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Creation date : 29-11-2020
Digital Services Act - Pre-legislative synthesis of national, regional and local positions on the European Commission's initiative

**Publication type** Briefing  
**Date** 26-11-2020  
**Author** Tambiama André MADIEGA | Claudio COLLOVA  
**Policy area** Economics and Monetary Issues | Consumer Protection  
**Summary** This briefing forms part of an EPRS series offering syntheses of the pre-legislative state of play and consultation on key European Commission priorities during the current five-year term. It summarises the state of affairs in the relevant policy field, examines how existing policy is working on the ground, and, where possible, identifies best practice and ideas for the future on the part of governmental organisations at all levels of European system of multilevel governance. EPRS analysis of the positions of partner organisations at European, national, regional and local levels suggests that they would like the following main considerations to be reflected in discussion of the forthcoming Digital Services Act (DSA): Modernisation of EU legislation on platforms Regional and national stakeholders stress that it is high time to update and harmonise EU rules on online platforms, pointing out that the DSA should address the legal uncertainty and administrative burden stemming from the fragmentation of Union legislation. Broader scope for the DSA Local actors, especially cities, stress that the legislative proposal should tackle issues arising from the offering of online services that do not comply with local regulations, for instance on health, safety, housing taxation (e.g. short-term holiday rental) and urban mobility. Stronger enforcement and cooperation Several cities call on the Commission to clarify exemptions to the principle of origin and to include under EU law explicit provisions to supply the country of destination's competent authorities with all relevant information and data necessary to enforce applicable regulations. Regulation of gatekeepers Governmental organisations at regional and national levels share the view that there is a need to impose special rules on online gatekeepers. They therefore strongly support the introduction of ex-ante obligations on platforms in a gatekeeper position.

**An EU framework for artificial intelligence**

**Publication type** At a Glance  
**Date** 14-10-2020  
**Author** Tambiama André MADIEGA  
**Summary** European Union (EU) lawmakers are reflecting on how to best legislate for the use of artificial intelligence (AI) technology, seeking to maximise EU citizens' opportunities to benefit from the technology, while regulating against the risks. Parliament is due to vote in its October II plenary session on three own-initiative reports from the Legal Affairs Committee (JURI) in the areas of ethics, civil liability, and intellectual property (IP).

**Digital Services Act**

**Publication type** At a Glance  
**Date** 14-10-2020  
**Author** Tambiama André MADIEGA  
**Policy area** Private international law and judicial cooperation in civil matters | Internal Market and Customs Union | Contract Law, Commercial Law and Company Law | Consumer Protection | Adoption of Legislation by EP and Council  
**Summary** Parliament is due to vote during the October II plenary session on three reports from the Committees on Internal Market and Consumer Protection, Legal Affairs, and Civil Liberties, Justice and Home Affairs setting out the Parliament's initial position on the revision of the EU framework for online services ahead of the Commission's expected proposal of a Digital Services Act package.

**Disruption by technology: Impacts on politics, economics and society**

**Publication type** In-Depth Analysis  
**Date** 21-09-2020  
**Author** Tambiama André MADIEGA | Marcin SZCZEPANSKI | Naja BENTZEN | Leopold SCHMERTZING | Philip Nicholas BOUCHER | Tania LATICI  
**Policy area** Forward Planning | Evaluation of Law and Policy in Practice | Economics and Monetary Issues | Democracy | Foreign Affairs | Security and Defence | Coronavirus | Industry  
**Summary** Technological development has long been considered as a disruptive force, provoking change at many levels, from the routine daily activities of individuals to dramatic competition between global superpowers. This analysis examines disruption caused by technologies in a series of key areas of politics, economics and society. It focuses on seven fields: the economic system, the military and defence, democratic debates and the 'infosphere', social norms, values and identities, international relations, and the legal and regulatory system. It also presents surveillance as an example of how technological disruption across these domains can converge to propel other phenomena. The key disruptive force of 2020 is non-technological, namely coronavirus. The pandemic is used here as an opportunity to examine how technological disruption interacts with other forms of disruption.

