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Proposal for a

REGULATION

OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on ensuring the cross-border
portability of online content
services in the internal market**

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Article 1

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

Article 3 (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”.

Article 4

“The provision of an online content service to, as well as the access to and the use of this service by, a subscriber, in accordance with Article 3(1), **shall be deemed to occur solely in the Member State of residence**”

Article 4

... including for the purposes of
Directive 96/9/EC, [**Databanken**]
Directive 2001/29/EC, [**Auteursrechtrl.**]
Directive 2006/115/EC, [**VLN-richtijn**]
Directive 2009/24 and [**Software-rl.**]
Directive 2010/13/EU. [**Audiovisuele media
diensten richtlijn.**]

Article 5

“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.”

Article 2

"Subscriber"

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;

"Consumer"

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;

"Member State
of residence"

means the Member State where the
subscriber is habitually residing;

"Temporarily
present"

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

"Online content service"

a service [...] 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, ...

"Online content service"

[continued]

[a service...] 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;

“Portable”

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

Article 3 (2)

Quality requirements

The obligation set out in paragraph 1 shall not extend to any quality requirements applicable to the delivery of an online content service that the provider is subject to when providing this service in the Member State of residence, unless otherwise expressly agreed by the provider.

Article 3 (3)

Quality

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.

Article 5 (2)

Effective verification

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.

Article 6

Protection of personal data

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.

Article 7

Application to existing contracts and rights acquired

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.

Article 8

Final provisions

(1) This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

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