



EuroISPA  
Rue du Commerce 124  
Brussels 1000

19 December 2017

**Re: Legislative proposal for an EU Regulation laying down rules on the exercise of copyright for online transmissions of broadcasting organisations**

Dear Member of the EU Council Intellectual Property Working Party,

We write to you concerning the ongoing EU-level discussions around the legislative proposal for an EU Regulation laying down rules on the exercise of copyright for online transmissions of broadcasting organisations ('the Satellite & Cable regulation').

EuroISPA is the voice of the Internet industry, representing over 2,500 Internet Service Providers across Europe and along the Internet value chain. We welcome the ambition of the original Satellite & Cable legislative proposal to create a more unified market for content in the EU, but are dismayed at the trialogue position that has been adopted by the European Parliament.

With regard to the upcoming trialogue negotiations, we would strongly urge the EU Council to press for a **wide and technologically neutral scope for the country of origin principle, and to resist the European Parliament proposal to include problematic 'direct injection' principles.**

Firstly, the diminished scope of the country of origin principle for clearing rights for ancillary online services and retransmission services in the Parliament's report is a source of concern for EuroISPA's members.

Such a limited application of the country of origin principle could lead to a hampered development of the European digital content market as well as the Digital Single Market, and would therefore have a direct, negative, effect on EuroISPA members. **We would thus encourage the Council to take a strong position on further widening the scope of the country of origin principle for the Satellite and Cable Regulation, which would be beneficial to both European Internet service providers and consumers alike.**

Secondly, provisions inserted by the European Parliament concerning direct injection would mean undoing progress achieved in European broadcasting legislation, effectively reverting to outdated, inadequate regulations.

The inclusion of direct injection provisions in the Parliament's text extending to "distributors" and "retransmission service operators" would lead to very complex legislation, leaving ISPs and cable operators open for requirements of double copyright payments, de facto limiting the existing country of origin principle. Copyrights for cable distribution are agreed directly on the market, giving the flexibility needed to cover the various market structures in the EU. The additions of the JURI text would bring into the scope the element of collective licencing, imposing an extra administrative cost. Such



provisions would engender a fundamental change in ISPs' role in the broadcasting environment, with burdensome effects for operators which fall under their scope.

Moreover, the direct injection provisions are in contradiction with recent jurisprudence of the Court of Justice of the European Union. This serves to underscore the inconsistency and impracticability of the European Parliament's position. **Therefore, we strongly urge the EU Council to push back against direct injection provisions during interinstitutional discussions.**

A negotiating stance in trilogues which addresses the abovementioned concerns will help support a strong European audio-visual content industry with a future-looking regulatory system, providing European Internet Service Providers with greater clarity when offering cross-border access to European content to consumers.

We would welcome the opportunity to exchange views further to ensure the strong development of the European digital content market with a coherent copyright process for all actors involved.

Thank you in advance for your consideration,

Sincerely,

Innocenzo Genna  
Chairperson, Innovation & Growth committee  
EuroISPA



**EuroISPA - The pan-European association of European Internet Services Providers Associations** is the world's largest association of Internet Services Providers (ISPs) representing the interests of more than 2500 ISPs across the EU and the EFTA countries. EuroISPA is a major voice of the Internet industry on all information society policy issues, including data protection, e-commerce, intermediary liability, cybersecurity, and online safety.