**Source**: © European Union, 2020 - EP
**Digital sovereignty for Europe**

**Publication type**: Briefing  
**Date**: 02-07-2020  
**Author**: Tambiama André MADIEGA  
**Policy area**: Area of Freedom, Security and Justice | Intellectual Property Law | Contract Law, Commercial Law and Company Law  
**Summary**: There is growing concern that the citizens, businesses and Member States of the European Union (EU) are gradually losing control over their data, over their capacity for innovation, and over their ability to shape and enforce legislation in the digital environment. Against this background, support has been growing for a new policy approach designed to enhance Europe’s strategic autonomy in the digital field. This would require the Union to update and adapt a number of its current legal, regulatory and financial instruments, and to promote more actively European values and principles in areas such as data protection, cybersecurity and ethically designed artificial intelligence (AI). This paper explains the context of the emerging quest for ‘digital sovereignty’, which the coronavirus pandemic now seems to have accelerated, and provides an overview of the measures currently being discussed and/or proposed to enhance European autonomy in the digital field.

**Reform of the EU liability regime for online intermediaries: Background on the forthcoming digital services act**

**Publication type**: In-Depth Analysis  
**Date**: 30-04-2020  
**Author**: Tambiama André MADIEGA  
**Policy area**: Competition law and regulation | Contract Law, Commercial Law and Company Law | Consumer Protection  
**Summary**: The European Union is expected to revise the liability regime for online intermediaries in the forthcoming digital services act. This publication describes the current liability regime set out under the 2000 E commerce Directive, highlights the implementation gaps that have been identified, and presents the main proposals for reform that have been discussed so far. Technology has evolved in the last 20 years and new societal challenges, such as the increasing use of platforms to access and distribute products, services and information have arisen. As a result, policymakers will have to address a range of questions, including the extension of the scope of the liability regime and the revision of the liability exemption conditions.

**European Court of Justice limits the territorial scope of the 'right to be forgotten'**

**Publication type**: At a Glance  
**Date**: 25-10-2019  
**Author**: Tambiama André MADIEGA  
**Policy area**: Area of Freedom, Security and Justice | Consumer Protection  
**Keyword**: search engine | personal data | data protection | judgment of the Court (EU)  
**Summary**: Delivering its judgment in Google v Commission nationale de l’informatique et des libertés (CNIL) on 24 September 2019, the Court of Justice of the European Union (CJEU) held that Google does not have to remove search engine results worldwide in order to comply with a ‘right to be forgotten’ request under EU data protection law. The landmark decision limits the territorial scope of the EU right to de-referencing but leaves many open questions.

