

HOW TO MAKE PORTABILITY WORK

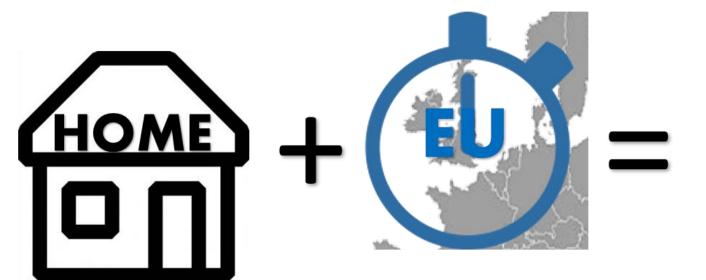


FEBRUARY 2016



What is portability about?





Consumers
legitimately
subscribing to a
service in their
Member State of
habitual residence

When **temporarily present** in another Member State



Subscribers continue to have access to the service as if they were still at home

Our vision – portability should...





Meet consumers' expectations in the digital age



Further encourage and enable innovation and investment in the audiovisual industry





Assure a level playing field between media service providers

Who is concerned? What needs clarification?



Subscribers

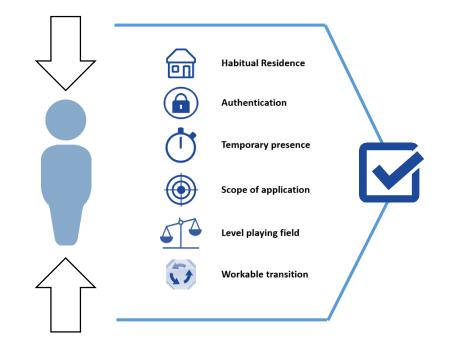
Scope limited to subscribers of online services



Expect MSPs to provide portability

Media Service Providers (MSPs)

Large scope. For commercial broadcasters concerns pay & free players



Need for legal certainty on 6 levels to ensure respect of expectations, rights and obligations of all parties concerned

Rightholders (RHs)

All holders of rights for online portable use



Expect MSPs to effectively verify

How to make it work: Habitual residence





Habitual Residence



Authentication



Temporary presence



Scope of application



Level playing field



Workable transition

Situation

- Cornerstone of Regulation
- Establishes whether a consumer is entitled to gain portable access
- Establishes whether subscriber is temporarily present

Complication

- No definition in Regulation
- No clarity in EU law
- Impossible for service providers to apply

Solution

For the purposes of this Regulation « habitual residence » shall be the place where an individual ordinarily resides and routinely returns to after visiting other places



How to make it work: Authentication





Habitual Residence







Authentication

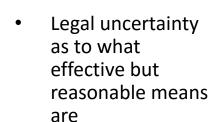






Workable transition

Regulation doesn't impose authentication requirements on service providers, but allows RH to require effective but reasonable means of verification



Complication

- What if service providers don't verify?
- What if RHs don't require effective means of authentication?
- What if different RHs require different means?

- Add a Recital and an Annex to the Regulation with a non-exhaustive list of effective and reasonable means of verification
- Impose verification on service providers





How to make it work: Temporary Presence





Habitual Residence



Authentication



Temporary presence



Scope of application



Level playing field



Workable transition

Situation

Current definition is very open: presence outside of Member State of residence

Complication

- No limitation in time
- Risk of abuse for cross-border access

Solution

"Temporarily present"
means a transitory
presence of a subscriber
in a Member State other
than the Member State
of residence for a short
and limited time period



How to make it work: Scope of Application





Habitual Residence



Authentication



Temporary presence



Scope of application



Level playing field



Workable transition

Situation

Applies to subscription services where these are provided:

- In exchange of payment
- For free on basis subscriber residence is verified

Complication

- "Verified" can be interpreted in different ways by subscriber and right holder
- Service provider is caught by legal uncertainty

Solution

« Verified » means the effective authentication of the subscriber's Member State of residence to a reasonable level of certainty in relation to each user



How to make it work: Level playing field





Habitual Residence





Authentication

 No sanctions for service providers who don't apply effective verification measures Risk of crossborder access

Complication

 Lack of level playing field between those service providers who comply and those who don't

Scope of application

Temporary presence



Level playing field



Workable transition

Solution

RH are best placed for ensuring that the service providers apply effective means of verification



How to make it work: Workable transition





Habitual Residence

Authentication

Situation

Regulation currently foresees 6 months



- Service providers and right holders may need to renegotiate
- Platform
 architecture and
 software solutions
 to be adapted

Solution

Extend transition period



Temporary presence



Scope of application



Level playing field



Workable transition



Recap & Contacts









Authentication



Temporary presence



Scope of application



Level playing field



Workable transition



6 Levels of clarity

Questions & Comments Emilie Anthonis EU Affairs Advisor +32 (0) 2 736 00 52 ea@acte.be







CENTRAL TO THE LIVES OF EUROPE'S CITIZENS





Our TV channels reach over 200 million European households in 28 EU member states and beyond





200 million households reached







Our online TV services are available in 150 million European homes connected to the internet and are central to Europe's broadband story



