European Commission: Notice on Brexit and EU rules in the field of audiovisual media services

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Ellen Coogan
Institute for Information Law (IViR), University of Amsterdam

On 19 and 21 March 2018, the European Commission published two Notices to stakeholders setting out the effect of the withdrawal of the UK from the EU under Article 50 of the Treaty on the European Union. The first Notice concerned the withdrawal of the UK and EU rules in the field of audiovisual media services, while the second Notice concerned the withdrawal of the UK and EU legislation in the field of geo-blocking. The Notices explained the implications for private parties − in particular providers of audiovisual media services.

The Notice concerning audiovisual media services firstly states that following the withdrawal of the UK from the EU, all EU primary and secondary law will cease to apply to the United Kingdom from midnight on 30 March 2019 (unless a ratified withdrawal agreement establishes another date). The UK will then become a third country, and the EU rules in the field of audiovisual media services will no longer apply to the UK. The Notice sets out the consequences of the UK withdrawal.

Firstly, in relation to country of origin and jurisdiction, the Notice states that the Audiovisual Media Services Directive (2010/13/EU) (AVMSD) relies on the so-called "Country-of-Origin" principle," which means media service providers are generally only subject to the law and jurisdiction of their EU member state of origin. In this regard, the Notice states that as of the withdrawal date, audiovisual media services providers currently under the jurisdiction of United Kingdom authorities (for example because they are established in the United Kingdom, within the meaning of the Directive) may fall under the jurisdiction of one of the EU-27 member states if the criteria laid down in Article 2 of the AVMSD are fulfilled. Moreover, EU-27 member states will be free to take whatever measures they will deem appropriate with regard to audiovisual media services coming from the United Kingdom as a third country and not satisfying the conditions laid down in Article 2 of the AVMSD, provided that they comply with Union law and the international obligations of the Union and, where applicable, within the limits of the European Convention on Transfrontier Television (ECTT) (see IRIS 1998-9/4 and IRIS 2015-1/2).

Secondly, the Notice also sets out the consequences for the country-of-origin principle and freedom of transmission/reception. From the date of withdrawal, audiovisual media services from the UK received or retransmitted in the EU "will

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no longer benefit from the freedom of reception and retransmission laid down in Article 3 of the AVMSD. Therefore, EU-27 member states will be entitled, on the basis of their own national law and, where applicable, within the limits of the ECTT, to restrict the reception and retransmission of audiovisual media services originating from the United Kingdom.

Finally, the second Notice concerns Regulation (EU) 2018/302 on addressing unjustified geo-blocking (see IRIS 2018-4/3), and states that the Regulation applies to all traders operating within the EU, regardless of whether those traders are established in the EU or in a third country. Thus, UK businesses who "offer their goods or services to customers in the EU will continue to be bound by the rules established by the Regulation (EU) 2018/302 in respect of those activities."

European Commission, Notice to Stakeholders: Withdrawal of the United Kingdom and EU Rules in the field of Audiovisual Media Services, 19 March 2018

http://ec.europa.eu/newsroom/dae/document.cfm?doc_id=50490

European Commission, Notice to Stakeholders: Withdrawal of the United Kingdom and EU Legislation in the field of Geo-Blocking, 21 March 2018

http://ec.europa.eu/newsroom/dae/document.cfm?doc_id=50505

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