**EU guidelines on ethics in artificial intelligence: Context and implementation**

**Publication type**: Briefing  
**Date**: 19-09-2019  
**Author**: Tambiama André MADIEGA  
**Policy area**: Area of Freedom, Security and Justice  
**Keyword**: social impact | robotics | artificial intelligence | ethics  
**Summary**: The discussion around artificial intelligence (AI) technologies and their impact on society is increasingly focused on the question of whether AI should be regulated. Following the call from the European Parliament to update and complement the existing Union legal framework with guiding ethical principles, the EU has carved out a ‘human-centric’ approach to AI that is respectful of European values and principles. As part of this approach, the EU published its guidelines on ethics in AI in April 2019, and European Commission President-elect, Ursula von der Leyen, has announced that the Commission will soon put forward further legislative proposals for a coordinated European approach to the human and ethical implications of AI. Against this background, this paper aims to shed some light on the ethical rules that are now recommended, including a human-centric approach to AI, and to provide an adequate legal framework for face recognition technology. Finally, the paper gives an overview of the main ethical frameworks for AI under development in countries such as the United States and China.
A digital revolution is transforming the world as we know it at unprecedented speed. Digital technologies have changed the way businesses operate, how people connect and exchange information, and how they interact with the public and private sectors. European businesses and citizens alike need an adequate policy framework and appropriate skills and infrastructures to capture the enormous value created by the digital economy and make a success of digital transformation. The European Union plays an active role in shaping the digital economy, with cross-policy initiatives that range from boosting investment to reforming EU laws, to non-legislative actions to improve Member States’ coordination and exchange of best practices. The 2014-2019 parliamentary term has seen a number of initiatives in the areas of digitalisation of industry and public services, investment in digital infrastructure and services, research programmes, cybersecurity, e-commerce, copyright and data protection legislation. There is a growing awareness among EU citizens that digital technologies play an important role in their everyday lives. In a 2017 survey, two-thirds of Europeans said that these technologies have a positive impact on society, the economy and their own lives. However, they also bring new challenges. A majority of respondents felt that the EU, Member States’ authorities and companies need to take action to address the impacts of these technologies. The European Union will increase its support for digital transformation in the coming years, as illustrated by the recent proposal for the Digital Europe programme (for 2021-2027) – which would be the first ever funding programme dedicated solely to supporting digital transformation in the EU. Further EU action will doubtless be needed, notably to increase infrastructure investment, boost innovation, foster digital champions and businesses digitalisation, reduce existing digital divides, remove remaining barriers in the digital single market and ensure an adequate legal and regulatory framework in the areas of advanced computing and data, artificial intelligence, and cybersecurity. The European Parliament, as co-legislator, is closely involved in shaping the policy framework that will help citizens and businesses fully exploit the potential of digital technologies. This is an update of an earlier briefing issued in advance of the 2019 European elections.

Copyright in the digital single market

The European Commission presented a legislative package for the modernisation of the EU copyright rules, including a new directive on copyright in the digital single market, on 14 September 2016. Stakeholders and academics were strongly divided on the proposal. In February 2019, after more than two years of protracted negotiations, the co-legislators agreed on a new set of copyright rules, including two controversial provisions: 1) the creation of a new right that will allow press publishers to claim remuneration for the online use of their publications (Article 15), and 2) the imposition of content monitoring measures on online platforms such as YouTube, which seeks to resolve the ‘value gap’ and help rights-holders to better monetise and control the distribution of their content online (Article 17). Furthermore, in addition to the mandatory exception for text and data mining for research purposes proposed by the Commission in its proposal, the co-legislators agreed to enshrine in EU law another mandatory exception for general text and data mining (Article 4) in order to contribute to the development of data analytics and artificial intelligence. The European Parliament (in plenary) and the Council approved the compromise text in March 2019 and in April 2019 respectively. The directive was published on 15 May 2019 in the Official Journal of the European Union, and all Member States must transpose the new rules into their national law by June 2021.

Fairness and transparency for business users of online services

The European Parliament and the Council reached an agreement on the proposed regulation on promoting fairness and transparency for business users of online intermediation services in February 2019. Providers of online intermediation services (e.g. Amazon and eBay) and online search engines (e.g. Google search) will be required to implement a set of measures to ensure transparency and fairness in the contractual relations they have with online businesses (e.g. online retailers, hotels and restaurants businesses, app stores), which use such online platforms to sell and provide their services to customers in the EU. The regulation, which, inter alia, harmonises transparency rules applicable to contractual terms and conditions, ranking of goods and services and access to data, is considered to be the first regulatory attempt in the world to establish a fair, trusted and innovation-driven ecosystem in the online platform economy. Now that Member States’ and Parliament’s negotiators have endorsed the compromise text, the political agreement must be voted in plenary by the European Parliament and formally adopted by the Council to complete the legislative procedure.
Supplementary protection certificate for medicinal products

Publication type At a Glance
Date 10-04-2019
Author Tambiama André MADIEGA
Policy area Intellectual Property Law | Consumer Protection
Keyword regulation (EU) | generic drug | patent | pharmaceutical legislation
Summary On 13 February 2019, Parliament and Council negotiators agreed on amending the EU rules on patent protection for generic and biosimilar medicines. Parliament is due to vote on the compromise text, approved by its Committee on Legal Affairs (JURI), at its second plenary session in April.

