

PUBLIC CONSULTATION

ON THE REVIEW OF THE EU SATELLITE AND CABLE DIRECTIVE

INTRODUCTION: *Context of the Consultation*

There is a well-established framework for the cross-border transmission and reception of broadcasting services across the EU. The Audiovisual Media Services Directive¹ underpins the principle of the freedom to transmit and receive audiovisual media services in the EU. The Satellite and Cable Directive² complements this framework, its objective being to facilitate the clearing of copyright and related rights thereby improving the cross border provision and reception of satellite broadcasting and cable retransmission services in the Internal Market.

During the last decade, rapid technological changes and the development of new business models for content distribution have affected the European broadcasting landscape and led to new consumers' viewing patterns. Consumers increasingly access content, such as sport, movies, and TV series - including broadcasters' programmes - over the internet, and have the choice between broadcasting and on-demand services.

The Commission's Communication on a Digital Single Market Strategy for Europe states that *"the Commission will review the Satellite and Cable Directive to assess the need to enlarge its scope to broadcasters' online transmissions and the need to tackle further measures to ensure enhanced cross-border access to broadcasters' services in Europe."*³

The previous review of the Satellite and Cable Directive (hereafter, the "Directive") dates back to 2002⁴. More recently, two public consultations relevant for, but not focusing specifically on, this Directive were carried out. The Commission's Green Paper of July 2011 on the online distribution of audiovisual works⁵ included questions on the extension of the right clearance regimes laid down in the Directive to the online distribution of audiovisual works⁶. The broad consultation on the review of the EU copyright rules of December 2013⁷ included questions on the territorial scope of the rights involved in digital transmissions and the segmentation of the market through licensing agreements. Some questions specifically

¹ Directive 2010/13/EU of the European Parliament and of the Council 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services.

² Directive 93/83/EEC 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission.

³ COM(2015) 192 final http://ec.europa.eu/priorities/digital-single-market/docs/dsm-communication_en.pdf

⁴ Report from the European Commission on the application of Council Directive 93/83/EEC on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission, COM/2002/0430 final http://ec.europa.eu/internal_market/copyright/satellite-cable/index_en.htm

⁵ COM(2011) 427 final http://ec.europa.eu/internal_market/consultations/docs/2011/audiovisual/green_paper_COM2011_427_en.pdf

⁶ The Satellite and Cable Directive concerns not only audiovisual works but all works protected by copyright and all related subject matter protected by neighbouring rights. It also applies to satellite radio broadcasting.

⁷ Consultation document: http://ec.europa.eu/internal_market/consultations/2013/copyright-rules/docs/consultation-document_en.pdf; Report on the responses to this public consultation: http://ec.europa.eu/internal_market/consultations/2013/copyright-rules/docs/contributions/consultation-report_en.pdf

addressed the problems related to the provision of and access to online services across borders.

This consultation complements these exercises and focuses on the functioning of the Directive and its possible extension to certain online transmissions. The purpose of this questionnaire is twofold. First, to gather input for the evaluation process (see section II of this document) in order to assess the current rules against the evaluation criteria set out in the Better Regulation Guidelines⁸. Second (section III), to seek views on a possible extension of the Directive in the light of market and technological developments, with the objective of contributing to the Digital Single Market Strategy.