

Letter from the Audiovisual Sector Coalition on Mrs. Kammerevert's draft opinion
on the proposed Regulation extending the application of the Country of Origin principle



Brussels, 23 February 2017

Dear Member of the European Parliament Committee on Culture and Education,

We, the undersigned organisations working across the audiovisual sector in Europe, represent film and TV directors, screenwriters, performers and other creators, producers, distributors and publishers of film and television content, cinema operators, commercial broadcasters, and sports rights owners. We would like to recall our opposition to the European Commission's proposed *Regulation Applying the Country of Origin Principle to Licensing of Certain Broadcasters' Rights Online* and to state our urgent concerns regarding the draft opinion on that topic authored by Ms. Petra Kammerevert (2016/0284(COD)).

Together with 101 organisations and individuals across the audiovisual sector in Europe, we have already [urged the European Commission](#) to reconsider this legislative initiative which will erode the territoriality of audiovisual rights and the ability to license on an exclusive territorial basis, ultimately to the detriment of future film and television financing and of the diversity of content and services offered to European citizens and audiences¹.

¹ [The impact of cross-border access to audiovisual content on EU consumers](#), Oxera and O&O, May 2016.

By proposing to extend the “Country of Origin” principle to certain online TV-services such as catch-up and simulcast, the proposed Regulation effectively removes the territorial nature of copyright and licensing on which the film and television industry in Europe relies to finance and distribute films and TV programmes and to satisfy consumer demand. Extending legacy legislation developed for a specific technology more than two decades ago (satellite distribution in the early 1990s) is simply not fit for purpose for the flexible, fast and technology-driven online environment.

It is argued that the proposed Regulation will “only” affect limited forms of licensing referred to as ‘ancillary’ such as catch-up TV. This is a misconception: from a commercial standpoint, there is nothing ‘ancillary’ about catch-up services which are now many European viewers’ preferred access to TV programming, including in many instances film and drama. As a consequence, the financial value of primary television licenses is substantially linked to licensing of catch-up services and the two sets of rights are negotiated in a single transaction. There is nothing “ancillary” about simulcast either. For sports which are consumed live, simulcast represents a growing part of the content’s value.

We therefore again urge you to **reject and delete the extension of the country of origin principle** (Art. 1a, definition, **Article 2** and Article 5, transitional provision) to ensure that the audiovisual sector can continue to grow and provide employment for European audiovisual creators and skilled professionals.

Our industries’ alarm is further exacerbated by the draft opinion of Mrs. Kammerevert in the Committee on Culture and Education which proposes to extend the scope of the Country of Origin principle to all broadcasters’ online services. **We consider that the proposed Regulation and the radical revisions in addition proposed by Mrs. Kammerevert would actually remove both the principles of commercial freedom and the territoriality of rights, with irreversible consequences for our sector’s capacity to create, finance, market and distribute films and audiovisual works in the EU.**

In the first instance, given the number of outstanding concerns as outlined in the briefing document enclosed, in particular regarding the impact of the results of DG COMP’s investigation in the Pay-TV case, **we urge you to strongly oppose Mrs. Kammerevert’s draft opinion and delay its adoption until there is clarity on how the outcome of the Pay-TV case will impact the proposed Regulation and licensing freedom** (as currently addressed in Recital 11) **in particular.** Without further clarity on that issue, Members of the European Parliament would be giving full discretion to the European Commission as to what will be the practical and legal effects of the Proposed Regulation.

The issues at stake are vital to all audiovisual stakeholders in all EU Member States and therefore deserve a comprehensive examination of the proposed Regulation, together with an evidence-based analysis of its consequences on the value of audiovisual rights as well as the diversity of content and distribution offers. There is serious potential to damage economic growth, employment and investment, harming consumers and threatening one of Europe’s biggest economic and cultural success stories.

[A study on the potential impact of the Digital Single Market on the sports audiovisual ecosystem in Europe](#), Analysys Mason, June 2016.

We thank you for your kind consideration of the above and the attached document. We would be grateful for an opportunity to discuss these matters in further detail at your earliest convenience.

Sincerely yours,

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