Regulating online TV and radio broadcasting

Publication type Briefing
Date 22-03-2019
Author Tambiama André MADIEGA
Policy area Internal Market and Customs Union | Adoption of Legislation by EP and Council
Keyword single market | Internet | audiovisual programme | transmission network | broadcasting | television | EU Member State | information system | digital technology | copyright | proposal (EU)
Summary In December 2018, the co-legislators reached an agreement on a European Commission proposal for facilitating the cross-border provision of online TV and radio content. The co-legislators agreed to extend the ‘country of origin’ principle to a limited set of online services, and to facilitate the licensing of retransmission services over the internet under certain conditions. Furthermore, at the request of the European Parliament, the compromise text contains new rules on ‘direct injection’, a process used increasingly by broadcasters to transmit their programmes to the public. The compromise also includes a change of the instrument from a regulation into a directive in order to leave flexibility to the Member States to implement the new rules on ‘direct injection’. The Member States’ negotiators and the Legal Affairs Committee (JURI) endorsed the political agreement in January 2019. The compromise text must now gain the approval of the European Parliament during the March II plenary session. Second edition. The ‘EU Legislation in Progress’ briefings are updated at key stages throughout the legislative procedure.

Copyright in the digital single market

Publication type At a Glance
Date 20-03-2019
Author Tambiama André MADIEGA
Policy area Intellectual Property Law | Internal Market and Customs Union
Keyword digital single market | censorship | virtual community | digital distribution | copyright | proposal (EU)
Summary On 13 February 2019, after more than two years of protracted negotiations, Parliament and Council negotiators reached a provisional agreement on the proposal for an EU directive on copyright. The compromise, approved by the Legal Affairs Committee and by the Council, is due to be voted by Parliament in plenary during March.

Copyright in the digital single market

Publication type At a Glance
Date 05-09-2018
Author Tambiama André MADIEGA
Policy area Intellectual Property Law | Internal Market and Customs Union
Keyword digital single market | approximation of laws | audiovisual industry | directive (EU) | copyright
Summary A European Commission proposal to adapt EU copyright law to the digital environment has sharply divided stakeholders, academics and MEPs. Parliament is now preparing to debate and vote on the JURI committee’s report on the proposed revised copyright directive, during the September plenary session.

EU electronic communications code and co-investment: Taking stock of the policy discussion

Publication type Briefing
Date 05-02-2018
Author Tambiama André MADIEGA
Policy area Industry
Keyword digital single market | transmission network | consumer protection | regulation of telecommunications | investment project | competition policy | EU office or agency | information technology | universal service | information highway | operation of the Institutions | trans-European network | provision of services

Summary The EU regulatory framework on electronic communications sets common rules on how electronic communications networks and services such as telephony and internet broadband connections are regulated in the European Union (EU). While the revision of this framework has started, a debate arises on how best to foster investment in the EU for deploying the very high capacity networks that are increasingly needed for 5G mobile services, as well as e-services such as e-health, e-administration, cloud computing and connected cars. One of the proposals of the European Commission is to amend the current regulatory framework in order to facilitate co-investment (i.e. when several investors agree to invest together) for building new high-capacity network infrastructure. However, the European Parliament and Council both want to amend the text significantly. This briefing discusses the policy context and the rationale behind the rules on co-investment proposed in the draft EU electronic communications code, and assesses the main areas of convergence and divergence between the initial positions of the co-legislators. Furthermore, some key issues for discussion are highlighted, including what types of co-investment agreements and assets should be exempted from regulation, the degree of competition safeguards needed and the extent of national regulators' oversight of the co-investment projects.

