

AMC 5

Proposal for a regulation Article 2

Text proposed by the Commission

Application of the principle of ‘country of origin’ to ancillary online services

(1) The acts of communication to the public and of making available occurring when providing an ancillary online service by or under the control and responsibility of a broadcasting organisation as well as the acts of reproduction which are necessary for the provision of, the access to or the use of the ancillary online service shall, for the purposes of exercising copyright and related rights relevant for these acts, be deemed to occur solely in the Member State in which the broadcasting organisation has its principal establishment.

(2) When fixing the amount of the payment to be made for the rights subject to the country of origin principle as set out in paragraph 1, the parties shall take into account all aspects of the *ancillary* online service such as the features of the *ancillary* online service, the audience, and *the* language *version*.

Amendment

Application of the principle of ‘country of origin’ to ancillary online services

(1) The acts of communication to the public and of making available occurring when providing an ancillary online service by or under the control and responsibility of a broadcasting organisation as well as the acts of reproduction which are necessary for the provision of, the access to or the use of the ancillary online service shall, for the purposes of exercising copyright and related rights relevant for these acts, be deemed to occur solely in the Member State in which the broadcasting organisation has its principal establishment.

(1 a) Paragraph 1 shall not apply to

(a) audiovisual sporting events

(b) purchased cinematographic works and purchased audiovisual series and fictions,

(c) cinematographic and audiovisual co-productions,

(d) audiovisual commissioned works which are not predominantly financed by the broadcaster.

(2) When fixing the amount of the payment to be made for the rights subject to the country of origin principle as set out in paragraph 1, the parties shall take into account all aspects of the online service such as the features of the online service, the *size of the* audience, *the duration of online availability* and *all available* language *versions*.

(2 a) Paragraph 2 shall not limit the parties' freedom to agree on any specific methods or criteria for calculating the

amount of payment to be made for the rights subject to the country of origin principle such as those based on the broadcasting organisation's revenues generated by the online service.