts of reproduction, communication to the public and making available of works and

other protected subject-matter, as well as the acts of extraction or re-utilization in relation to databases protected by *sui generis* rights, which occur when the service is provided to subscribers when they are temporarily present in a Member State other than their Member State of residence, should be deemed to occur in the subscribers' Member State of residence. The service providers, therefore, should be deemed to carry out such acts on the basis of the respective authorisations from the right holders concerned for the Member State of residence of these subscribers. Whenever service providers can carry out acts of communication to the public or reproduction in the Member State of the subscriber on the basis of an authorisation from the right holders concerned, a subscriber who is temporarily present in a Member State other than his Member State of residence should be able to access and use the service and where necessary carry out any relevant acts of reproduction such as downloading which he would be entitled to do in his own Member State of residence. The provision of an online content service by a service provider to a subscriber temporarily present in a Member State other than his or her Member State of residence and the use of the service by such a subscriber in accordance with this Regulation should not constitute a breach of copyright and related rights or any other rights relevant for the use of the content in the service.

other protected subject-matter, as well as the acts of extraction or re-utilization in relation to databases protected by *sui generis* rights, which occur when the service is provided to subscribers when they are temporarily present in a Member State other than their Member State of residence, should be deemed to occur in the subscribers' Member State of residence. The service providers, therefore, should be deemed to carry out such acts on the basis of the respective authorisations from the right holders concerned for the Member State of residence of these subscribers. Whenever service providers can carry out acts of communication to the public or reproduction in the Member State of the subscriber on the basis of an authorisation from the right holders concerned, a subscriber who is temporarily present in a Member State other than his Member State of residence should be able to access and use the service and where necessary carry out any relevant acts of reproduction such as downloading which he would be entitled to do in his own Member State of residence. The provision of an online content service by a service provider to a subscriber temporarily present in a Member State other than his or her Member State of residence and the use of the service by such a subscriber in accordance with this Regulation ***should be strictly regulated and*** should not constitute a breach of copyright and related rights or any other rights relevant for the use of the content in the service.

Or. fr

Amendment 110
Dita Charanzová

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) Providers **of online content services** should not be liable for breach of any contractual provisions **running counter** to the obligation to enable their subscribers to use the service in the Member State of their temporary presence. Therefore clauses in contracts **which are** designed to prohibit or limit the cross-border portability of **such** online content services should be unenforceable. **Providers of online content services and holders of rights relevant for the provision of those services should not be allowed to circumvent the application of this Regulation by choosing the law of a third country as the law which is to apply to contracts between them or to contracts between providers and subscribers.**

Or. en

Amendment 111

Nicola Danti, Sergio Gaetano Cofferati, Virginie Rozière, Olga Sehnalová, Maria Grapini, Liisa Jaakonsaari, Marc Tarabella, Sergio Gutiérrez Prieto, Dietmar Köster

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 portability of online content services **across the Union** should be unenforceable.

Or. en

Amendment 112
Dita Charanzová

Proposal for a regulation
Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) This Regulation defines several concepts necessary for its application, including the Member State of residence. The Member State of residence should be determined taking into account the objectives of this Regulation and the need to ensure its uniform application in the Union. The definition of Member State of residence should imply that it is the Member State in which the subscriber habitually resides and to which he or she regularly returns after temporarily spending time in another country. A provider who has established the Member State of residence in accordance with this Regulation should be able to assume, for the purposes of this Regulation, that the Member State of residence as verified is the only Member State of residence of the subscriber. Providers should not be obliged to verify whether their subscribers are also subscribers to an online content service in another Member State.

Or. en

Justification

COUNCIL TEXT

Amendment 113
Emma McClarkin

Proposal for a regulation
Recital 22 a (new)

(22a) Member State of residence implies that the subscriber has actual and stable residence in the Member State to which he or she returns to regularly. For the purposes of this Regulation, a subscriber has only one Member State of residence. Service providers of online content should consider that that the Member State of residence verified and authenticated by said provider as part of this Regulation, is the sole Member State of residence. Providers should not be obliged to verify whether their subscribers are also subscribers to an online content service in another Member State.

Or. en

Amendment 114

Nicola Danti, Virginie Rozière, Biljana Borzan, Maria Grapini, Liisa Jaakonsaari, Dietmar Köster, Anna Hedh, Evelyn Regner

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***

Amendment

(23) 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, ***not intrusive, proportionate*** and do not go beyond what is ***strictly*** necessary in order to achieve this purpose. ***To that effect, providers should rely on the verification means listed in this regulation. These means should also not constitute an excessive burden for subscribers.***

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. en

Amendment 115

José Blanco López, Sergio Gutiérrez Prieto

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*

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 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.*

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. en

Amendment 116
Kaja Kallas, Marietje Schaake, Jean-Marie Cavada

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,

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

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.

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 117

Notis Marias

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.***

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. 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

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 service provided, identification of the subscriber should not be required.

Or. el

Amendment 118
Emma McClarkin

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***

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. Considering that for purposes of the verification what matters is not the ***specific location or country***, but rather ***whether access of the content is within the Member State of residence or not***, precise location data should not be collected and processed for this purpose. ***The list of verification means as supplied in this Regulation provide sufficient and flexible means by which service providers can authenticate and verify subscriber's compliance with the definition of Member***

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.**

State of residence.

Or. en

Amendment 119 **Dita Charanzová**

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

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. **This** Regulation enables right holders to require that the service provider make use of effective means in order to verify **upon subscription** 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. **Given that, for the purposes of verification, what matters is not the location in which the online content is used, but rather, the Member State in which the subscriber is resident, precise location data concerning matters going beyond an initial verification of residence** 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 service provided, identification of the subscriber should not be required.

Or. en

Justification

The verification of Member State of residence should be a single time event. There is no need to re-verification or track usage in order to implement this regulation. Such measures would not be reasonable and would go beyond what is necessary in order to achieve the purpose of establishing the Member State of residence.

Amendment 120

Julia Reda

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

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 ***for the service provider to decide which verification method(s) to apply. 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

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.

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. en

Amendment 121 **Philippe Juvin**

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

Amendment

(23) *It is essential that* service providers 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

the service provided, identification of the subscriber should not be required.

in order to deliver the service provided, identification of the subscriber should not be required.