Briefing EN

Geo-blocking and discrimination among customers in the EU

Publication type Briefing
Date 02-02-2018
Author Tambiama André MADIEGA
Policy area Intellectual Property Law | Internal Market and Customs Union | Adoption of Legislation by EP and Council
Keyword electronic commerce | freedom to provide services | digital single market | consumer protection | payment system | free movement of goods | goods and services | discrimination on the basis of nationality | copyright

Summary Geo-blocking practices commonly restrict cross-border sales of tangible goods as well as of electronically supplied services and electronically delivered content services in the EU. In May 2016, the European Commission proposed a new regulation that prohibits online sellers of tangible goods, and of some types of electronically supplied services, from discriminating among customers based on their nationality or place of residence within the European Union. In November 2017, after protracted negotiations, the co-legislators agreed to ban some types of unjustified geo-blocking practices. However, the ban will not apply initially to content and services protected under copyright (for instance, e-books and downloads of music and audiovisual content). At the request of the Parliament, a review clause has been introduced which requires the Commission to re-examine the situation two years after the entry into force of the regulation.

Briefing EN

E-commerce: Ban on unjustified geo-blocking and discrimination practices among customers

Publication type At a Glance
Date 31-01-2018
Author Tambiama André MADIEGA
Policy area Intellectual Property Law | Internal Market and Customs Union | Consumer Protection | Adoption of Legislation by EP and Council
Keyword single market | electronic commerce | residence | freedom to provide services | geo-blocking | consumer protection | equal treatment | establishment | free movement of goods | goods and services | discrimination on the basis of nationality | proposal (EU)

Summary In May 2016, the European Commission proposed a new regulation that prohibits online sellers of physical goods and of some types of electronically supplied services and content from discriminating among customers based on their nationality or place of residence within the European Union. The Parliament is expected to vote on the proposal during the February plenary session.

At a Glance ES, DE, EN, FR, IT, PL

Conclusion of the Marrakesh Treaty

Publication type At a Glance
Date 10-01-2018
Author Tambiama André MADIEGA
Policy area Intellectual Property Law | Adoption of Legislation by EP and Council
Keyword reprography | ratification of an agreement | multilateral agreement | physically disabled | EU Member State | cross-frontier data flow | literary and artistic property | EU competence | facilities for the disabled | copyright | World Intellectual Property Organisation

Summary The Marrakesh Treaty was adopted on 27 June 2013 to facilitate access to published works for people who are blind, visually impaired or otherwise print disabled. The European Parliament is due to vote on giving its consent to the Council for the conclusion of the treaty during its January plenary session.

At a Glance ES, DE, EN, FR, IT, PL
**Commissioner designate – Mariya Gabriel**

**Publication type** At a Glance  
**Date** 28-06-2017  
**Author** Tambiama André MADIEGA  
**Policy area** EU Democracy, Institutional and Parliamentary Law  
**Keyword** rules of procedure | powers of the EP | European Commissioner | public hearing | appointment of members  
**Summary** Mariya Gabriel has been designated Commissioner for the Digital Economy and Society. The Committees on Industry, Research and Energy and on Culture and Education jointly held a hearing with her on 20 June 2017. Parliament is due to vote on her appointment on 4 July.

At a Glance **EN**

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**Implementing the Marrakesh Treaty**

**Publication type** At a Glance  
**Date** 27-06-2017  
**Author** Tambiama André MADIEGA  
**Policy area** Intellectual Property Law  
**Keyword** book trade | physically disabled | right to culture | literary and artistic property | facilities for the disabled | copyright  
**Summary** The aim of the Marrakesh Treaty is to facilitate access to published works for people who are blind, visually impaired or otherwise print disabled. In May 2016, the European Commission proposed a regulation and a directive to implement the treaty in the European Union. In March 2017, the JURI Committee proposed a series of amendments. Agreement was reached in interinstitutional trilogue negotiations in May 2017 and the text agreed is due to be voted on at the July plenary session.

