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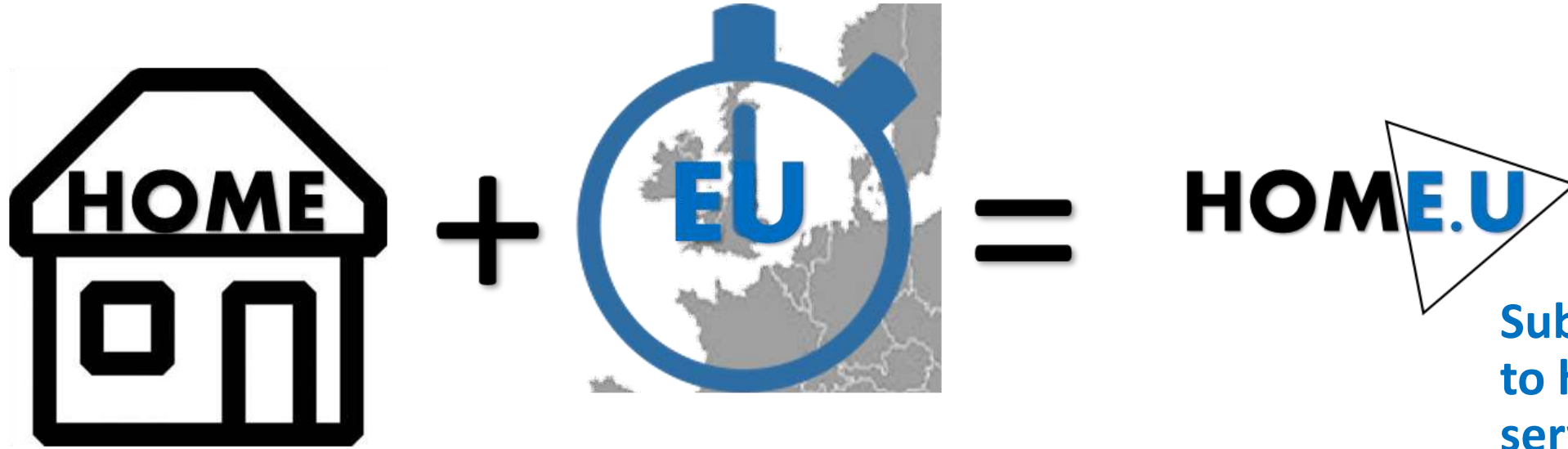
Association of Commercial
Television in Europe



HOW TO MAKE PORTABILITY WORK

FEBRUARY 2016

What is portability about?



Consumers legitimately subscribing to a service in their Member State of **habitual residence**

When **temporarily present** in another Member State

Subscribers continue to have access to the service as if they were still at home

Our vision – portability should...



Meet consumers' expectations in the digital age



Further encourage and enable innovation and investment in the audiovisual industry



Assure a level playing field between media service providers

... Meet subscriber expectations and uphold the drivers of Europe's creative economy

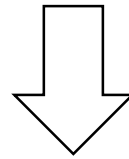
Who is concerned? What needs clarification?

Subscribers

Scope limited to subscribers of online services



Expect MSPs to provide portability



Media Service Providers (MSPs)

Large scope. For commercial broadcasters concerns pay & free players



-  Habitual Residence
-  Authentication
-  Temporary presence
-  Scope of application
-  Level playing field
-  Workable transition



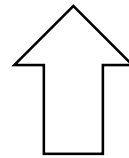
Need for legal certainty on 6 levels to ensure respect of expectations, rights and obligations of all parties concerned

Rightholders (RHs)

All holders of rights for online portable use



Expect MSPs to effectively verify



How to make it work : Habitual residence



Habitual Residence



Authentication



Temporary presence



Scope of application



Level playing field



Workable transition

Situation

- Cornerstone of Regulation
- Establishes whether a consumer is entitled to gain portable access
- Establishes whether subscriber is temporarily present

Complication

- No definition in Regulation
- No clarity in EU law
- Impossible for service providers to apply

Solution

For the purposes of this Regulation « habitual residence » shall be the place where an individual ordinarily resides and routinely returns to after visiting other places

How to make it work : Authentication



Habitual Residence



Authentication



Temporary presence



Scope of application



Level playing field



Workable transition

Situation

- Regulation doesn't impose authentication requirements on service providers, but allows RH to require effective but reasonable means of verification

Complication

- Legal uncertainty as to what effective but reasonable means are
- What if service providers don't verify?
- What if RHs don't require effective means of authentication?
- What if different RHs require different means?

