

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, 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*)

c/o FIAPF International Federation of Film Producers' Associations - Secretariat
Rue Ducale 83, 1000 Brussels Belgium

Contact: Benoît Ginisty, b.ginisty@fiapf.org, +32 (0)2 502 8167 or mobile +33 6 876 87 833

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:

President Donald Tusk

Ambassadors of the Member States to the EU

SIGNATORIES

Oliver Damian, Producer

27 Films Production, Germany

Dries Phlypo, Producer and Jean-Claude van Rijckeghem, Screenwriter

A Private view, Belgium

Helge Albers, Producer

Achtung Panda! Media GmbH, Germany

Alexander Thies, Chairman

Allianz Deutscher Produzenten - Film und Fernsehen, Germany

Manuel Gómez Cardeña, President

Asociación de Empresas de Producción Audiovisual y Productores Independientes de Andalucía (AEPAA - APRIA), Spain

Joxé Portela, President

Asociación de Productoras Audiovisuales Independientes del País Vasco (IBAIA), Spain

José Antonio Domínguez, Presidente

Asociación Española de Productores de Documentales (ADN), Spain

José Antonio Félez, President

Asociación Estatal de Cine (AEC), Spain

Dolores Ben, President

Asociación Gallega de Productoras Independientes (AGAPI), Spain

Maud Van de Velde, Managing Director 20th Century Fox Film Belgium

Anny Schmit, General Manager Distribution Benelux Belga Films

Alexander Vandeputte, Co-CEO Lumière Publishing

Association Belge des Distributeurs de Films (ABDF/VFDB)

Ton Crone, Chairman

Association Netherlands Animation Producers (VNAP)

Grégoire Polad, Director General

Association of Commercial Television in Europe (ACT)

Riccardo Tozzi, President

Associazione Nazionale Industrie Cinematografiche Audiovisive Multimediali (ANICA), Italy

Mercedes Gamero Hoyos, Managing Director

Atresmedia Cine, Spain

Rudi Teichmann, Producer

B&T Film GmbH, Germany

Tobias Siebert, CEO

Basis Berlin Postproduktion GmbH, Germany

Thomas Verkaeren, Twin Pics/Pias Visuals, Member of the Board of BEA Video
Pieter Balk, Sony Pictures Home Entertainment, Member of the Board of BEA Video
BEA Video – Representing the video industry in Belgium and Luxemburg

Robert Price, Chairman
British Association for Screen Entertainment (BASE)

Amanda Nevill, CEO
British Film Institute (BFI)

Joachim Birr, Executive Member of The Board
Bundesverband Audiovisuelle Medien (BVV), Germany

Martin Moszkowicz, CEO
Constantin Film, Germany

Dorota Hawliczek, Managing Director
Creative Poland

Klaus Hansen, Managing Director
Danish Producers' Association (DPA)

Paw Borregaard, President
Danish Video Association (DVA)

Maurits Lemmens and Raf Uten, Co-founders
DeMENSEN, Belgium

Undine Filter, Managing Director
Departures Films GmbH, Germany

Michael Henrichs, Producer
Die Gesellschaft DGS, Germany

Monique Busman, Chairman
Documentary Producers Netherlands (DPN)

Daniel Krausz, President
DOR FILM Produktionsgesellschaft M.B.H., Austria

Arno Ortmaier, CEO
ECLYPSE Filmpartner, Filmproduktion GmbH, Austria

Steffen Kragh, President and CEO
Egmont, Denmark

Fabian Massah, CEO
Endorphine Production, Germany

Yvon Thiec, Délégué Général
Eurocinema

Ursula Meier, President of Honor, Director, France
Jakub Duszynski, Co-President/Distributor, Gutek Film, Poland
Laurent Dutoit, Co-President/Distributor, Agora Films, Switzerland
Christine Eloy, General Manager, Belgium
Europa Distribution

Carole Tongue, President
European Coalitions for Cultural Diversity (CEDC)

Elena Lai, Secretary General
European Coordination of Independent Producers (CEPI)

Samuel Young, Secretary General
European Film Agency Directors (EFADs)

Marco Chimenz, President
European Producers Club (EPC)

Jean-Yves Bloch, Chairman
EuroVoD

Carlos Juárez, President
Euskal Produktoreen Elkarte - Asociación de Productores Vascos (EPE-APV), Spain

Floor Onrust, Owner and Producer
Family Affair Films, The Netherlands

Benoît Ginisty, YBP, Managing Director
Fédération Internationale des Associations de Producteurs de Films (FIAPF)

Pauline Durand-Vialle, CEO
Federation of European Film Directors (FERA)

Jelmer Hofkamp, Secretary General
Federation of Film Distributors Associations (FIAD)

David Kavanagh, Executive Officer
Federation of Screenwriters In Europe (FSE)