At a Glance **ES, DE, EN, FR, IT, PL**

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**Cross-border portability of online content**

**Publication type** At a Glance  
**Date** 10-05-2017  
**Author** Tambiama André MADIEGA  
**Policy area** Intellectual Property Law | Contract Law, Commercial Law and Company Law | Consumer Protection  
**Keyword** electronic commerce | residence | digital single market | Internet | contract terms | consumer protection | audiovisual industry | free service | cross-border data flow | personal data | data protection | copyright  
**Summary** The European Parliament is to vote in plenary in May on new rules on cross-border portability, which would enable consumers to access their online subscriptions for content services when they travel across the EU and are temporarily outside their Member State of residence.

At a Glance **ES, DE, EN, FR, IT, PL**  
**Multimedia** **EN**

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**Cross-border portability of online content services**

**Publication type** Briefing  
**Date** 25-04-2017  
**Author** Tambiama André MADIEGA  
**Policy area** Culture | Intellectual Property Law | Internal Market and Customs Union | Adoption of Legislation by EP and Council  
**Keyword** single market | electronic commerce | drafting of EU law | cross-border data flow | trade licence | copyright | audiovisual piracy  
**Summary** In February 2017, negotiators from the European Parliament, the Council and Commission reached a compromise on the proposal for a regulation on cross-border portability of online content services. The EP must now formally approve the new rules, enabling consumers to access their online subscriptions for content services when they travel across the EU and are temporarily outside their Member State of residence. The compromise text amends the Commission's proposal in various ways. It clarifies that providers of free-of-charge online content services can also offer portability services to their subscribers. The notion of temporary presence in other Member States has been tightened and refers to a limited period of time. The concept of Member State of residence and its verification mechanism are also more explicitly defined. At the EP's request, some safeguards have been added to ensure data protection and privacy are respected (especially for IP address checks), and a waiver clause has been introduced which allows content providers to avoid verifying the residence of their customers when all the holders of copyright, related rights, or other rights in the content agree.

Briefing **EN**
Cross-border online sales in the EU

Publication type Briefing
Date 15-07-2016
Author Eulalia CLAROS GIMENO | Tambiama André MADIEGA
Policy area Intellectual Property Law | Internal Market and Customs Union
Summary Geo-blocking practices are commonly used to restrict cross-border sales of tangible goods e.g. (e.g. clothes, electronics) as well as of electronically supplied services (e.g. cloud services) and electronically delivered content (e.g. audiovisual services, e-books). In order to give customers better access to goods and services in the Single Market, the European Commission has proposed a regulation to prevent geo-blocking and related practices which introduce discrimination – based on customers' nationality, place of residence or place of establishment – between traders and customers in cross-border commercial transactions (See EPRS Legislation in progress briefing). Against this background, this paper provides some statistical data on: the value of cross-border online trade in the EU, the public's interest in accessing online content cross-border, consumers' behaviour towards online shopping, online retailers' experience and concerns with cross-border transactions, audiovisual and online music services, and development of e-learning activities.

Briefing EN

EYE 2016 – Patents, pirates and fair play

Publication type At a Glance
Date 28-04-2016
Author Tambiama André MADIEGA
Policy area Intellectual Property Law
Keyword electronic commerce | fight against crime | patent | cultural exception | artistic creation | impact of information technology | literary and artistic property | software | open access publishing | diffusion of innovations | copyright | audiovisual piracy
Summary Today the internet is at the heart of the new digital society. It is a communication tool but it can also be used to offer and to access online a vast range of commercial and cultural services or content. Policy-makers are trying to clarify the respective rights and obligations of consumers, creators of content and intermediaries who interact on the internet, and to make sure that innovation and fair competition can flourish. This note has been prepared for the European Youth Event, taking place in Strasbourg in May 2016. Please click here for the full publication in PDF format

