

# NEW EU CONTENT PORTABILITY REGIME AGREED WITH CONCERNS STILL REMAINING ABOUT ITS POTENTIAL IMPACT ON TERRITORIAL LICENSING MODELS

09 February 2017 | London  
Legal Briefings

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Agreement was reached by the European Parliament, the Member States and the European Commission on Tuesday 7 February 2017 in respect of a new regulation to enable cross-border content portability. From 2018, EU citizens will be able to make full use of their paid online content services (across film, sport, television, music, e-books and gaming) wherever they are in the EU.

These rules form part of a wider initiative introduced by the European Commission in 2015 (and are the first in a series of measures relating to modernisation of EU copyright rules) aimed at breaking down the barriers to the so-called Digital Single Market where individuals and businesses can seamlessly access and exercise online activities irrespective of their nationality or place of residence.

The rules will require online content service providers to enable their users to access content wherever they are in the EU based on verification of each user's country of residence (using, for example, payment details or IP addresses). The regime will only apply to paid online content (providers of free services will continue to have discretion as to whether to make their services portable or not). Once the agreed text has been confirmed by the Council of the EU and the European Parliament, and the Regulation has been adopted, service providers will have a 9-month period to prepare for and ensure compliance with the rules before they become directly applicable throughout the EU in early 2018.

Whilst the Regulation is of obvious benefit to consumers, allowing them to enjoy their favourite series, sports events and music whether they are at home or travelling within the EU, the measures have met criticism from a variety of industry stakeholders from producers and broadcasters through to pay TV and OTT providers. Their main concern is that the new rules will have a detrimental effect on traditional territorial licensing models which enable rights-owners to sell rights on a territory-specific basis as opposed to making their content available throughout entire regions.

The likely impact of the new regulation remains to be seen but one could argue that it represents a step forward in the alignment of EU regulation with digital technology developments.

The European Commission press release is available [here](#).

The proposal for a regulation on ensuring the cross-border portability of online content services in the internal market can be accessed [here](#).

## KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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