

Annex- Post-ISSG meeting comments by DGs (summary):

On the basis of the comments made at the ISSG meeting of 21 September and sent immediately after in writing, DG CNECT prepared a revised draft report, which was circulated on 25 September to the ISSG for final comments.

The following main comments were made by the various DGs on the final draft (comments related to policy options all refer to option 2- legislative intervention):

Legal Service

- The choice of instrument and legal base should be further justified (in line with the criteria set out in the Roaming judgment), in particular by explaining further that action is required in an area already harmonised by EU law due to a need to adapt to technological developments. The inclusion of sport content in the scope should also be adequately justified.
- A more specific justification of the choice of legal base is also required for the inclusion of the music, e-books and video games sector as well as a more detailed assessment of proportionality and necessity, given that there appears to be no problem in these areas.
- Interference with existing private law contracts should be better justified.

DG COMP

- The scope should not be limited to services that can be accessed via portable devices 'within the Member State of residence' but should also cover services that can be accessed via fixed access-points (e.g., fixed 'in-home set top boxes'), and measures should be technology/platform neutral (i.e. covering also services provided via satellite or terrestrial technologies).
- Portability should not be limited to services to which the consumer has signed-up in the Member State of residence but should instead cover any service to which a consumer has lawful access (on the basis of some type of registration), independently of in which Member State the consumer has signed-up/obtained lawful access.

DG EMPL

- It should be clear that the cross-border portability of online content services in the internal market also includes the accessibility component of those services, in line with the UN Convention on the Rights of Persons with disabilities.

DG GROW

- The concept of residence should be clarified (permanent or secondary) as well as the possibility of simultaneous uses of the service in different locations.

DG JUST

- The draft IA should define the modalities under which service providers will be required to offer portability, i.e. either systematically or as an optional feature, as this directly affects the assessment of impacts for consumers. DG JUST would favour the first possibility (obligation to systematically ensure cross-border portability of services).
- The draft IA should explain in more detail the reasons for not including satellite of cable TV in its scope.

- The approach to quality of service and the liability regime should be clarified, and consistency with the Digital Contracts Proposal in this respect should be ensured (this could be done at ISC stage).

SG

- The draft IA should include more data about the size of the market(s) affected by this initiative.
- As the legislative measures are intended to cover several sectors where no problem is currently identified (music, e-books and video games), the potential costs of legislative measures on these sectors should be carefully assessed.
- The obligations related to the authentication of subscribers should be clarified.
- Expected impacts on consumer prices should be assessed in more detail, taking into account the different variables (portability required as part of all offers or as an option; nature and scale of various costs; competition in the markets, etc.)

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