At a Glance EN

Protecting businesses' trade secrets

Publication type At a Glance
Date 05-04-2016
Author Tambiama André MADIEGA
Policy area Intellectual Property Law
Keyword single market | judicial proceedings | confidentiality | industrial secret | whistleblowing | freedom of communication | industrial espionage | professional secret
Summary On 15 December 2015, Parliament and Council negotiators reached a provisional agreement on a new EU directive setting common rules for protecting trade secrets and confidential information in the EU. On 28 January 2016, the Legal Affairs Committee (rapporteur Constance Le Grip, EPP, France) endorsed the agreed text, which is now to be voted by Parliament as a whole.

At a Glance ES, DE, EN, FR, IT, PL
Multimedia EN

The EU Trademark reform package

Publication type Briefing
Date 14-12-2015
Author Tambiama André MADIEGA
Policy area Intellectual Property Law
Keyword freedom of expression | transit | administrative formalities | European Union Intellectual Property Office | drafting of EU law | administrative cooperation | EU trade mark | quasi-fiscal charge | trademark law
Summary The Commission, the Council and the European Parliament (EP) have reached a second-reading agreement on the trademark reform package. Following the Legal Affairs Committee reports adopted on 3 December 2015, the EP plenary is set to approve the amended legislation and the renaming of the Office for Harmonization in the Internal Market (OHIM) as ‘European Union Intellectual Property Office’.

In March 2013, the Commission presented a package of proposals for amending the Trademark Regulation and the Trademark Directive as well as for adjusting the fees payable to OHIM. The Commission’s main objective in proposing this reform was to make the EU trademark system more accessible, efficient and less costly for business.

The new legislation specifically aims at simplifying, accelerating and harmonising trademark application procedures; at increasing legal certainty by clarifying some provisions; at ensuring better coordination between the EU trademark agency and national offices for the purpose of promoting convergence of practices and common tools; at putting the legislation into line with the Lisbon Treaty; and at updating the governance rules of the EU trademark agency.

Briefing EN
EEU copyright reform: Revisiting the principle of territoriality

Publication type At a Glance
Date 08-12-2015
Author Tambiama André MADIEGA

Policy area Intellectual Property Law
Keyword freedom of expression | transit | administrative formalities | European Union Intellectual Property Office | drafting of EU law | administrative cooperation | EU trade mark | quasi-fiscal charge | trademark law

Summary The Commission, the Council and the European Parliament (EP) have reached a second-reading agreement on the trademark reform package. The Council accepted a significant number of amendments introduced by the EP. Following the Legal Affairs Committee reports adopted on 3 December 2015, the EP plenary is set to approve the amendment of the Satellite and Cable Directive 1997/36/EC, which will transform the ‘Office for Harmonization in the Internal Market’ as ‘European Union Intellectual Property Office’. Please click here for the full publication in PDF format

At a Glance ES, DE, EN, FR, IT, PL

The EU rules on network neutrality: key provisions, remaining concerns

Publication type Briefing
Date 05-11-2015
Author Tambiama André MADIEGA

Policy area Consumer Protection
Keyword Internet access provider | single market | telemedicine | contract terms | regulation of telecommunications | consumer protection | restriction on competition | web surfer | data transmission

Summary Network neutrality can be described essentially as a non-discrimination principle, requiring that all electronic communication passing through an internet service provider (ISP) network is treated equally. After a lengthy debate, on 27 October 2015, the European Parliament adopted the Telecoms Single Market (TSM) Regulation which includes, inter alia, new rules to safeguard open internet access in the European Union (EU).