Or. fr

Amendment 122
Dita Charanzová

Proposal for a regulation
Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) This Regulation should oblige providers of online content services to subscribers who are temporarily present in a Member State other than their Member State of residence to use effective means in order to verify the Member State of residence of their subscribers upon subscription. The use of such means should at all times be reasonable, and should not go beyond what is necessary in order to achieve the purpose of establishing the subscriber's Member State of residence. To that end, providers should rely on the means of verification listed in this Regulation. The objective of that list should be to provide legal certainty as to the means of verification to be used by providers. In each case, account should be taken of the effectiveness of a particular means of verification in the Member State concerned and for the type of online content service concerned. Unless the Member State of residence can be established with sufficient certainty on the basis of a single means of verification, providers should rely on a combination of not more than two of those means. Once verification of the subscriber's Member State of residence has been completed, no further verification, re-verification, or additional means of verification should be required or requested from the subscriber

by the provider.

Or. en

Justification

The verification of Member State of residence should be a single time event. There is no need to re-verification or track usage in order to implement this regulation. Such measures would not be reasonable and would go beyond what is necessary in order to achieve the purpose of establishing the Member State of residence.

Amendment 123
Emma McClarkin

Proposal for a regulation
Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) Where the Member State of residence cannot be established to a reasonable degree of certainty on the basis of a single verification means, providers should rely on a combination of these means. This Regulation does not restrict agreements between service providers and rights holders as to which particular verification means based on the list provided could be used by providers. Rights holders should be able to take such decisions freely when entering into agreements with providers. Service providers may request the subscriber to provide information necessary in order to reasonably authenticate or verify a subscriber's Member State of residence. If the subscriber fails to provide that information and in consequence the provider is unable to establish or verify the Member State of residence as required under this regulation, the provider should not provide cross-border portability of online content service to this subscriber.

Or. en

Amendment 124

Nicola Danti, Evelyne Gebhardt, Virginie Rozière, Biljana Borzan, Maria Grapini, Liisa Jaakonsaari, Marc Tarabella, Dietmar Köster, Evelyn Regner, Anna Hedh

Proposal for a regulation

Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) Verifications means may include the implementation of currently used means for periodic checking of relevant information of IP addresses to the extent that this is necessary for the purposes of this Regulation. Considering that for purposes of the verification what matters is not the precise location, but rather the subscriber's temporary presence in another Member State while accessing the service, data on precise location or any other personal data should not be collected and processed for this purpose. Similarly, where authentication of a subscriber is sufficient on order to deliver the service provided, identification of the subscriber should not be required. The verification process should be carried according to privacy and data protection rules.

Or. en

Amendment 125

Birgit Collin-Langen

Proposal for a regulation

Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) Verification means may include checking of IP addresses on the basis of random sampling instead of constant monitoring of location. Considering that for purposes of the verification what

matters is not the precise location, but rather the subscriber's temporary presence in another Member State while 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. de

Amendment 126

Eva Paunova, Ivan Štefanec, Lambert van Nistelrooij

Proposal for a regulation

Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) A provider who established the Member State of residence in accordance with this Regulation should be able to assume, for the purposes of this Regulation, that the verified Member State of residence is the only Member State of residence of the subscriber.

Or. en

Amendment 127

Dita Charanzová

Proposal for a regulation

Recital 23 b (new)

Text proposed by the Commission

Amendment

(23b) However, holders of copyright, related rights, or other rights in the content provided by online content services should remain able to permit their content to be accessed and used under this Regulation without verification

of the subscriber's Member State of residence, particularly in sectors such as music and e-books. Holders of such rights should be able freely to take decisions in this regard when entering into agreements with providers. Agreements between right holders and providers should not restrict the ability of right holders to withdraw such permission on reasonable notice to the provider. In cases where the holders of copyright, related rights or other rights decide to permit their content to be accessed and used without verification of the subscriber's Member State of residence, all other aspects of this Regulation should remain applicable.

Or. en

Justification

shorten council text

Amendment 128
Eva Paunova, Lambert van Nistelrooij

Proposal for a regulation
Recital 23 b (new)

Text proposed by the Commission

Amendment

(23b) Verification means may include sampling of IP address instead of constant monitoring of location. Precise location data should not be collected, since this is not relevant for the purpose of verifying the Member State of residence of the subscriber.

Or. en

Amendment 129
Eva Paunova, Ivan Štefanec, Lambert van Nistelrooij

Proposal for a regulation
Recital 23 c (new)

Text proposed by the Commission

Amendment

(23c) In order to take into account technological developments, 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 amending the list of effective means for the verification of the subscriber's Member State of residence. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the 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.

Or. en

Amendment 130
Julia Reda

Proposal for a regulation
Recital 24

Text proposed by the Commission

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

(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 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".

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 *Directive 2002/58/EC²⁸ and Regulation (EU) 2016/679^{28a}.*

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".

^{28a} *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1''.*

Amendment 131**José Blanco López, Sergio Gutiérrez Prieto****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 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

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 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".

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 132 **Enrico Gasbarra**

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 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

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 freedom of expression, the freedom to conduct a business **and the right to access to culture**. 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".

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. it

Amendment 133
Birgit Collin-Langen

Proposal for a regulation
Recital 24 a (new)

Text proposed by the Commission

Amendment

(24a) The above principles should also apply to subscribers who are in a Member State other than their Member State of residence. In that case they should be informed about the necessary technical and organisational measures. The necessary technical and organisational measures should include their providing subscribers with transparent information about the methods and purposes of checking and taking appropriate safety precautions.

Or. de

Amendment 134
José Blanco López, Sergio Gutiérrez Prieto

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 135
Lambert van Nistelrooij

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 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-

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, ***with no additional costs to consumers.*** This is also necessary in order to ensure a level playing field for service providers operating in the internal market, ***especially important for start-ups and SME's, and*** by enabling providers who concluded contracts with ***rights*** 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

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.

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 136
Emma McClarkin

Proposal for a regulation
Recital 27

Text proposed by the Commission

(27) As the Regulation will therefore apply to some contracts and rights acquired before the date of its application, it is also appropriate to provide for a reasonable period between the date of entry into force of this Regulation and the date of its application allowing right holders and service providers to make the arrangements necessary to adapt to the new situation, as well as allowing service providers to amend the terms of use of their services.

Amendment

(27) As the Regulation will therefore apply to some contracts and rights acquired before the date of its application, it is also appropriate to provide for a reasonable period between the date of entry into force of this Regulation and the date of its application allowing right holders and service providers to make the arrangements necessary to adapt to the new situation, as well as allowing service providers to amend the terms of use of their services.
Changes to other terms of use of online content services offered in packages combining an electronic communications service made strictly in order to comply with the requirements of this Regulation should not trigger for subscribers any right under national laws transposing the regulatory framework for electronic communications networks and services to withdraw from contracts for the provision of such electronic communications services.

