

EDiMA comments on content portability

EDiMA, the European association representing European and global online platforms operating in the EU supports the creation of an EU Digital Single Market and welcomes the European Commission's aim to create a policy environment that facilitates limited cross-border portability of digital content.

Whilst we support the Commission's goals to improve the availability of content for European citizens, we would like to stress that any proposals to this effect should have a positive effect on the development of existing business models and new services.

With this in mind, we believe that any proposal to facilitate cross border portability should take the following into account;

- First and foremost we understand the current proposal is focused on ensuring that a consumer has access to their online services when travelling to another Member State. We understand this is different from the notion of "interoperability".
- In order to establish the consumer's country of residence, authentication is often a prerequisite for service being portable. It is however important to differentiate between services provided against payment and other services, such as ad-supported services or the online services of public service broadcasters. These services are often not technologically equipped to enforce or verify an authentication obligation. We therefore believe any obligations in this space should primarily apply to service providers who can already reliably meet these requirements;
- The proposal should not mandate specific, stricter or new methods of establishing residence. This should be left to the market. Today there are various different methods and technologies that are specific to a particular product and often based on negotiations with rights holders;
- The scope of the proposal should be carefully considered. Digital content is not homogeneous, it spans from non- and copyright protected works, audiovisual and music apps, images software, etc. All of which vary in nature and follow distinct business models. We fear a broad proposal can have unintended consequences on the broader digital economy;
- EDiMA supports a time limited country-of-residence approach in principle, however we urge the Commission to avoid creating rigid standards in respect to time-limitations. This should ultimately be decided by the market and reflect consumer demand;
- The proposal should protect the services that are covered by the portability rules against claims for infringement on intellectual property rights. We urge the Commission to insert a provision to the effect that a grant of rights for a particular Member State is deemed also to apply to residents of that country when they are travelling or residing temporarily in another EU Member State.

EDiMA would like to stress our support for the Commissions efforts in improving accessibility to services and content online. We believe that any approach should facilitate market led developments, not prescribe specific practices and take duly into account the diversity of business models, distribution channels and content which make up the very fabric of today's rich online environment.