Solution

- Add a Recital and an Annex to the Regulation with a non-exhaustive list of effective and reasonable means of verification
- Impose verification on service providers

How to make it work : Temporary Presence



Habitual Residence



Authentication



Temporary presence



Scope of application



Level playing field



Workable transition

Situation

- Current definition is very open: presence outside of Member State of residence

Complication

- No limitation in time
- Risk of abuse for cross-border access

Solution

*“Temporarily present” means a **transitory** presence of a subscriber in a Member State other than the Member State of residence for a short and limited time period*

How to make it work : Scope of Application



Habitual Residence



Authentication



Temporary presence



Scope of application



Level playing field



Workable transition

Situation

Applies to subscription services where these are provided:

- In exchange of payment
- For free on basis subscriber residence is verified

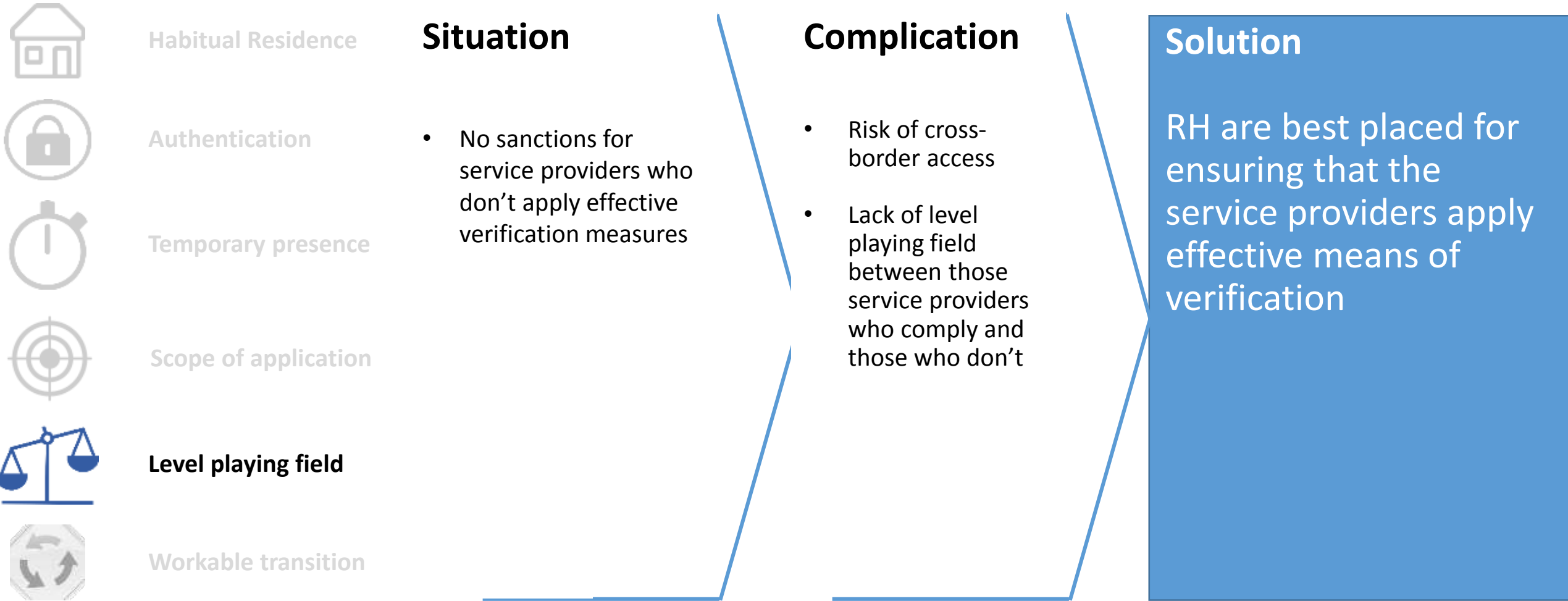
Complication

- “Verified” can be interpreted in different ways by subscriber and right holder
- Service provider is caught by legal uncertainty

