

Screening meeting
Acquis communautaire
Brussels, 6-7 February 2006

Chapter 7 : intellectual property
**Council Directive 93/83/EEC on satellite
broadcasting and cable retransmission**

PRINCIPLES APPLICABLE TO SATELLITE BROADCASTING

Communication to the public by satellite takes place in a single Member State where the program carrying signals are introduced :

- under the control and responsibility of the broadcasting organisation,
- into an uninterrupted chain of communication leading to the satellite and down towards the earth,
- and are intended for reception by the public

Acquisition on a contractual basis of exclusive broadcasting rights :

- in accordance with the legislation on copyright and related rights of the Member State where the communication to the public occurs (principle of the country of origin),
- on an individual basis or via a collecting society,
- which takes into account of all aspects of the broadcast such as the actual audience, the potential audience and the language version

Principles applicable to retransmission of programmes via cable

The programmes at stake are :

- initially transmitted from another Member State, by wire or over the air and
- unaltered when they are simulstaneously retransmitted via cable

Acquisition of the retransmission cable rights :

- copyright owners and holders of related rights can only exercise their rights through a collecting society,
- on the basis of a contractual agreement,
- where a rightholder has not transferred the management of his rights to a collecting society, the collecting society representing rightholders of the same category shall be deemed to be mandated to manage his rights.
- when the rightholder is a broadcaster, he can negotiate directly with the cable operators

Additional measures in order to protect the negotiations :

- prevention of the abuse of negotiating positions : negotiations must be carried out in good faith and cannot be prevented without valid justification,
- when no agreement, possibility to call upon the assistance of mediators.