Ramón Colom, President
Federation of Spanish Audiovisual Producer Associations (FAPAE)

Werner Müller, Director
Film And Music Austria (FAMA)

Mathias Schwerbrock, CEO
Film Base GmbH, Germany

Andrzej Ludzinski, President of the Board
Film Distributors Association, Poland

Marjan Van Der Haar, Managing Director

Marleen Slot, Chairman

Joost De Vries, Board Member

Ate De Jong, Board Member

Sander Verdonk, Board Member

Film Producers Netherlands (FPN)

Jaap Bruijnen, Managing Director

Filmdistributeurs Nederland (FDN), The Netherlands

Arno Ortmaier, CEO

Film-Line Productions, Filmproduktions GmbH, Germany

Peter Bouckaert, Vice President
Flemish Film and Television Producers Association (VOFTP), Belgium

Jasper Moeyaert, CEO
Geronimo, Belgium

Thomas Negele, CEO
HDF KINO e.V., Germany

Marc Bary, Producer and CEO
Ijswater Films, The Netherlands

Jean Prewitt, CEO
Independent Film and Television Alliance (IFTA)

Dominick Luquer, General Secretary
International Federation of Actors (FIA)

Jan Runge, CEO
International Union of Cinemas (UNIC)

Joachim Birr, President
International Video Federation (IVF)

Lorenzo Ferrari Ardicini, President
Italian Video Federation (UNIVIDEO)

Ingmar Menning, Producer
Johan Nijenhuis & Co, The Netherlands

Hanneke Niens, Producer and Managing Director
KeyFilm BV, The Netherlands

Leontine Petit, CEO and Producer
Lemming Film BV and Hamster Film GmbH, The Netherlands and Germany

Joost De Vries, Producer and former owner of
Lemming Film BV, Netherlands and Hamster Film GmbH, Germany

Annemie Degryse, CEO
Lunanime, Belgium

Jaume Roures, Legal Representative Mediaproducción S.L.U.
MediaPro

Dirk Impens, CEO
Menuet, Belgium

Juan Gordon, Co-founder and Producer
Morena Films, Spain

Stan McCoy, President and Managing Director
Motion Picture Association EMEA (MPA)

Sjef Scholte, Founder and Producer
Mountain Road Entertainment Group BV, The Netherlands

Ate De Jong, Producer and Owner
Mulholland Pictures BV, The Netherlands/UK

Sander Verdonk, Partner and Producer
New Ams Film Company BV, The Netherlands

Allan M. Hansen, CEO
Nordisk Film, Denmark

Alicja Grawon-Jaksik, Managing Director
Polish Audiovisual Producers Chamber of Commerce

Peter Demaegd, Founder and Producer
Potemkino, Belgium

Antonino Lombardo, Producer
Prime Time, Belgium

John Mcvay, Chief Executive
Producers Alliance For Cinema and TV (PACT), United Kingdom

José Manuel Lorenzo, President
Productoras Asociadas de Televisión de España (PATE), Spain

Lluís Miquel Campos, President
Productores Audiovisuales Valencianos (PAV), Spain

Joan Ginard, President
Productors Audiovisuals de Catalunya (PAC), Spain

René Vlaeyen, Managing Director
RV productions, Belgium

Marian Urban, President
Slovak Audiovisual Producers' Association (SAPA)

Digna Sinke, CEO and Producer
SNG Film, The Netherlands

Jose Manuel Tourne, President
Spanish Video Federation (UVE)

Alfred Holighaus, President
Spitzenorganisation der Filmwirtschaft e.V. (SPIO), Germany

Mark Lichtenhein, Chairman
Sports Rights Owners Coalition (SROC)

Anja Van Mensel, CEO
Studio 100, Belgium

Björn Rosengren, President
Swedish Film & TV Producers Association

Gerardo Herrero, Co-founder and General Manager and Mariela Besuievski, Producer
Tornasol Films, Spain

Johannes Studinger, Head
UNI Global Union – Media, Entertainment and Arts (UNI-MEI)

Arno Ortmaier, CEO
Verband der Deutschen Filmproduzenten (VDFP), Germany

Johannes Klingsporn, Managing Director
Verband der Filmverleiher (VdF), Germany

Claus Grewenig, Managing Director
Verband Privater Rundfunk und Telemedien e.V. (VPRT), Germany

Christian Sommer, Board Member
Verband Technischer Betriebe für Film und Fernsehen (VTFF), Germany

Marleen Slot, Producer and Owner
Viking Film BV, The Netherlands

Fleur Knopperts, Producer
Volya Films, The Netherlands

Veit Heiduschka, President
WEGA Film, Austria

Anders Kjærhauge, Managing Director
Zentropa, Denmark

Susanne Mann, CEO
zischlermann filmproduktion GmbH, Germany

Kris Spaepen, Managing Director
Zodiak Belgium, Belgium