The TSM Regulation enshrines a right for end users to access and distribute content of their choice on the internet in EU law and imposes a non-discrimination obligation on ISPs to ensure all internet traffic is treated equally in a way that safeguards the end user’s rights. However, ISPs can still depart from the non-discrimination principle in exceptional cases and to implement reasonable traffic management measures. The possibility for ISPs to offer innovative services, i.e. ‘specialised services’ such as telemedicine services (e.g. health services carried out at a distance), which usually require guaranteed service quality and traffic management has been approved. ISPs and end users also remain free to conclude commercial agreements (e.g. on prices, volume and speed) on the features of the internet access services delivered. However, safeguards have been put in place to ensure that ISPs do not circumvent the non-discrimination principle through the use of specialised services and commercial agreements.

While the compromise text is seen by many commentators as a major step towards ensuring network neutrality in the EU, some remain critical of outstanding loopholes and ambiguities. Concerns have been expressed in particular on how to implement the rules on reasonable traffic management, specialised services and price discrimination practices such as zero rating. Common guidance is needed to avoid diverging approaches throughout the EU.

Briefing EN

EU copyright reform: Revisiting the principle of territoriality

Publication type Briefing
Date 28-09-2015
Author Tambiama André MADIEGA

Policy area Intellectual Property Law
Keyword electronic commerce | economic consequence | interpretation of the law | approximation of laws | impact of information technology | territorial jurisdiction | culture industry | case law (EU) | international convention | film industry | copyright | audiovisual piracy

Summary Copyright protection is territorial since rights are normally acquired and enforced on a country-by-country basis, and exceptions and limitations to copyright protection vary from one Member State to another. However, the new digital environment increasingly characterised by the use of the internet to deliver content across borders has an impact on both users and the creative industries, and represents a challenge to the implementation of coherent copyright legislation throughout the EU. The European Commission has announced it will put forward plans for reform before the end of 2015. Parliament adopted a resolution in July 2015 on the harmonisation of certain aspects of copyright and related rights to steer the debate on the forthcoming reform. A key issue for policy-makers to address is how to mitigate the hindrance to the internal market caused by territorial protection of copyright. Several approaches have been discussed in this respect. One approach is to foster cross-border online access and the portability of content across borders and to prohibit some specific territorial restrictions (for instance, the unjustified practice of geo-blocking). Clarifying copyright rules applicable to online transmissions on the model of the Satellite and Cable Directive has also been proposed. Further harmonising throughout the EU the exceptions and limitations which allow the limited use of copyrighted works for certain purposes without the authorisation of the author or of other rights-holders has also been discussed. Finally, the introduction of a unified legal framework for EU copyright law has been proposed, and requires a comprehensive, evidence-based assessment of the cost and benefits involved.

Briefing EN
Towards reform of the EU Copyright Directive
Publication type At a Glance
Date 29-06-2015
Author Tambiama André MADIEGA
Policy area Intellectual Property Law
Keyword single market | law relating to information | approximation of laws | amendment of a law | technological change | digital technology | EC Directive | copyright | proposal (EU)
Summary The European Parliament has long called for the modernisation of the legal framework on copyright. A Commission proposal to amend EU copyright law is expected by the end of 2015. On 16 June 2015, the Legal Affairs Committee adopted an own-initiative report on the implementation of one of the main pieces of legislation governing copyright in the EU, the 2001 Copyright Directive.
At a Glance ES, DE, EN, FR, IT, PL
Multimedia EN

Digital Single Market and geo-blocking
Publication type At a Glance
Date 13-05-2015
Author Tambiama André MADIEGA
Policy area Intellectual Property Law | Internal Market and Customs Union
Keyword EU competition policy | single market | electronic commerce | consumer protection | case law (EU) | refusal to sell | competition law | intra-EU trade | copyright
Summary On 6 May 2015 the European Commission unveiled its Digital Single Market Strategy with which, inter alia, it intends to remove barriers to e-commerce across Europe. One such barrier is ‘geo-blocking’, that is commercial practices that prevent or restrict customers from accessing or purchasing a product or a service online, thereby adversely affecting cross-border e-commerce in the EU.
At a Glance EN