



*Brussels, 12.8.2016
C(2016) 5322 final*

Dear President,

The Commission would like to thank the Senát for its Opinion on the proposal for a Regulation on ensuring the cross-border portability of online content services in the internal market {COM(2015) 627 final}.

This proposal forms part of a broader package of ambitious measures designed to create a Digital Single Market. It aims to remove barriers to cross-border portability so that the needs of users of online content services can be met more effectively while also taking into account the need to promote innovation for the benefit of consumers, service providers and right holders.

The Commission is pleased that the Senát shares the view that action at the EU level as envisaged in the proposal is required to enable citizens to use their lawfully acquired online content services when temporarily present in another Member State. The Commission is also pleased to note that the Senát considers the proposal to be balanced taking into account both consumers' and right holders' interests.

At the same time, the Commission notes the Senát's view that certain aspects of the proposed Regulation should be clarified. The Commission is pleased to have this opportunity to provide clarifications regarding its proposal and trusts that these will allay the Senát's concerns.

The Senát submits that the notion of 'temporarily present' is not sufficiently clearly defined. The Commission would like to point out that this notion is defined in Article 2(d) of the proposed Regulation as meaning the presence of a subscriber in a Member State other than the Member State of residence. This means that as long as a subscriber is habitually residing in one Member State, such a subscriber's presence in another Member State is temporary. It was indeed the intention of the Commission to enable the portability of online content services in all situations where subscribers habitually residing in one Member State are temporarily present in another Member State. Such presence in another Member State may occur from time to time or on a more regular basis, for example when a subscriber travels daily to work in another Member State.

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Turning to the Senát's recommendation that the six-month period before the Regulation enters into effect be extended so that the online service providers can adapt to the new rules, the Commission acknowledged affected stakeholders may need time to adapt to the new situation and therefore proposed a six-month period allowing for arrangements to be put in place. The Commission is of the view that such a time-period is a reasonable one.

The Commission hopes that these clarifications address the issues raised by Senát and looks forward to continuing the political dialogue in the future.

Yours faithfully,

Violeta Bulc

Member of the Commission