Or. en

Amendment 137
Dita Charanzová

Proposal for a regulation
Recital 27

Text proposed by the Commission

(27) As *the* Regulation will therefore apply to some contracts and rights acquired before the date of its application, it is also appropriate to provide for a reasonable period between the date of entry into force of this Regulation and the date of its application allowing right holders and *service providers* to make the arrangements necessary to adapt to the new situation, as well as allowing *service* providers to amend the terms of use of their services.

Amendment

(27) As *this* Regulation will therefore apply to some contracts and rights acquired before the date of its application, it is also appropriate to provide for a reasonable period between the date of entry into force of this Regulation and the date of its application, *thereby* allowing right holders and *providers of online content services* to make the arrangements necessary to adapt to the new situation, as well as allowing providers to amend the terms of use of their services. *Changes to the terms of use of online content services made strictly in order to comply with the requirements of this Regulation should not trigger, for subscribers or right holders, any right under national laws to withdraw contracts for the provision of such services.*

Or. en

Amendment 138
Notis Marias

Proposal for a regulation
Recital 28

Text proposed by the Commission

(28) In order to achieve the objective of ensuring cross-border portability of online content services in the Union, it is appropriate to adopt a regulation, *which directly applies in Member States*. This is necessary in order to guarantee a uniform application of the cross-border portability rules across Member States and their

Amendment

(28) In order to achieve the objective of ensuring cross-border portability of online content services in the Union, it is appropriate to adopt a regulation. This is necessary in order to guarantee a uniform application of the cross-border portability rules across Member States and their entering into force at the same time with

entering into force at the same time with regard to all online content services. Only a regulation ensures the degree of legal certainty which is necessary in order to enable consumers to fully benefit from cross-border portability across the Union.

regard to all online content services. Only a regulation ensures the degree of legal certainty which is necessary in order to enable consumers to fully benefit from cross-border portability across the Union.

Or. el

Amendment 139

Emma McClarkin, Anneleen Van Bossuyt

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 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

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 *exercise the option to comply with the regulation. Providers of online content*

any disproportionate costs,

services against the payment of money are able to authenticate the Member State of residence of their subscribers at the time of the initial subscription but also to ascertain whether usage is internal or external of the Member State of residence, as demonstrated by automated and anonymous geo-blocking practices, without infringing upon consumer privacy. Therefore, it does not impose any disproportionate costs.

Or. en

Amendment 140

Notis Marias

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 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

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, ***Protocol (No 1) to the Treaty on the Functioning of the European Union (TFEU) on the role of national parliaments in the European Union and Protocol (No 2) to the Treaty on the Functioning of the European Union (TFEU) on the application of the principles of subsidiarity and proportionality.*** 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

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,

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,

Or. el

Amendment 141
Emma McClarkin, Anneleen Van Bossuyt

Proposal for a regulation
Article 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 ***legally acquired*** online content services in the Union, when temporarily present in a Member State ***other than that of their Member State of residence*** can access and use these services ***whilst respecting all the relevant copyright and related rights of the content access and used.***

Or. en

Amendment 142
Philippe Juvin

Proposal for a regulation
Article 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 their Member State of residence***, can access and use these services, ***without infringing the copyright and related rights attaching to the content to which they have access***.

Or. fr

Amendment 143
Robert Rochefort

Proposal for a regulation
Article 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 online content services ***in their Member State of residence*** can access and use these services when temporarily present in ***another*** Member State, ***subject to effective prior verification of their Member State of residence***.

Or. fr

Amendment 144
Jiří Maštálka

Proposal for a regulation
Article 1

Text proposed by the Commission

This Regulation introduces a common approach to ensuring that subscribers to online content services in the Union, when

Amendment

This Regulation introduces a common approach to ensuring that subscribers to ***portable*** online content services in the

temporarily present in a Member State, can access and use these services.

Union, when temporarily present in a Member State, can access and use these services, *while respecting the relevant copyright and related rights of content accessed and used.*

Or. en

Amendment 145

Nicola Danti, Virginie Rozière, Olga Sehnalová, Pina Picierno, Maria Grapini, Liisa Jaakonsaari, Marc Tarabella, Sergio Gutiérrez Prieto

Proposal for a regulation

Article 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 *legal framework* to ensuring that subscribers to *portable and legally acquired* online content services in *their Member States of residence*, when temporarily present in a Member State *other than that of residence*, can access and use these services.

Or. en

Amendment 146

Dita Charanzová

Proposal for a regulation

Article 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 online content services in *their Member States of residence* can access and use *those* services, *without any additional charge, when they are temporarily present in another Member State.*

Amendment 147

José Blanco López, Sergio Gutiérrez Prieto

Proposal for a regulation

Article 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 148

Andreas Schwab

Proposal for a regulation

Article 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 *within the Union* a common approach to ensuring that subscribers to online content services in *their Member State of residence* can access and use *those* services *when temporarily present in another Member State*.

Or. de

Justification

Amendment to make it clear that this refers to a subscriber in the Member State of residence.

Amendment 149
Lambert van Nistelrooij

Proposal for a regulation
Article 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 ***with no additional costs***.

Or. en

Amendment 150
Julia Reda

Proposal for a regulation
Article 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 ***at no additional cost***.

Or. en

Amendment 151
Jiří Maštálka

Proposal for a regulation
Article 1 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1a) This Regulation applies to all online content services which are provided to a subscriber against payment

of money.

Or. en

Amendment 152

Nicola Danti, Sergio Gaetano Cofferati, Virginie Rozière, Maria Grapini, Liisa Jaakonsaari, Sergio Gutiérrez Prieto

Proposal for a regulation

Article 1 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1a) This Regulation is without prejudice to the Union law in the field of taxation.

Or. en

Amendment 153

Jiří Maštálka

Proposal for a regulation

Article 1 a (new)

Text proposed by the Commission

Amendment

Article 1a

Online content services provided without payment of money are also covered by the scope of the Regulation as long as the provider verifies the subscriber's Member State of residence.

