



EUROPEAN COMMISSION

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Statement on opening of investigation into Pay TV services

Statement, press room

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I would like to announce today that the Commission has opened an antitrust investigation concerning the cross-border provision of pay TV services.

More precisely, we want to take a closer look at the provisions in the licensing agreements between a number of US audiovisual studios and EU pay TV broadcasters.

As far as broadcasters are concerned, the proceedings involve the largest pay-TV operators active in countries which represent the most important European pay-TV markets: BSkyB in the UK, Sky Italia in Italy, Canal+ in France, Sky Deutschland in Germany and DTS (operating under the Canal Plus brand) in Spain.

The film studios involved are the so-called "major" US studios: Twentieth Century Fox, Warner Bros., Sony, NBCUniversal and Paramount.

More and more EU citizens, who watch films, use pay TV services broadcast by satellite and, increasingly, available through online streaming.

Popular films and other audio-visual content are licensed by US film studios to broadcasters in the EU. Such licensing occurs on a territorial basis. Typically, a license is granted for a film to a single broadcaster in each Member State.

The investigation will allow us to look at the restrictions in agreements between film studios and pay-TV broadcasters that grant "absolute territorial exclusivity" to these broadcasters. Such provisions ensure that the films licensed by the US studios are shown exclusively in the Member State where each broadcaster operates via satellite and the internet. They prevent access by subscribers who are located outside the licensed territory.

I want to be clear on one point: we are not calling into question the possibility to grant licenses on a territorial basis, or trying to oblige studios to sell rights on a pan-European basis.

Rather, our investigation will focus on restrictions that prevent the selling of the content in response to unsolicited requests from viewers located in other Member States - the so-called "passive sales" - or to existing subscribers who move or travel abroad.

To illustrate: if you subscribe to a Pay TV service in Germany and you go to Italy for holidays, you may not be able to view the films offered by that service from your laptop during your holidays. Similarly, if I live in Belgium and want to subscribe to a Spanish Pay TV service, I may not be able to subscribe at all if there is absolute territorial exclusivity.

Such provisions might constitute an infringement of EU antitrust rules, which prohibit anticompetitive agreements. Indeed, the Court of Justice, in a judgment concerning the satellite broadcasting of football matches, has ruled that absolute territorial exclusivity given to a broadcaster may be anticompetitive if it eliminates all competition between broadcasters and leads to a partitioning of the Single Market along national borders.

So in the context of the investigation we are launching today, we will carefully examine if the principles set out by the Court of Justice should also be applied to other types of audiovisual content such as the popular films licensed by the US studios. Of course, the opening of the investigation does not prejudge its outcome.