

## Unexpected win for English football enthusiasts around the EU and heavy defeat for rights holders' wallets

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As part of a continuous attempt to move away from geoblocking and towards a Digital Single Market (“**DSM**”), the European Commission, the European Parliament and the European Council agreed, last 13 December 2018, to facilitate access to sports radio content within the [new EU broadcasting rules](#), a move which the Premier League has criticised. This comes much to the sports industry's surprise as EU lawmakers and national governments had explicitly excluded sports coverage from these rules in discussions just over twelve months ago.

Until now, sports coverage had always been excluded from the EU's aim to create seamless movement of internet content due to the specificities of the demand for it in each market in the EU, the high value of its rights, and the enhanced need to protect them. Under the EU's new proposed broadcasting rules, broadcasters have the right to clear sports coverage for pan-European radio broadcasts under licensing as sports content falls within the scope of radio programmes which can air across the EU as long as they comply with national copyright rules in their home country. This means, for example, that a French broadcaster would be able to get a licence for Premier League matches, whereas under the current rules, which allow geoblocking, a listener in France cannot legally listen to football games broadcasted on BBC Radio 5 Live. Sports content is therefore included in the EU's move towards a DSM.

The DSM strategy is Europe's solution to the developing nature of technology and connectivity in terms of consumers' expectations of the ability to stay connected and continue to access content abroad. The aim of the DSM strategy is to prohibit “unjustified geoblocking” between Member States and remove discrimination based on consumers' nationality or place of residence. Traditionally, EU lawmakers and national governments had generally excluded sports coverage from the new broadcasting rules because sports broadcasts do not have copyright protection. However, sports radio broadcasts have now been included within such rules and therefore set a “bad” precedent, according to the Premier League.

Following the EU's surprising move, the Premier League's Head of International Football relations and EU affairs, Mathieu Moreuil, said “*we're very concerned that sports content is included in the scope of radio programs. Such a last-minute change without any justification and an open and transparent discussion is very disappointing*”.

The new rules will have an impact on organisations such as the Premier League. The Premier League generates [considerable revenue](#) from the sale of rights on a market-by-market basis. By allowing the licensing of radio broadcasts for sports, this would undermine control over territorial rights and the value attached to those rights.

The battle between promoting a single market and protecting individual IP rights continues, and the EU's most recent stance has gone against sports rights holders such as the Premier League. Will the EU legislators hear the sports industry's complaints? They have changed their minds once, time will tell whether they will do so again...



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