

**EUROPEAN COMMISSION**

Secretariat-General

Directorate E - Policy Co-ordination II  
**SG.E.2-Knowledge and Infrastructure**

Brussels, 02 October 2015

**Minutes of the third meeting of the Copyright review Inter-Service Steering Group (Brussels, 21 September 2015) and summary of final written comments (post-ISSG meeting)**

Subject: Third meeting of the Inter-Service Steering Group on copyright

*The ISSG held its third meeting on 21 September 2015 to discuss a draft Impact assessment report focussing on the issue of portability in line with a staged approach for the modernisation of the copyright framework. General comments were made about the staged approach, in particular on the need for overall consistency in the actions affecting the territoriality of rights. Substantive comments on the draft IA report focussed mainly on the scope and various elements of the preferred policy option (legislative intervention). Further comments were sent in writing after the meeting. A revised version of the report was subsequently distributed and ISSG members were given the opportunity to signal remaining issues before the submission of the draft report to the Board, a summary of which is presented in annex.*

**1. Political context and timeline**

The Chair opened the meeting by stressing the changed focus of the draft Impact assessment, which reflects recent discussions at political level with respect to the presentation and timeline of the modernisation of copyright rules. DG CNECT provided further introductory remarks indicating that the reform would be carried out in two stages, with a first package of measures adopted by the end of this year and a second one next spring. Issues that were discussed in the previous version of the draft IA, such as cross-border access and exceptions, will be addressed in this second phase, allowing more time for reflection and analysis of impacts. The portability initiative is scheduled for adoption in early December this year therefore and the draft IA needs to be submitted to the Board by early October.

**2. Comments on the draft Impact Assessment**

ECFIN asked for clarification concerning the link and potential risk of overlap between portability and other aspects related to cross-border access to content.

EAC expressed support for this initiative, including as regards the inclusion of sport in its scope, while stressing the need to maintain the DSM's announced objective of preserving a general balance in all measures affecting stakeholders in this area. As regards portability, arguments related to consumer demand should be reinforced. Further comments (on sports-related and cultural diversity aspects) will be sent in writing.

COMP enquired about the current limitations concerning the scope in terms of types of services and types of devices. Consistency with the forthcoming proposals on geo-blocking should be ensured and with the principle that no discrimination should be based on the consumer's country of residence.

GROW expressed support for the objective of this initiative, as part of broader efforts to improve cross-border access to content across the internal market. However the decision to tackle portability separately from other cross-border access raised some concerns, in view of the overall coherence with other internal market initiatives.. They also questioned the 'non-controversial' nature of portability as it also raises a number of sensitive issues.

JUST supported the initiative but also echoed the comments by COMP on its scope, in particular the limitation to online services, and asked for clarification about the requirements related to the quality of the service and whether the legal instrument would include a definition of 'temporary' stay.

JRC stressed the need to ensure full compatibility with the draft Regulation on digital contracts, currently also under preparation. JRC also asked whether service providers would be required to offer portability as a default feature to all their customers or if it would be an optional service and whether they could charge a fee in exchange for portability.

TRADE expressed support for the decision to follow a step-by-step approach given the sensitivity of copyright issues and for the content of this initiative on portability. It should include robust authentication methods in order to prevent circumvention.

CNECT gave the following responses to the comments:

- portability and cross-border access refer to two clearly distinct situations and this draft IA focusses on portability only. Introducing cross-border access would have completely different implications; therefore the two issues should be kept separate and portability should only apply to services to which consumer have legally subscribed in their country of habitual residence.
- scope: all online subscription-based services are covered, whether provided against payment or not. The obligation concerns offers that are already portable at national level since it would be disproportionate to force those fixed providers who do not offer portable services to do so. There are no limitations as to the devices (fixed or portable) in which these services can be accessed.
- quality of service: it would not be proportionate to oblige service providers to guarantee a certain quality of service when consumers are accessing their content abroad.
- legal provisions would leave discretion to service providers as to how portability would be offered to consumers and as to whether the provision of portability may be linked to the payment of a fee.
- temporary stay: intention is not to specify any duration.

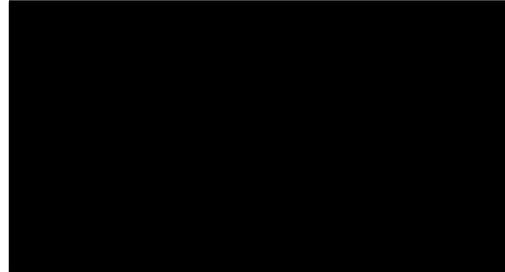
### **3. Next steps**

- Written comments to be sent to DG CNECT by 22.09 cob.
- DG CNECT to subsequently circulate a revised version taking on board received comments by 24.09 cob.

- Remaining issues to be signalled to DG CNECT (copy to SG.E2) by 25.09 cob, for recording in the minutes (a summary of these comments is presented in annex).

---

- The draft IA is expected to be examined by the Regulatory Scrutiny Board on 28/10.



Contact: 