Or. en

Amendment 154

Nicola Danti, Virginie Rozière, Olga Sehnalová, Pina Picierno, Maria Grapini, Liisa Jaakonsaari, Sergio Gutiérrez Prieto

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, *has* access and use such service in the Member State of residence;

Or. en

Amendment 155

Jiří Maštálka

Proposal for a regulation

Article 2 – paragraph 1 – point b

Text proposed by the Commission

(b) "Consumer" means any natural person *who*, in contracts covered by this Regulation, *is acting for purposes which are outside his or her trade, business, craft or profession*;

Amendment

(b) "Consumer" means any natural person *or any non-profit educational or cultural institution or project*, in contracts covered by this Regulation;

Or. en

Amendment 156

Emma McClarkin, Anneleen Van Bossuyt

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 157
Dita Charanzová

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 *in which* the subscriber is habitually residing *and to which he or she regularly returns after temporarily spending time in another country*;

Or. en

Amendment 158
Andreas Schwab

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 *resides genuinely and in a continuous manner, which is to be identified by the means referred to in Article 3a(2)*;

Or. de

Amendment 159
Birgit Collin-Langen

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 is not only staying temporarily and to which he regularly returns*.

Amendment 160

José Blanco López, Sergio Gutiérrez Prieto

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 161

Robert Rochefort

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 *and actually* residing *and to which he or she returns regularly*;

Or. fr

Amendment 162

Jiří Maštálka

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 *country* where the subscriber *has his or her centre of interest and to which he or*

she regularly returns;

Or. en

Amendment 163

Nicola Danti, Sergio Gaetano Cofferati, Virginie Rozière, Olga Sehnalová, Pina Picierno, Marc Tarabella, Maria Grapini, Liisa Jaakonsaari, Sergio Gutiérrez Prieto

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 his or her actual and stable residence*;

Or. en

Amendment 164

Julia Reda

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(s) where the subscriber is habitually residing;

Or. en

Amendment 165

José Blanco López, Sergio Gutiérrez Prieto

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

Amendment

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

other than the Member State of residence;

in a Member State other than the Member State of residence *for a limited period of time*;

Or. en

Amendment 166
Birgit Collin-Langen

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 *that is limited to a certain period*;

Or. de

Amendment 167
Robert Rochefort

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 a presence of a subscriber in a Member State other than the Member State of residence *on a non-permanent basis*;

Or. fr

Amendment 168
Dita Charanzová

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, **in the case** of a subscriber, **present on a non-permanent basis** in a Member State other than **his or her** Member State of residence;

Or. en

Amendment 169

Nicola Danti, Sergio Gaetano Cofferati, Virginie Rozière, Olga Sehnalová, Pina Picierno, Marc Tarabella, Maria Grapini, Liisa Jaakonsaari, Sergio Gutiérrez Prieto, Dietmar Köster

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 a **non-permanent** presence of a subscriber in a Member State other than the Member State of residence;

Or. en

Amendment 170

Andreas Schwab

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 **for a limited period**;

Or. de

Justification

In the interests of clarity and legal certainty, a clearer distinction needs to be drawn between cross-border portability and cross-border access, which is not covered by this Regulation, because otherwise the principle of territoriality could be affected.

Amendment 171

Jiří Maštálka

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 *for a limited period of time*;

Or. en

Amendment 172

Emma McClarkin, Anneleen Van Bossuyt

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 173

Emma McClarkin

Proposal for a regulation

Article 2 – paragraph 1 – point e

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,

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

(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 **lawful** access to and use of works **and** other protected subject matter or transmissions of broadcasting organisations, whether in a linear or an on-demand manner, **which is subject to effective authentication and verification of the subscribers Member State of residence.**

Or. en

Amendment 174

Nicola Danti, Virginie Rozière, Maria Grapini, Liisa Jaakonsaari, Sergio Gutiérrez Prieto

Proposal for a regulation

Article 2 – paragraph 1 – point e

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

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 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,

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;*

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,

which is provided to a subscriber on agreed terms;

Or. en

Amendment 175

Eva Paunova, Andreas Schwab, Ivan Štefanec

Proposal for a regulation

Article 2 – paragraph 1 – point e

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,

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*

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 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;

State of residence is verified by the provider;

Or. en

Amendment 176

Kaja Kallas, Marietje Schaake

Proposal for a regulation

Article 2 – paragraph 1 – point e – 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*

Or. en

Amendment 177

Birgit Collin-Langen

Proposal for a regulation

Article 2 – paragraph 1 – point e – 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 service
provider.*

deleted

Or. de

Amendment 178

Kaja Kallas, Marietje Schaake, Jean-Marie Cavada

Proposal for a regulation

Article 2 – paragraph 1 – point e – point 2

Text proposed by the Commission

Amendment

(2) without payment of money

(2) without payment of money

provided that the subscriber's Member State of residence is verified by the provider;

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 179 **José Blanco López**

Proposal for a regulation **Article 2 – paragraph 1 – point e – 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 180 **Jiří Maštálka**

Proposal for a regulation **Article 2 – paragraph 1 – point e – 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 *as long as the provider of an online content service verifies* subscriber's Member State of residence;

Amendment 181
Birgit Collin-Langen

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. de

Amendment 182
Emma McClarkin

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 *on a device that is easily carried* in the Member State of residence without being limited to a specific location.

Or. en

Amendment 183
Jiří Maštálka

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

Text proposed by the Commission

Amendment

(f) "Portable" means that subscribers

(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.

can effectively access and use the online content service in the Member State of residence without being limited to a specific location *and device*.

Or. en

Amendment 184
Emma McClarkin

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 *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 185
Nicola Danti, Evelyne Gebhardt, Virginie Rozière, Pina Picierno, Maria Grapini, Liisa Jaakonsaari, Sergio Gutiérrez Prieto

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 *a portable* 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 *available in his or her Member State of residence without imposing additional costs*.

Or. en

Amendment 186
Maria Grapini

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, ***in a manner respecting copyright and intellectual property rights.***

Or. ro

Amendment 187
Jiří Maštálka

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 ***available in his Member State of residence without imposing additional costs.***

Or. en

Amendment 188
Philippe Juvin

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 ***other than his or her Member State of residence*** to access and use the online content service.

Or. fr

Amendment 189
Andreas Schwab

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 ***other than the Member State of residence*** to access and use the online content service.

Or. de

Justification

Addition to make it clear that this refers to a Member State other than the Member State of residence.

Amendment 190
Dita Charanzová

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

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.

access and use the online content service
without additional costs.

Or. en

Amendment 191
Lambert van Nistelrooij

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 *with no additional costs.*

Or. en

Amendment 192
Julia Reda

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 *at no additional cost.*

Or. en

Amendment 193
Notis Marias

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 be required to ensure that** a subscriber who is temporarily present in a Member State **is able** to access and use the online content service.

