

Brussels, 12 July 2016

Jean-Claude Juncker
European Commission
200 rue de la Loi
1049 Brussels
Belgium

Dear President Juncker,

As executives of leading commercial broadcasters in Europe, we welcome the Commission's recognition, in its Digital Single Market strategy, of the importance of investment in original content as a driver of Europe's leadership in digital content services and cultural diversity. With this in mind, we are concerned that some policies under the Commission's consideration could potentially undermine the economy of the audiovisual sector, to the detriment of cultural diversity, industry growth and European consumers.

We understand that the Commission is likely to propose the extension of the principles of satellite broadcasting and/or cable retransmission to the internet, and are concerned about how this may adversely impact our business models, particularly primary and secondary revenue streams. Indeed, our business models rely on contractual freedom and territorial licensing as irreplaceable instruments for reinvestment in content and to tailor our offer to very diverse cultural and socioeconomic realities.

At stake is the ability of the European audiovisual industry to compete effectively with global content service providers, and, above all, the range and choice of audiovisual content and services available to European viewers.

We know from the studies the Commission has itself commissioned that the proposals under current consideration could dramatically undermine the way audiovisual content is licensed and funded in Europe. This is likely to have a detrimental impact on the current virtuous circle of content exploitation and high levels of reinvestment in Europe, in turn weakening employment levels in the European audiovisual sector ; two areas we know are at the heart of your agenda. To this effect, we attach a short outline with data that are quite telling.

Commercial broadcasters have been supportive of the Commission's plans to enable cross-border portability of audiovisual content. But we would caution against any further intervention which would put the economics of our sector at risk. As broadcasters, our strategy is to invest in high quality content and to develop innovative services in order to attract as many viewers as possible and offer them the best possible viewing experience, but this can only work if we ensure the creative cycle lives on.

Europe is a major global player in audiovisual content, in part because of the numerous languages and cultures across Europe. Challenging the territorial financing of audiovisual content that has helped to deliver that success will have a chilling effect on content investment innovation and industry employment. This would be an unfortunate own goal for Europe, when it has the content creation and exploitation model to be in the lead economically whilst at the same time delivering for EU citizens and consumers.

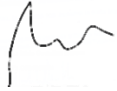
On this basis, we would welcome the opportunity to meet with you and members of your team, ahead of any proposals to reform the Satellite and Cable directive. Our trade association(s), ACT and VPRT, will be following up with your staff. We thank you for your consideration of the concerns expressed and look forward to discussing these with you in fuller detail.

Yours sincerely,

Signatories overleaf



ANTENNA GROUP
Peter Jeremy Smith
Group Managing Director



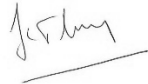
ATRESMEDIA CORPORACIÓN DE MEDIOS DE COMUNICACIÓN
Silvio González Moreno
CEO, GRUPO ATRESMEDIA



BONNIER BROADCASTING
Casten Almqvist
Head of Business Area, Broadcasting



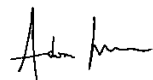
DISCOVERY NETWORKS CEEMEA
Katarzyna Kieli
President & Managing Director



GROUPE CANAL+
Jean Christophe Thierry
Président du directoire de Groupe Canal+



FOX NETWORKS GROUP
Jan Koeppen
President, FNG Europe & Africa



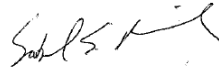
ITV
Adam Crozier
Chief Executive, ITV plc



MEDIASET
Gina Nieri
Member of the Board



MEDIASET ESPAÑA
Paolo Vasile
CEO



NBCUNIVERSAL INTERNATIONAL
Satpal Brainch
MD, EMEA, Universal Networks International



RTL Group
Anke Schäferkordt | Guillaume de Posch
Co-CEO, RTL GROUP SA



SANOMA Entertainment
Susan Duinhoven
CEO



SKY DEUTSCHLAND (on behalf of Sky Group)
Carsten Schmidt
CEO



TVI TELEVISAO INDEPENDENTE S.A.
Rosa Culléll
CEO, Grupo Media Capital



VIACOM INTERNATIONAL MEDIA NETWORKS
Raffaele Anecchino
President | Managing Director | Southern & Western Europe | Middle East | Africa

The above signatories are members of one or both of the below associations.

Association of Commercial Television in Europe

ACT represents leading commercial broadcasters in 37 European countries. The ACT member companies finance, produce, promote and distribute content and services benefiting millions of Europeans across all platforms.

At ACT we believe that the healthy and sustainable commercial broadcasting sector has an important role to play in the European economy, society and culture. We engage with the EU institutions to achieve a balanced and appropriate regulatory framework which will encourage further investment and growth in our sector. This will allow the commercial audiovisual industry to continue to do what we do best – getting great content to viewers.

For ACT



Grégoire Polad | Director General

For more information please consult www.acte.be
Contact | Emilie Anthonis | ea@acte.be

Verband Privater Rundfunk und Telemedien e. V.

VPRT represents commercial broadcasting and audio and audiovisual companies in Germany. With their TV, radio, online and mobile offerings, its approximately 150 members enhance Germany's media landscape in terms of diversity, creativity and innovation.

To ensure a viable business environment for the broadcasting and audio(visual) media sector in the digital world, the regulatory, technological and economic parameters must be right. As a trade association, we support our companies in their dialogue with politicians and market partners in order to achieve this goal – at both a national and EU level.

