

President Jean-Claude Juncker
Project Team Commissioners ‘A Connected Digital Single Market’

European Commission
Rue de la Loi / Wetstraat 200
1049 Brussels
Belgium

Brussels, 11 July 2016
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Dear President Juncker,

Dear Vice-President Ansip, Dear Commissioner Oettinger, Dear Commissioners,

We, the undersigned 101 organisations and individuals, represent film and television producers, publishers on physical media and online, film and television directors, sports event organisers, distributors, broadcasters, screenwriters, cinemas, film agencies, platforms, media and entertainment trade unions throughout Europe and across the world. Our sector is worth €97bn a year, employs more than one million people across the EU and has been growing at 2% a year, faster than the European economy as a whole. We have come together to respectfully invite you, as President of the European Commission and the Commissioners associated with the Digital Single Market project, to reconsider proposals and initiatives that would erode the territoriality of audiovisual rights and the ability to license on an exclusive territorial basis, ultimately to the detriment of European citizens and audiences.

In the Digital Single Market Strategy published in May 2015, the European Commission committed itself to create growth and jobs and to ensure cross-border access “while respecting the value of rights in the audiovisual sector”.

New in-depth independent reports¹ clearly show that erosion of territorial rights licensing would actually undermine the value of audiovisual rights as well as the diversity of offers – damaging growth, employment and investment, harming consumers and threatening one of Europe’s biggest economic and cultural success stories.

Our industry is embracing the opportunities provided by new technology and improved connectivity in the digital age to meet consumer demand for choice, quality and diversity. There are a growing number of online audiovisual services available in Europe delivering high quality content to millions of viewers in a manner that caters for culturally and linguistically distinct local audiences. Put simply, consumers have more access to more content, in more ways and on more devices than ever before and this growth will continue.

Producing, distributing and marketing film and television content, and sports content, requires substantial up-front investments and involves significant financial risk. For every success, there are many projects that struggle to break even or even make it to a screen at all, despite significant investment.

This is why film and television content, and sports content, are naturally licensed and distributed on an exclusive country by country basis, including in the EU. It enables productions to be sustainably financed, with investors able to evaluate risk and tailor projects to specific national audiences in the first instance.

It also encourages the creation of markets abroad by encouraging individualised promotion and distribution plans to appeal to culturally distinct audiences across Europe. Unfortunately, the announced proposals which would erode the ability to license rights on a territorially exclusive basis, as outlined by the European Commission in its

¹ [“The impact of cross-border access to audiovisual content on EU consumers”](#) and [“A study on the potential impact of the Digital Single Market on the sports audiovisual ecosystem in Europe”](#)

communication of 9 December 2015, would undermine this successful and fragile eco-system and threaten cultural diversity and sustainable jobs for talent, crew and all other workers in our industries.

The most problematic proposal currently under consideration flows from the possible application to online services of the principles enshrined in the Satellite and Cable Directive especially its Country of origin principle. Such extension would force the application of a legal regime established for satellite broadcasting and cable retransmission to an entirely different environment, thereby attempting to force cross border access and retransmission in ways that will inevitably erode cultural diversity to the detriment of established practices and real consumer taste and demand. As a consequence of this policy, right holders will be forced into pan-European licensing models. This approach both undermines the functioning of the market for production and distribution of audiovisual films, TV and sports content in the EU and harms consumers - as the studies referenced above confirm. It would furthermore impact Europe's cultural and linguistic diversity which is a strategic asset underpinning the EU's identity and citizens' trust in the EU.

Getting this wrong would have irreversible consequences. We all want to develop a stronger digital economy for film and television. However, we believe that **legislative action and other initiatives must rest on the most solid policy and economic analysis – a pre-requisite under the European Commission better regulation requirements, which is currently lacking.** Particularly for a culturally essential sector such as the audiovisual industry, the absence of a persuasive record must deter legislative action so clearly adverse to industry functioning.

In conclusion, we respectfully call on the European Commission to preserve the integrity of territorial exclusivity in the audiovisual sector and maintain the indispensable market incentives for the film, TV, and sports industries to finance, produce and distribute audiovisual content in Europe for the benefit of all audiences.

We thank you for your consideration.

Yours sincerely,

Film and television producers, publishers on physical media and online, sports event organisers, distributors, broadcasters, screenwriters, cinemas, film agencies, platforms, media and entertainment trade unions throughout Europe and across the world (*full list below*)

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Attachments:

The impact of cross-border access to audiovisual content on EU consumers.

A study on the potential impact of the Digital Single Market on the sports audiovisual ecosystem in Europe.

CC:

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