Or. el

Amendment 194

Nicola Danti, Sergio Gaetano Cofferati, Virginie Rozière, Pina Picierno, Maria Grapini, Liisa Jaakonsaari, Sergio Gutiérrez Prieto, Dietmar Köster

Proposal for a regulation

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1a) The application of this Regulation cannot be circumvented by virtue of the choice of the law of a non-member country as the law applicable to contracts signed between service providers and rights holders or to contracts between providers and subscribers.

Or. en

Amendment 195

Julia Reda

Proposal for a regulation

Article 3 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1a) Paragraph 1 is without prejudice to the possibility for the provider to enable a subscriber to additionally access the local repertoire that has been licenced to the service provider in the Member State of temporary presence.

Or. en

Amendment 196

Nicola Danti, Virginie Rozière, Pina Picierno, Biljana Borzan, Marc Tarabella, Maria Grapini, Liisa Jaakonsaari, Sergio Gutiérrez Prieto, Anna Hedh

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) **However**, the provider of an online content service shall **duly** inform the subscriber, **on a durable medium, before the subscription of the contract or, for contracts subscribed before the date of application of this Regulation, in due time before that date**, of the quality of delivery of the online content service provided in accordance with paragraph 1 **and of the conditions of portability set out in accordance with this Regulation.**

Or. en

Amendment 197

Dita Charanzová

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, **where possible on the basis of the data available to the provider**, inform the subscriber of the quality of delivery of the online content service provided in accordance with paragraph 1.

Or. en

Amendment 198

Emma McClarkin

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 inform the subscriber of **any variation of** the quality of delivery of the online content service provided in accordance with paragraph 1 **prior to providing that service.**

Or. en

Amendment 199

Nicola Danti, Virginie Rozière, Pina Picierno, Biljana Borzan, Marc Tarabella, Maria Grapini, Liisa Jaakonsaari, Sergio Gutiérrez Prieto, Anna Hedh

Proposal for a regulation

Article 3 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Notwithstanding paragraph 2 of this Article, and unless objective technical failures occur, providers of online content services shall guarantee to the subscriber temporarily present in a Member State other than that of residence the same level of quality that is provided to the subscribers habitually residing in the Member State where he or she is temporarily present.

Or. en

Amendment 200

Jiří Maštálka

Proposal for a regulation

Article 3 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Notwithstanding paragraph 2, the

subscriber shall not be prevented from accessing his or her subscription with the same level of quality that is provided to the subscribers habitually residing in the Member State where he is temporarily present.

Or. en

Amendment 201

Jiří Maštálka

Proposal for a regulation

Article 3 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(3a) Paragraph 1 is without prejudice to the possibility of the service provider allowing the subscriber to also access the content licensed to the service provider in the Member State where the subscriber is temporarily present.

Or. en

Amendment 202

Eva Paunova, Andreas Schwab, Ivan Štefanec

Proposal for a regulation

Article 3 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

(3a) 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 and use the service in accordance with this Regulation.

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

accordance with Article 3b.

The provider shall inform subscribers, the relevant holders of copyright and related rights and those holding any other rights in the content of online content service of its decision to provide the online content service in accordance with paragraph 1 of this Article prior to providing that service. The information shall be provided by means which are adequate and proportionate.

If the provider chooses to provide the online content service in accordance with paragraph 1 of this Article, this Regulation shall apply to that provider.

Or. en

Amendment 203
Maria Grapini

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

Text proposed by the Commission

Amendment

(3a) The subscriber's habitual place of residence must be verified using flexible, reasonable, proportionate and straightforward methods, such as online localisation services or proof of change in mobile network provider.

Or. ro

Amendment 204

Nicola Danti, Sergio Gaetano Cofferati, Virginie Rozière, Biljana Borzan, Maria Grapini, Liisa Jaakonsaari, Sergio Gutiérrez Prieto, Dietmar Köster, Anna Hedh

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

Text proposed by the Commission

Amendment

(3a) Online service providers shall not limit the obligations set out in paragraph 1 of Article 3 on the basis of the use of any specific technology or devices.

Or. en

Amendment 205

Eva Paunova, Ivan Štefanec, Lambert van Nistelrooij

Proposal for a regulation

Article 3 – paragraph 3 b (new)

Text proposed by the Commission

Amendment

(3b) The provider of an online content service provided against payment of money shall use effective means in order to verify the Member State of residence of its subscribers. In doing so, it shall use verification means which are proportionate and do not go beyond what is necessary to achieve the purposes of this Regulation.

In order to comply with the obligation set out in subparagraph 1 of this paragraph, the provider shall use the following verification means:

- (a) sampling of residence by means of Internet Protocol (IP) address;**
- (b) the billing address or the postal address of the subscriber;**
- (c) an identity card or any other valid identification document confirming the subscriber's Member State of residence, including e-identification;**
- (d) bank details such as bank account, credit or debit card of the subscriber;**
- (e) the subscriber being a party to a contract for an internet or telephone connection in the Member State; or**

(f) the subscriber paying a licence fee for other services provided in the Member State, such as public service broadcasting.

The Commission shall adopt delegated acts in accordance with Article 7b concerning the amendment of the list of effective means for the verification of the subscriber's Member State of residence referred to in subparagraph 2 of this paragraph by adding further effective means to that list taking into account technological developments.

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

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 of particular means referred to in subparagraph 2 of this paragraph or any other means in accordance with paragraph 1 to verify the Member State of residence.

Or. en

Amendment 206
Jiří Maštálka

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

Text proposed by the Commission

Amendment

(3b) Any contractual agreement 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 establish a time limit period for the duration of the obligations

set out in paragraph 1 shall be void.

Or. en

Amendment 207

Jiří Maštálka

Proposal for a regulation

Article 3 – paragraph 3 c (new)

Text proposed by the Commission

Amendment

(3c) Compliance by service providers with the obligation of paragraph 1 does not give rise to additional remuneration rights for holders of copyright and those holding any other rights relevant for the use of content in online content services.