For VPRT



Dr. Tobias Schmid | Chairman of the Board

For more information please consult www.vprt.de
Contact | Julia Maier-Hauff | maierhauff@vpert.de

Copy of letter sent to offices of:

Andrus Ansip, Vice-President, Digital Single Market

Jyrki Katainen, Vice-President, Jobs, Growth, Investment and Competitiveness

Frans Timmermans, Vice-President, Better Regulation, Interinstitutional Relations, the Rule of Law and the Charter of Fundamental Rights

Elżbieta Bieńkowska, Commissioner for Internal Market, Industry, Entrepreneurship and SMEs

Tibor Navracsics, Commissioner for Education, Culture, Youth and Sport

Günther Oettinger, Commissioner for Digital Economy & Society

Marianne Thyssen, Commissioner for Employment, Social Affairs, Skills & Labour Mobility

Carlos Moedas, Commissioner for Research, Science and Innovation

Pierre Moscovici, Commissioner for Economic & Financial Affairs, Taxation & Customs

Margrethe Vestager, Commissioner for Competition

Věra Jourová, Commissioner for Justice, Consumers & Gender Equality

Copy to Permanent representations of Member States to the European Union

ANNEX TO LETTER

SATCAB DIRECTIVE REVIEW - No evidence to support extension of CoO

Context. The Commission is currently reviewing the 1993 Satellite and Cable Directive¹ (“the Directive”) and is seriously considering the extension of the Country of Origin principle (“CoO”) to online services with the overall aim (in conjunction with other measures) of prohibiting restrictions to “passive sales”. None of the legal and economic evidence, including [EC’s own studies](#) and results from the public consultation² (“the Consultation”), suggests that such an extension would be in the interests of EU consumers or Europe’s creative industries.

EC public consultation – The results of the Consultation show that consumer representatives are the only ones in favour of extending CoO with the aim of prohibiting restrictions to “passive sales”. Not all consumer representatives agree however. One of the largest consumer organisations “Which?” has opted out of the [BEUC position](#) because they are aware of the unintended consequences of weakening of territorial exclusivity in this way. All of the other consulted stakeholders (Member States, right holders, CMOs, broadcasters and online services other than broadcasters) are more cautious and have indicated that such an extension would jeopardise the investment in audiovisual works while highlighting the importance of territorial licensing and contractual freedom.

EC commissioned legal studies – The first *De Wolf Study*³ raised serious concerns on the potential impact of the extension of CoO on matters relating to copyright (such as authorship, initial ownership of copyright, transfer of rights and infringement matters) and enforcement. At the request of the Commission, a further study was conducted by *De Wolf* confirming serious legal obstacles to the extension of CoO. The study concludes that the extension of CoO might cause adverse economic effects⁴.

EC commissioned economic study – The CRA Study⁵ equally confirms that policy changes to limit stakeholders’ ability to exploit online content on a territory-by-territory basis could negatively affect social welfare and that it might decrease, rather than increase, consumer choice.

Industry studies – The Oxera Study⁶ of May 2016 (and many other studies on the subject⁷) also confirms that greater cross-border access to AV content and services is likely to adversely affect European consumers and the AV industry in the short term (up to €9.3bn welfare loss per annum) and the medium to long term (up to €4.5bn welfare loss per annum). Less European content would be produced and consumers would have less access to content, and/or higher prices which would also reduce cultural diversity across Europe. The Analysys Mason Study⁸ of May 2016 reaches the same conclusions: in all cross-border scenarios for the DSM (other than portability) consumers and industry will be worse off than in the current situation.

Conclusion – We are not aware of the existence of any independent evidence in support of extending CoO/ prohibiting restrictions to “passive sales” online, but we remain concerned that a certain political appetite to end geo-blocking in the AV sector might prevail over the objective economic and legal evidence. We therefore urge EU decision-makers to put the consumer interest in high quality original EU content investment, jobs and growth above politics and to duly take into account the evidence that indicates serious detrimental effects of such action for European consumers, AV industry and cultural diversity.

¹ Council Directive 93/83/EEC of 27 September 1993 on the coordination of certain rules concerning copyright and rights related to copyright applicable to satellite broadcasting and cable retransmission. [Link](#)

² ACT replied to this consultation, the response can be found by clicking [here](#)

³ Study on the Application of Directive 2001/29/EC on Copyright and Related Rights in the Information Society. De Wolf and Partners, October 2013 pp. 176, 179. [Link](#)

⁴ Study on the making available right and its relationship with the reproduction right in cross-border digital transmissions. De Wolf & Partners, December 2014, p. 105. [Link](#)

⁵ Economic Analysis of the Territoriality of the Making Available Right in the EU. Charles River Associates, March 2014, pp. 2, 118. [Link](#)

⁶ The impact of cross-border access to audiovisual content on EU consumers. Oxera and O&O, May 2016. [Link](#)

⁷ The value of territorial licensing to the EU. Enders Analysis, October 2013 [Link](#); Why territories matter. Olivier Bomsel & Camille Rosay, October 2013 [Link](#)

⁸ A study on the potential impact on the Digital Single Market on the sports audiovisual ecosystem in Europe. Analysys Mason, May 2016 [Link](#)