

Council Directive 93/83/EEC of 27 September 1993 on the coordination
of certain rules concerning copyright and rights related to copyright
applicable to satellite broadcasting and cable retransmission

CHAPTER II

BROADCASTING OF PROGRAMMES BY SATELLITE

Article 2

Broadcasting right

Member States shall provide an exclusive right for the author to authorize the communication to the public by satellite of copyright works, subject to the provisions set out in this chapter.

Article 3

Acquisition of broadcasting rights

1 Member States shall ensure that the authorization referred to in Article 2 may be acquired only by agreement.

2 A Member State may provide that a collective agreement between a collecting society and a broadcasting organization concerning a given category of works may be extended to rightholders of the same category who are not represented by the collecting society, provided that:

- the communication to the public by satellite simulcasts a terrestrial broadcast by the same broadcaster,
- and
- the unrepresented rightholder shall, at any time, have the possibility of excluding the extension of the collective agreement to his works and of exercising his rights either individually or collectively.

3 Paragraph 2 shall not apply to cinematographic works, including works created by a process analogous to cinematography.

4 Where the law of a Member State provides for the extension of a collective agreement in accordance with the provisions of paragraph 2, that Member States shall inform the Commission which broadcasting organizations are entitled to avail themselves of that law. The Commission shall publish this information in the *Official Journal of the European Communities* (C series).

Article 4

Rights of performers, phonogram producers and broadcasting organizations

1 For the purposes of communication to the public by satellite, the rights of performers, phonogram producers and broadcasting organizations shall be protected in accordance with the provisions of Articles 6, 7, 8 and 10 of Directive 92/100/EEC.

2 For the purposes of paragraph 1, 'broadcasting by wireless means' in Directive 92/100/EEC shall be understood as including communication to the public by satellite.

3 With regard to the exercise of the rights referred to in paragraph 1, Articles 2 (7) and 12 of Directive 92/100/EEC shall apply.

Article 5

Relation between copyright and related rights

Protection of copyright-related rights under this Directive shall leave intact and shall in no way affect the protection of copyright.

Article 6

Minimum protection

1 Member States may provide for more far-reaching protection for holders of rights related to copyright than that required by Article 8 of Directive 92/100/EEC.

2 In applying paragraph 1 Member States shall observe the definitions contained in Article 1 (1) and (2).

Article 7

Transitional provisions

1 With regard to the application in time of the rights referred to in Article 4 (1) of this Directive, Article 13 (1), (2), (6) and (7) of Directive 92/100/EEC shall apply. Article 13 (4) and (5) of Directive 92/100/EEC shall apply *mutatis mutandis*.

2 Agreements concerning the exploitation of works and other protected subject matter which are in force on the date mentioned in Article 14 (1) shall be subject to the provisions of Articles 1 (2), 2 and 3 as from 1 January 2000 if they expire after that date.

3 When an international co-production agreement concluded before the date mentioned in Article 14 (1) between a co-producer from a Member State and one or more co-producers from other Member States or third countries expressly provides for a system of division of exploitation rights between the co-producers by geographical areas for all means of communication to the public, without distinguishing the arrangement applicable to communication to the public by satellite from the provisions applicable to the other means of communication, and where communication to the public by satellite of the co-production would prejudice the exclusivity, in particular the language exclusivity, of one of the co-producers or

his assignees in a given territory, the authorization by one of the co-producers or his assignees for a communication to the public by satellite shall require the prior consent of the holder of that exclusivity, whether co-producer or assignee.