Or. en

Amendment 208

Dita Charanzová

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 shall use effective means in order to verify the Member State of residence of its subscribers. Those 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 the following means of verification:

- (a) a declaration by the subscriber as to his or her Member State of residence;*
- (b) an identity card or any other valid document confirming the subscriber's Member State of residence, including the use of e-identification services where possible;*
- (c) the billing address or the postal address of the subscriber;*
- (d) bank details such as a bank account or a local credit or debit card of the subscriber;*
- (e) the place of installation of a set-top box or similar device used for the supply of services to the subscriber;*
- (f) the fact of the subscriber being a party to a contract for internet or telephone connection in the Member State concerned;*
- (g) the fact of the subscriber paying a licence fee for other services provided in the Member State concerned, such as public service broadcasting;*
- (h) registration on local electoral rolls, if such rolls are publicly available; or*
- (i) the payment of local/poll taxes, if information in that regard is publicly available.*

Where the Member State of residence cannot be sufficiently established on the basis of a single means of verification, the provider shall rely on a combination of not more than two of such means.

3. The provider shall choose which of the means of verification referred to in paragraph 2 it wishes to use. Upon completion of the verification, the provider shall not request or require additional verification of a subscriber who is party to a contract for the provision of online content services. Additional verification shall not be required upon the conclusion of a new or renewed contract with the same subscriber if all essential

information remains unchanged.

4. The provider shall be entitled to request the subscriber to provide the information necessary for verification of his or her Member State of residence. If the subscriber fails to provide that information and in consequence the provider is unable to 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 or use the online content service when he or she is temporarily present in a Member State.

5. Holders of copyright and related rights or those holding any other rights in the content of an online content service may authorise access to, and the use of, their content under this Regulation without verification of the subscriber's Member State of residence, but shall otherwise do so in accordance with this Regulation. In such cases, the agreement between the provider and the subscriber for the provision of an online content service shall be sufficient to establish the latter's Member State of residence.

6. The agreement between the provider and the holders of copyright and related rights or those holding any other rights in the content of an online content service shall not restrict the ability of a right holder to withdraw the authorisation referred to in paragraph 5 on giving reasonable notice to the provider.

7. Data provided pursuant to paragraph 2 shall be held by the provider until such time as the Member State of residence has been verified. They shall be used solely for the purpose of verifying the subscriber's Member State of residence. No information provided in this regard shall be communicated, transferred, shared, licensed or otherwise transmitted to right holders or other third parties.

Justification

§2: e-identification should be possible§2: Tracking of an IP address is not needed for verification of residence§2: the maximum combination of means should be two in order not to go beyond what is reasonable§3: Only the provider should be choose in order to prevent each right holder requiring a different means on the list, hence requiring the subscriber to provide the whole list. §3: Verification should be a one time event. Multiple Re-verification would be a burden on subscribers and should be prevented. §7: This data should be held by the provider and not shared with any outside organisation. There is no need for right holders or anyone else to have access to this personal data.

Amendment 209**José Blanco López, Sergio Gutiérrez Prieto****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 210
Andreas Schwab

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 shall use effective means to verify the Member State of residence of its subscribers. The verification means shall be proportionate to the purpose of this Regulation and shall not constitute an excessive burden for the consumer.

(2) In order to comply with the obligation referred to in paragraph 1, a provider of online content services shall rely on the following means of verifying the Member State of residence:

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 a bank account or a credit or debit card of the subscriber;

d) a subscription in the field of digital cable television, the internet and telephony in the Member State;

e) checking of residence by means of Internet Protocol (IP) address or any other means of geolocation, performed on the basis of random sampling.

(3) If, with the aid of only one of the means referred to in paragraph 2, a provider of online content services cannot verify the Member State of residence with sufficient certainty, the online content service provider may use a combination of means. The Member State of residence shall not be repeatedly verified without grounds.

(4) Providers of online content services and 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 of particular means referred to in paragraph 2 or of other means in accordance with paragraph 1 for the purpose of verifying the Member State of residence.

Or. de

Justification

Providers of online content services must verify the Member State of residence of its contractual partners in order to comply with legal framework requirements concerning copyright. In order to create sufficient legal certainty, service providers should be able to choose from a list of measures which are regarded as effective and appropriate. The Member State of residence should not be repeatedly verified without sufficient grounds to indicate that these requirements are no longer met.

**Amendment 211
Birgit Collin-Langen**

**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 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 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. a declaration by the subscriber on their Member State of residence;*
- b. an identity card or any other valid document confirming the subscriber's Member State of residence;*
- c. the billing address or the postal address of the subscriber;*
- d. bank details such as a bank account or local credit or debit card of the subscriber;*
- e. the place of installation of a set top box or a similar device used for supply of services to the subscriber;*
- f. the subscriber being a party to a contract for an internet or telephone connection in the Member State;*
- g. the subscriber paying a licence fee for other services provided in the Member State, such as public service broadcasting;*
- h. sampling or periodic checking of 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;*
- i. registration on local electoral rolls, if publicly available; or*
- j. the payment of local/poll taxes, if the information concerned is publicly available.*

Or. de

Amendment 212
Virginie Rozière

Proposal for a regulation
Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Verification of the Member State of residence

The provider of an 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. Such means of verification must be reasonable and proportionate. The provider shall be entitled to ask the subscriber for the information necessary in order to verify the Member State of residence.

To comply with the obligation set out in the first paragraph, the provider shall make use of the following means of verification:

- (a) a valid document confirming the subscriber's Member State of residence;***
- (b) the subscriber's billing or postal address;***
- (c) banking details such as the subscriber's bank account or credit or debit card;***
- (d) the place of installation of a set-top box or similar device used to supply services to the subscriber;***
- (e) the fact that the subscriber is party to a contract for an Internet or telephone connection in the Member State;***
- (f) the fact that the subscriber pays a licence fee for other services provided in the Member State, such as public service broadcasting;***
- (g) periodic checking of IP addresses to identify the Member State where the subscriber accesses and uses the online content service or other means of geolocation serving to identify that Member State.***

The supplier shall employ a combination of the above means in order to comply with the first paragraph.

Or. fr

Amendment 213
Emma McClarkin

Proposal for a regulation
Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

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 chooses to offer an online content service in accordance with paragraph 1, this Regulation shall apply to that provider.

Or. en

Amendment 214

Nicola Danti, Evelyne Gebhardt, Virginie Rozière, Pina Picierno, Biljana Borzan, Maria Grapini, Liisa Jaakonsaari, Sergio Gutiérrez Prieto, Anna Hedh

Proposal for a regulation
Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

Option to enable portability

The provider 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 on the condition that the provider verifies effectively the subscriber's Member State of residence in accordance with this Regulation.

The service provider shall inform subscribers, the relevant holders of copyright and related rights and those holding any other rights in the content of online content service of its decision to provide the online content service in accordance with paragraph 1 of this Article prior to providing that service. The information shall be provided by means which are adequate and proportionate.

