

## **Article 1**

### **Objective and scope**

This Regulation introduces a common approach to ensuring that subscribers to online content services in the Union, when temporarily present in a Member State, can access and use these services.

## **Article 2**

### **Definitions**

For the purpose of this Regulation, the following definitions shall apply:

(a) "Subscriber" means any consumer who, on the basis of a contract for the provision of an online content service with a provider, may access and use such service in the Member State of residence;

(b) "Consumer" means any natural person who, in contracts covered by this Regulation, is acting for purposes which are outside his or her trade, business, craft or profession;

(c) "Member State of residence" means the Member State where the subscriber is habitually residing;

(d) "Temporarily present" means a presence of a subscriber in a Member State other than the Member State of residence;

(e) "Online content service" means a service as defined by Articles 56 and 57 of the Treaty on the Functioning of the European Union that a service provider is lawfully providing online in the Member State of residence on a portable basis and which is an audiovisual media service within the meaning of Directive 2010/13/EU or a service the main feature of which is the provision of access to and use of works, other protected subject matter or transmissions of broadcasting organisations, whether in a linear or an on demand manner, which is provided to a subscriber on agreed terms either:

- (1) against payment of money; or
- (2) without payment of money provided that the subscriber's Member State of residence is verified by the provider;

(f) "Portable" means that subscribers can effectively access and use the online content service in the Member State of residence without being limited to a specific location.

## **Article 3**

### **Obligation to enable cross-border portability of online content services**

(1) The provider of an online content service shall enable a subscriber who is temporarily present in a Member State to access and use the online content service.

(2) The obligation set out in paragraph 1 shall not extend to any quality requirements applicable to the delivery of an online content service that the provider is subject to when providing this service in the Member State of residence, unless otherwise expressly agreed by the provider.

(3) The provider of an online content service shall inform the subscriber of the quality of delivery of the online content service when this service is accessed and used in a Member State other than the Member State of residence.

#### **Article 4**

##### **Localisation of the provision, the access to and the use of online content services**

The provision of an online content service to, as well as the access to and the use of this service by, a subscriber, in accordance with Article 3(1), shall be deemed to occur solely in the Member State of residence including for the purposes of Directive 96/9/EC, Directive 2001/29/EC, Directive 2006/115/EC, Directive 2009/24 and Directive 2010/13/EU.

#### **Article 5**

##### **Contractual provisions**

(1) Any contractual provisions including those between holders of copyright and related rights, those holding any other rights relevant for the use of content in online content services and service providers, as well as between service providers and subscribers which are contrary to Articles 3(1) and 4 shall be unenforceable.

(2) Notwithstanding paragraph 1, holders of copyright and related rights or those holding any other rights in the content of online content services may require that the service provider make use of means in order to verify that the online content service is provided in conformity with Article 3(1), provided that the required means are reasonable and do not go beyond what is necessary in order to achieve their purpose.

#### **Article 6**

##### **Protection of personal data**

The processing of personal data carried out within the framework of this Regulation including, in particular, for purposes of verification under Article 5(2), shall be carried out in compliance with Directives 95/46/EC and 2002/58/EC.

#### **Article 7**

##### **Application to existing contracts and rights acquired**

This Regulation shall apply also to contracts concluded and rights acquired before the date of its application if they are relevant for the provision, the access to and the use of an online content service in accordance with Article 3 after that date.

#### **Article 8**

##### **Final provisions**

(1) This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

(2) It shall apply from [date: 6 months following the day of its publication].

This Regulation shall be binding in its entirety and directly applicable in all Member States.