Economic and Social Committee: Opinion on the legal Protection of Services Based on, or Consisting of, Conditional Access

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In September 1997 IRIS reported on a Communication from the European Commission on a proposal for a European Parliament and Council Directive on the legal protection of services based on, or consisting of, conditional access (see IRIS 1997-8: 8). This covers television broadcasting services, sound radio broadcasting and information society services where these are provided on the basis of conditional access. The aim is to prohibit the manufacture, import, sale or possession for commercial purposes of an illegal device and its installation, maintenance or replacement for commercial purposes, and the use of commercial communications to promote such devices. The Economic and Social Committee delivered an opinion on the subject. It considers firstly that a Directive is not the most appropriate legal instrument to use, as it does not provide a prompt, effective remedy for the present national disparities and the distorted competition situation they produce. It would prefer a stricter legal instrument, namely a Regulation which is a directly binding legal instrument. More specifically, the Committee regrets that the scope of the Directive does not include the provision of professional services, such as tele-medecine, and that the ban on the use of commercial communications only concerns illicit devices and not the "related services" which include the installation, maintenance and replacement of these devices. Lastly, it would like to see the capacity to instigate legal proceedings not limited merely to anyone supplying services whose interests are affected by an illicit activity, but extended to anyone directly involved, enabling them to apply to the courts for compensation, termination of the activity, and protective measures.

Opinion of the Economic and Social Committee on the "Proposal for a European Parliament and Council Directive on the legal protection of services based on, or consisting of, conditional access". OJEC of 27 April 1998, No.C 129: 16-18

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