If the provider chooses to provide the online content service in accordance with paragraph 1 of this Article, this Regulation shall apply to that provider entirely.

Or. en

Amendment 215
Jiří Maštálka

Proposal for a regulation
Article 3 a (new)

Text proposed by the Commission

Amendment

Article 3a

The provider 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 on the condition that the provider verifies the subscriber's Member State of residence in accordance with Article 3b.

Or. en

Amendment 216
Emma McClarkin

Proposal for a regulation
Article 3 b (new)

Text proposed by the Commission

Amendment

Article 3b

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, shall 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 217

Nicola Danti, Evelyne Gebhardt, Pina Picierno, Biljana Borzan, Marc Tarabella, Maria Grapini, Liisa Jaakonsaari, Sergio Gutiérrez Prieto

Proposal for a regulation

Article 3 b (new)

Text proposed by the Commission

Amendment

Article 3b

Verification of the Member State of residence

(1) The provider of an 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 verification means shall be reasonable, not intrusive, proportionate and shall not go beyond what is strictly necessary in order to achieve the purpose of this Regulation. These means shall not constitute an excessive burden for the subscribers.

(2) In order to comply with the obligation set out in paragraph 1, the provider shall rely on the following verification means:

(a) a declaration by the subscriber on

their Member State of residence;

(b) any valid document confirming subscriber's Member State of residence;

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

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

(e) the place of installation of a set top box or a similar device used for supply of services to the subscriber;

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

(g) the subscriber paying a licence fee for other services provided in the Member State, such as public service broadcasting;

(h) currently used technical means for periodic checking of relevant information of IP addresses, to the extent that is strictly necessary for the purposes of this Regulation.

(3) 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.

(4) The declaration of a subscriber on their Member State of residence shall only be used in combination with one or more other verification means.

(5) The service provider shall not track the location of the subscriber by means of Internet Protocol (IP) sampling or other means of geolocation in order to comply with the obligation of paragraph 1 of Article 3.

Or. en

Amendment 218
Jiří Maštálka

Proposal for a regulation
Article 3 b (new)

Text proposed by the Commission

Amendment

Article 3b

Verification of the Member State of residence

(1) The service provider of an online content service shall verify the Member State of residence of the subscriber by means that are reasonable, non-intrusive and proportionate. These means shall not constitute an excessive burden on the subscriber.

(2) In order to comply with the obligation set out in paragraph 1, the provider shall rely on the following verification means:

(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.

(3) The service provider may not be requested by holders of copyright and related rights or those holding any other rights relevant for the use of content in online content services to request the subscriber to provide additional means of verification if the habitual residence has already been verified in compliance with paragraph 2.

(4) If the member state of habitual residence of the subscriber has been verified according to paragraph 2, the service provider shall not track the location of the subscriber by means of Internet Protocol (IP) sampling or other

similar technology in order to comply with the obligation of paragraph 1 of Article 3.

(5) The use of cumulative verification mechanisms shall only be used if the online service provider demonstrates that the use of individual mechanisms is insufficient to verify the Member State of residence of the subscriber. If the provider chooses to provide the online content service in accordance with paragraph 1, this Regulation shall apply to that provider.

Or. en

Amendment 219
Jiří Maštálka

Proposal for a regulation
Article 3 c (new)

Text proposed by the Commission

Amendment

Article 3c

Technology neutrality

Online service providers shall not limit the obligation set out in Article 3(1) on the basis of the use of any specific technology or devices.

Or. en

Amendment 220
José Blanco López, Sergio Gutiérrez Prieto

Proposal for a regulation
Article 4

Text proposed by the Commission

Amendment

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

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

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.***

service by ***that*** subscriber shall be deemed to occur solely in the Member State of residence.

Or. en

Amendment 221
Dita Charanzová

Proposal for a regulation
Article 4 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The first paragraph of this Article is without prejudice to the rights of a provider in the Member State where a subscriber is physically present. Nor shall it prevent the provider, if it so wishes, from granting access to content available in a Member State to a subscriber temporarily present in that Member State.

Or. en

Amendment 222
Dita Charanzová

Proposal for a regulation
Article 5 – paragraph 1

Text proposed by the Commission

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 Articles 3(1) and 4*** shall be unenforceable.

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

unenforceable.

Or. en

Justification

Council Text

Amendment 223
Emma McClarkin

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 ***and access to*** 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 224
Eva Paunova, Andreas Schwab, Ivan Štefanec, Lambert van Nistelrooij

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

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.

unenforceable.

Or. en

Amendment 225
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 226
Dita Charanzová

Proposal for a regulation
Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1a) Contractual changes arising from the application of this Regulation shall not confer any right to withdraw from any contract or agreement, either between the subscriber and the provider or between the provider and a right holder.

Amendments, adjustments or other contractual changes arising from the implementation of this Regulation shall not constitute a justifiable reason for the adjustment of charges, fees or rates, or for any other modification of the financial relations between the subscriber, the

provider or any right holder.

Or. en

Amendment 227

Nicola Danti, Virginie Rozière, Marc Tarabella, Maria Grapini, Liisa Jaakonsaari, Sergio Gutiérrez Prieto, Dietmar Köster

Proposal for a regulation

Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1a) Paragraph 1 is without prejudice to the possibility of the service provider allowing the subscriber to also access the content licensed to the service provider in the Member State where the subscriber is temporarily present.

Or. en

Amendment 228

Andreas Schwab

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. de

Amendment 229

Kaja Kallas, Marietje Schaake, Jean-Marie Cavada

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 230

Dita Charanzová

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*

Justification

Deleted in favour new Article 3a/b on verification

Amendment 231

Eva Paunova, Ivan Štefanec, Lambert van Nistelrooij

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

Amendment 232

Julia Reda

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

(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 **proportionate** 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,

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

non-intrusive and do not go beyond what is necessary in order to achieve their purpose. ***The service provider is to decide which means of verification to use.***

Or. en

Amendment 233
Jiří Maštálka

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 ***proportionate*** means in order to verify that the online content service is provided in conformity with Article 3(1).

Or. en

Amendment 234
José Blanco López, Sergio Gutiérrez Prieto

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***

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

the required means are reasonable and do not go beyond what is necessary in order to achieve their purpose.

with *this Regulation*.

Or. en

Amendment 235
Emma McClarkin

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) Holders of copyright and related rights or those holding any other rights in the content of online content services *shall* 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*, provided that the required means are reasonable and do not go beyond what is necessary in order to achieve their purpose.

