

# Geo-blocking and intellectual property

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# The present regime

- History of copyright – national self-interest prevails!
- A series of ‘vertical’ directives:
  - Computer programs (91/250 consolidated in Directive 2009/24)
  - software/databases etc
  - Satellite and cable directives ...
  - Rental and lending rights
- A ‘horizontal’ directive: the Information Society Directive 2001/29
- However, ECJ case law is far more cohesive than one might imagine from the legislation:
  - C-5/08 Infopaq; Murphy etc; C-168/09 Flos; C-160/15 GS Media

# The Digital Single Market package

- 14 September 2016 draft directive COM (2016) 593 final
  - Text and data mining exceptions, teaching activities, cultural heritage etc.
  - On demand services
  - Publishers neighbouring right
  - Platforms hosting user uploaded content...
  
- Staff working document and impact assessment SWD (2016) 301 final

# The Portability Regulation

- Draft COM (2015) 627 final
- 7 Feb 2017 provisional agreement with European Parliament.
- Now to be confirmed by Council and parliament.
- Analysis of Council final compromise text at 2015/0284 (COD):
  - 16/05/2017 Indicative plenary sitting date, 1st reading/single reading

# Stepping back a bit...

- Territorial protection – is the case law up to it?
  - The difficulty given the limited harmonisation of copyright
  - Murphy and Coditel
  - By object approach to competition issues gives little flexibility
  
- Licensing practices – be careful what you wish for...
  
- The territorial elephant in the single market room.

Thank you

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