

Position Paper

The Revision of the Sat-Cab Directive

Europe's cultural and linguistic diversity and the digital tools of the modern internal market give creators new ways to find their audience. We are strong supporters of a Digital Single Market where content can be legally accessed regardless of geographical borders. However, limitations to consumer choice by national borders are a problem, especially for speakers of less widely used languages (RMLs). Speakers of these languages number around 55 million people, 10% of the EU's population.

The fragmented market poses challenges for digital growth in the EU. European leaders have called for a fresh start for growth and jobs, supported by investments surpassing €300 billion with a priority "to go Digital". If citizens are denied access to online services and goods in their preferred language it will lead to a lack of demand. It means that consumers and businesses, in otherwise connected regions, will be excluded from the digital single market on linguistic grounds.

Take the Åland Islands for example, which is a unilingual Swedish-speaking autonomous region of Finland. The consumers on Åland use Swedish media and the Government of Åland pays licenses in order to ensure access to Swedish TV programmes via simultaneous retransmission over local cable and IPTV, both based on the cable retransmission regime of the Sat-Cab Directive. However, since there is no legislative certainty under the current EU copyright rules with respect to Swedish broadcasters own online services, the population in Åland does not have full access to Swedish online catch-up services. This denial of access to the full Swedish market is a clear economic and cultural loss for everyone, and as those catch-up services include the same programmes received in Åland via the above-mentioned re-transmission scheme, this discrepancy is impossible to justify for the Åland citizens.

Furthermore, recent research¹ indicates that digital support for most of Europe's languages is weak to non-existent at best. Unless the language dimension is adequately provided for in the digital single market proposals, not only will the current trends worsen the situation for Europe's endangered and minoritised languages, but also undermine most of Europe's official languages as well. We strongly support effective protection for creative and intellectual work, but today's system is disproportionately discriminating the linguistic and cultural minorities in Europe.

The different treatment of linear and non-linear services is highly disproportional. A broadcaster offering services for online platforms or other new forms of cross-border services cannot benefit from the same legal certainty as for the satellite delivery of its programs. The Sat-Cab Directive has proven effective in providing cross-border solutions without having negative effects for the rights holders. We see a clear need for streamlining the rights clearance process in order to secure adequate access of content for all linguistics groups in Europe. Consequently, the principles of the Sat-Cab Directive, e.g.

¹ <http://cordis.europa.eu/fp7/ict/language-technologies/docs/mctanei-white-paper-press-release-english-international.pdf>

regarding licensing and mandatory collective administration of rights, should be extended, by the most appropriate legislative measure, so as to also cover online services.

Legal uncertainties hinder consumers in their access to digital content licensed in other Member States, even if the content is provided in their mother tongue. Given the Murphy Case judgements of the European Court of Justice regarding the Premier League and satellite broadcasting of football matches, absolute territorial protection granted to licensees would rarely be found to be compatible with the Internal Market objective. Still, the slight legal uncertainty makes businesses hesitant and leads to them deciding not to offer the service outside their national territory. This is not acceptable in the internal market, and such discrimination should not be treated any differently in the digital domain.

A recent example was discussed at the European Parliament Intergroup for Traditional Minorities, National Communities, and Languages² where Rundfunk Anstalt Sud Tirol (RAS) gave the example of FIFA which ensures that broadcasting rights go to States only. It means that German media such as ARD and ZDF cannot broadcast terrestrially in German-speaking South Tyrol (which is situated in Italy where terrestrial TV is the norm), despite the 2007 TV without Frontiers Directive. RAS have proposed that broadcasting rights be based on linguistic groups rather than on States.

Therefore, we the undersigned, as representatives of RML non-governmental organizations, regional broadcasters and autonomous governments, take a joint position in order to ensure the digital future of our languages. We call for the Commission to guarantee the future of our languages and their comprehensive usage and promotion within the digital single market. To achieve this, an extension and modernisation of the Sat-Cab Directive to also include online services is of outmost importance.

Government/organization	Signature	Position
Autonomous Province of Bolzano-Bozen South Tyrol		President
European Language Equality Network (ELEN)		Secretary-General
Government of Åland		Minister of Infrastructure
Ålands Radio och TV Ab		CEO
The following member states express their support of the aspirations expressed in this Position Paper: Hungary		Coreper I Ambassador

² Gal/ Hicks Intergroup book (p44-45) <http://static.gal.fidesz-cu.hu/media/2/2/5/5/2255.pdf>