

Brexit and Satellite Broadcasting

Under the European Satellite & Cable Directive ('SatCab Directive'), satellite broadcasts only trigger liability under copyright law in the Member State where the signal is introduced into an uninterrupted chain of communication that leads to the satellite and down to the viewer. It does not trigger liability in Member States where that signal is received. This is known as the 'country of origin' principle.

Satellite & Cable Directive - Article 1(2)(b): 'The act of communication to the public by satellite occurs solely in the Member State where, under the control and responsibility of the broadcasting organization, the programme-carrying signals are introduced into an uninterrupted chain of communication leading to the satellite and down towards the earth.'

Where a satellite signal originates from outside the EEA into the EEA, Article 1(2)(d) of the SatCab Directive states that if the country from which it originates has inadequate copyright law protection, then communication to the public by satellite occurs in a Member State where the uplink station or the broadcaster is located.

The Directive does not specifically address the situation where signals come from outside the EEA into the EEA but where there are adequate copyright protections in the country where the signal originates. However, the SatCab Directive is clear that the copyright act occurs only at the point the signal is introduced and that it would be deemed to occur in a Member State only if the clearly defined exceptions apply (those relating to the insufficient protection of copyright). It is therefore logical to conclude that, where the exceptions do not apply (and the third state does have adequate copyright protection), no restricted act takes place in the EEA. To suggest otherwise, and in particular that a restricted act takes place in each Member State of reception, would run counter to the very objective of the SatCab Directive as set out in its Recitals (which is to remove the barriers and legal uncertainty that impede cross-border satellite broadcasting within the EEA). In this context, it would not make sense for a communication to the public by satellite originating in a third country to be deemed to take place in a single Member State if the third country does not have adequate copyright protection (in accordance with Article 1(2)(d)) but in *all* Member States if the third country does have adequate protection.

This is reflected in the implementation of the SatCab Directive into national legislation. For example, section 6(4) of the Copyright, Design and Patents Act 1988 ('CDPA'), which implements the SatCab Directive into UK law, states:

For the purposes of this Part, the place from which a wireless broadcast is made is the place where, under the control and responsibility of the person making the broadcast, the programme-carrying signals are introduced into an uninterrupted chain of communication (including, in the case of a satellite transmission, the chain leading to the satellite and down towards the earth).

Importantly, the exceptions to this rule, set out in s. 6A of the CDPA, relate only to countries not in the EEA which do not provide the relevant protections to copyright. Similar provisions can be found in Irish law, specifically s. 6 of the Copyright and Related Rights Act, 2000. Therefore, these national laws provide that where satellite signals originate from a country with the relevant protections the restricted acts are deemed to occur only in the originating country (where the signal is introduced in an uninterrupted chain of communication).



While the law can provide where restricted acts take place, the flow of rights (where rights can be granted between CMOs) also has a significant bearing on the licensing of satellite services. The principle of a single licensing point for satellite broadcast services within the reciprocal agreements between musical works CMOs is well established. While the specific language used differs between individual agreements, the common principles are that rights are granted to license satellite services where the signal is introduced in an uninterrupted chain of communication leading to the satellite and down towards the earth. It is under this principle that *PRS for Music* can license satellite broadcasters for all the rights which we represent when the signal is introduced and uninterrupted in the territories in which we operate, including the UK, once the UK has left the EU.

For the reasons set out above, *PRS for Music* will continue to license satellite broadcasts whereby the playout, the point at which the signal is introduced in an uninterrupted chain of communication, is located in the UK after Brexit.