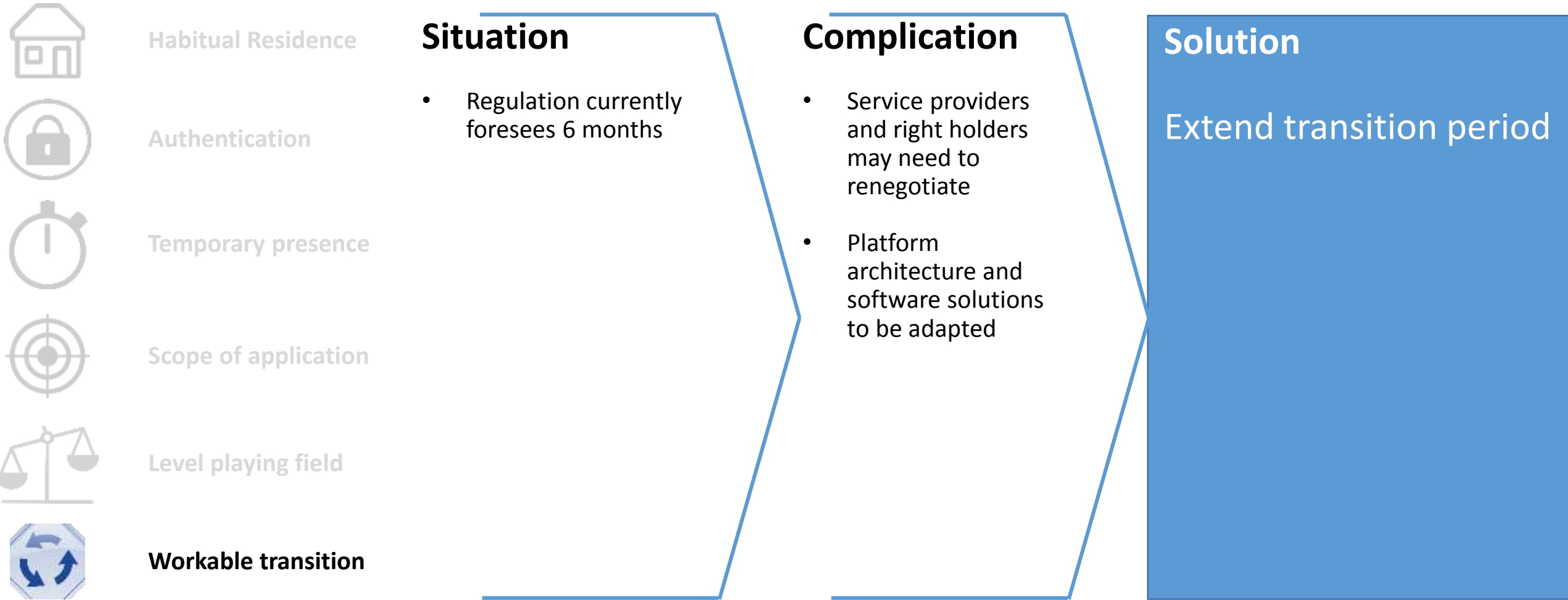
Solution

« Verified » means the effective authentication of the subscriber’s Member State of residence to a reasonable level of certainty in relation to each user

How to make it work : Level playing field



How to make it work : Workable transition



Recap & Contacts



6 Levels of clarity

Questions & Comments
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CENTRAL TO THE LIVES OF EUROPE'S CITIZENS

- Our TV channels reach over 200 million European households in 28 EU member states and beyond

200 million households reached

- Our online TV services are available in over 150 million European homes connected to the internet and are central to Europe's broadband story

150 million EU homes connected

- Our member companies deliver content to a range of devices and platforms in response to consumer demand