Or. en

Amendment 236
Jiří Maštálka

Proposal for a regulation
Article 5 – paragraph 2 a (new)

Text proposed by the Commission

(2a) Any means agreed between right holders and service providers to verify the Member State of residence of the subscriber shall be reasonable, non-intrusive and not go beyond what is necessary to achieve their purpose in conformity with paragraph 1 of Article 3b.

Amendment

Or. en

Amendment 237
Dita Charanzová

Proposal for a regulation
Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) The provisions of this Regulation shall apply irrespective of the law applicable to contracts concluded between providers of online content services and holders of copyright and related rights or those holding any other rights relevant for access to, and the use of, content in online content services or to contracts between such providers and their subscribers.

Or. en

Justification

Council Text

Amendment 238
Emma McClarkin

Proposal for a regulation
Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) The provisions of this Regulation shall apply irrespective of the law applicable to contracts concluded between providers of online content services and holders of copyright and related rights or those holding any other rights relevant for the access to and use of content in online content services or to contracts between such providers and subscribers.

Or. en

Amendment 239

Julia Reda

Proposal for a regulation

Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

(2a) Contractual provisions limiting the portability to a specific time period shall be unenforceable.

Or. en

Amendment 240

Jiří Maštálka

Proposal for a regulation

Article 5 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

(2b) The holders of copyright and related rights or those holding any other rights in the content of an online content service may authorise the access to and use of their content under this Regulation without the verification of the Member State of residence, but otherwise in accordance with this Regulation. In such cases, the agreement between the provider and the subscriber for the provision of an online content service shall be sufficient to establish the subscriber's Member State of residence.

Or. en

Amendment 241

Julia Reda

Proposal for a regulation

Article 6

Text proposed by the Commission

Amendment

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*.

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 **Regulation (EU) 2016/679 and Directive 2002/58/EC**. ***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.***

Or. en

Amendment 242

José Blanco López, Sergio Gutiérrez Prieto

Proposal for a regulation

Article 6

Text proposed by the Commission

Amendment

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.

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 243

Nicola Danti, Virginie Rozière, Olga Sehnalová, Marc Tarabella, Maria Grapini, Liisa Jaakonsaari, Sergio Gutiérrez Prieto, Dietmar Köster

Proposal for a regulation

Article 6

Text proposed by the Commission

Amendment

The processing of personal data carried out within the framework of this Regulation

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.

including, in particular, for purposes of verification *of the Member State of residence* under Article 3b, shall be carried out in compliance with Directives 95/46/EC and 2002/58/EC.

Or. en

Amendment 244
Dita Charanzová

Proposal for a regulation
Article 6

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 within the framework of this Regulation including, in particular, *processing for the* purposes of verification *pursuant to* Article 3b, shall be carried out in compliance with Directives 95/46/EC and 2002/58/EC.

Or. en

Amendment 245
Julia Reda

Proposal for a regulation
Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6a

Monitoring and evaluation

From 2017, in line with Article 5(1) of this Regulation, the Commission shall monitor possible amendments of the existing contractual arrangements. The monitoring shall pay particular attention to the impact on SMEs, the protection of personal data and to ensure that any possible renegotiations of contracts are in line with the objectives of this Regulation.

A comprehensive evaluation shall take place 5 years from the date of application of this Regulation.

Or. en

Amendment 246

Maria Grapini

Proposal for a regulation

Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6a

Principle of technological neutrality

Consumers must be free to choose the device or technology with which they wish to access online services.

Or. ro

Amendment 247

Eva Paunova, Ivan Štefanec

Proposal for a regulation

Article 7

Text proposed by the Commission

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** after that date.

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 **Articles 3 and 3a** after that date.

Or. en

Amendment 248

José Blanco López, Sergio Gutiérrez Prieto

Proposal for a regulation
Article 7

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 **Articles 3 and 3a** after that date.

Or. en

Amendment 249

Nicola Danti, Sergio Gaetano Cofferati, Virginie Rozière, Olga Sehnalová, Marc Tarabella, Maria Grapini, Liisa Jaakonsaari, Sergio Gutiérrez Prieto, Dietmar Köster, Anna Hedh

Proposal for a regulation
Article 7 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

(1a) Three years after the entry into force of this Regulation, and at three-year intervals thereafter, the Commission shall assess the application of this Regulation and submit to the European Parliament and to the Council a report on the application of this Regulation.

The report shall include, inter alia, an assessment of the effectiveness of the verification means of the Member State of residence, including newly developed industry standards and practices, and, if necessary, on the need for a review. The Commission's report shall be accompanied, if appropriate, by legislative or non-legislative proposal(s).

Or. en

Proposal for a regulation
Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

Exercise of the delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.***
- 2. The power to adopt delegated acts referred to in Article 3 (3b) shall be conferred on the Commission for indeterminate period of time from [date of entry into force of the basic legislative act or any other date set by the co-legislators].***
- 3. The delegation of power referred to in Article 3(3b) 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 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 on Better Law-Making of 13 April 2016.***
- 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 3(3b) 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.

Or. en

Amendment 251
Dita Charanzová

Proposal for a regulation
Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

Principle of technological neutrality

Subscribers shall have the freedom to choose the type of device or technology from among those available on the market in order to access online content.

Or. en

Amendment 252
Lambert van Nistelrooij

Proposal for a regulation
Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

Principle of technology neutrality

Consumers shall have the freedom to choose the type of device or technology from among those available on the market in order to access online content.

Amendment 253

Eva Paunova, Andreas Schwab, Ivan Štefanec, Lambert van Nistelrooij

Proposal for a regulation

Article 7 b (new)

Text proposed by the Commission

Amendment

Article 7b

Evaluation

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

That report shall include an assessment of the verification of the Member State of residence, and, if necessary, on the need for a review. The report shall assess, in particular, whether or not there has been an increase in the prices charged to consumers. The Commission's report shall be accompanied, if appropriate, by a legislative proposal.

Or. en

Amendment 254

Jiří Maštálka

Proposal for a regulation

Article 8 – paragraph 2

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 255
José Blanco López, Sergio Gutiérrez Prieto

Proposal for a regulation
Article 8 – paragraph 2

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 256
Andreas Schwab

Proposal for a regulation
Article 8 – paragraph 2

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. de

Justification

The implementation period of six months seems too short to create legally certain technical solutions for the portability of online content services.

Amendment 257
Emma McClarkin

Proposal for a regulation
Article 8 – paragraph 2

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