

EVALUATION AND FITNESS CHECK (FC) ROADMAP			
TITLE OF THE EVALUATION/FC	Review of the Satellite and Cable Directive 93/83/ECC		
LEAD DG RESPONSIBLE UNIT	CONNECT F5	DATE OF THIS ROADMAP	10/ 2015
TYPE OF EVALUATION	Evaluation	PLANNED START DATE	Q3/2015
		PLANNED COMPLETION DATE	2016
		PLANNING CALENDAR	<a href="http://ec.europa.eu/smart-regulation/evaluation/index_en.htm">http://ec.europa.eu/smart-regulation/evaluation/index_en.htm</a>
<b>This indicative roadmap is provided for information purposes only and is subject to change.</b>			

A. Purpose
<p>The purpose of the evaluation is to assess the functioning of the Satellite and Cable Directive (Directive 93/83/EC, hereinafter "the Directive") in particular to determine whether it has been successful in attaining its main objectives (facilitating the provision and reception of broadcasting services by satellite and cable retransmission in the Internal Market and the clearing of copyright and related rights relevant for such broadcasting) and whether the Directive (or part of it) should be extended to also cover online services. The results of the evaluation will be used in the review of the Directive, announced in the Digital Single Market Strategy for Europe (Commission Communication of 6 May 2015) and will feed in the Commission's work aiming to present copyright proposals in spring 2016.</p>
<p>The review of the Directive forms part of the actions announced in the Digital Single Market Strategy and fits in the broader context of the modernisation of the EU copyright rules.</p>

B. Content and subject of the evaluation
<p>The Directive is part (together with the AVMS Directive) of the EU framework for the cross border transmission and reception of broadcasting services across the EU. It deals specifically with copyright aspects (rights clearance) relevant for broadcasting by satellite and for cable retransmission.</p>
<p>The Directive's original objectives were to facilitate the clearance of the copyright and related rights relevant for satellite broadcasting and for cable retransmission, thus contributing to the removal of obstacles to the cross border provision and reception of broadcasting services in the Internal Market.</p>
<p>The Directive introduced specific mechanisms for the right clearance of satellite broadcasting - the so called "country of origin-principle" (Article 2) - and of the cable retransmission - mandatory collective management (Articles 9 and 10).</p>
<p>As concerns satellite broadcasting, the Directive aimed to put an end to the legal uncertainty regarding the rights to be acquired concerning communication to the public by satellite at the EU-level. It introduced the legal fiction that the copyright relevant act takes place solely in the Member State where, under the control and responsibility of the broadcasting organisation, the programme-carrying signals are introduced into an uninterrupted chain of communication</p>

leading to the satellite and down towards the earth. Thus, rights only need to be cleared for the "country of origin" of the broadcast (and not for the countries where the signals are received).

As concerns cable retransmission, the Directive provides a double track copyright clearing process for the simultaneous, unaltered and unabridged retransmission by a cable or microwave system for reception by the public of an initial transmission from another Member State of TV or radio programmes. On the one hand, broadcasters can license to cable operators rights exercised by them. On the other hand, the Directive establishes that all other rights (of authors and neighbouring rightholders) necessary for the cable retransmission of a specific programme can only be exercised through a collecting society. This was deemed necessary in the case of simultaneous cable retransmission because of the difficulty, otherwise, for cable operators to ensure that they had cleared all rights in the programmes transmitted to them by broadcasters.

Harmonisation measures and a mediation mechanism related to the clearance of rights for the cable retransmission were also established.

### **C. Scope of the evaluation/FC**

The evaluation covers the functioning of the Directive in its entirety, with a specific focus on the above mentioned principle of "country of origin" (satellite broadcasting) and on the mechanism of mandatory collective management applicable to cable retransmission. As regards the time period, the evaluation will cover in particular the period after 2002 (the date of the latest Commission's implementation report) and will focus specifically on the way new technology (online transmissions) have impacted on the relevance and functioning of the Directive in the recent years.

The evaluation will cover the above mentioned topics notably from the point of view of the relevance, effectiveness, efficiency, coherence and EU added value of the mechanisms set out in the Directive (in accordance with the better regulation guidelines). In particular, it will assess whether the EU action is still relevant in this area, whether this action is coherent with other EU actions, whether the Directive provided clear added value as compared to an action taken at the Member States level as well as whether the application of the Directive mechanisms resulted in any specific costs. Particular attention will be paid to assessing whether and to what extent the Directive has facilitated consumer cross border access to broadcasting services in the EU as well as the cross border distribution of such services.

A study aimed at gathering facts and data and combining legal and economic analysis of the Directive's mechanisms and their possible extension to online services will be carried out by an external contractor (preliminary results expected Q1/2016). This study will also help to evaluate how the Directive has facilitated consumer cross border access to broadcasting services in the EU.

### **D. Evidence base**

The Directive does not impose any national monitoring requirement. See below as regards

monitoring carried out at EU level.
The Commission published a <a href="#">report</a> <sup>1</sup> on the implementation of the Satellite and Cable Directive in 2002. The results of the report will be taken into account and used as far as still relevant.
The Commission has received some complaints regarding in particular the mandatory collective management mechanism set out in the Directive for the cable retransmission of broadcasting programmes. This information will be taken into account in the evaluation.
A public consultation was launched on 24 August 2015, it will close on 16 November 2015. Aspects relevant for this review were also touched upon in the public consultation on the review of EU copyright (end 2013/beginning 2014) and in the 2011 Commission green paper on the online distribution of audiovisual works online. The relevant stakeholders include Member States' authorities, broadcasters, authors, audiovisual and record producers, performers, collective management organisations, satellite and cable operators, internet and online service providers, consumers and any other interested parties.
N/A

<b>E. Other relevant information/ remarks</b>
N/A

<sup>1</sup> <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:52002DC0430>