

Mr Andrus Ansip
Vice-President
European Commission
Rue de la Loi 200

B – 1049 Brussels

Ref.: BEUC-X-2015-089/MGO/cs

24 September 2015

Ref.: Geo-blocking in the audiovisual sector - Rugby World Cup 2015

Dear Vice-President Ansip,

I am writing to you on behalf of BEUC, the European Consumer Organisation, concerning the problem of lack of cross-border access to audiovisual offers due to geo-blocking techniques applied to the online distribution of content.

BEUC strongly supports the efforts of the European Commission to build a real single market of creative content that allows consumers access to fair and competitive legal offers. We very much welcome DG Competition's ongoing investigation into the contractual licenses between Sky UK and six Hollywood film studios restricting the access to consumers from outside the UK who want to purchase Sky services.

As you know, geo-blocking of audiovisual content is a common practice, particularly in the sports sector, and very often a source of consumer frustration. In this regard, I would like to draw your attention to a new case that clearly shows the negative outcome for European consumers of exclusive territorial licensing practices.

The 2015 Rugby World Cup kicked off last Friday. Although rugby fans across the globe are excited about watching their favourite team fighting for the Webb Ellis Cup, not all European consumers have this possibility. Unfortunately, due to territorial restrictions, only a limited number of rugby fans will be able to watch all live matches online.

According to the information provided on the tournament's official [website](#), Rugby World (formerly the International Rugby Board - IRB) has granted rights to broadcast live matches in only 19 EU member states¹ and with different scopes².

As a result, consumers in some European countries have no access whatsoever to authorised sources for streaming or viewing the rugby matches, and consumers in other countries are unable to access the online streaming services available in other member states and are limited to satellite and/or cable broadcasting.

1 The member states in which no broadcasting rights have been granted are Cyprus, Denmark, Estonia, Finland, Greece, Hungary, Malta, Slovenia and Sweden (source: Rugby World Cup 2015 [official website](#), consulted on 21 September 2015).

2 For example, broadcasting is done through Eurosport in Austria, Belgium, Germany and Luxembourg, but viewers are limited to 20 live matches out of a total of 48 matches in the entire tournament.

These inequities are due to exclusive licensing practices, which allow rightholders to apply technical and contractual measures to limit access to content service providers from abroad. For example, if a consumer wants to access ITV online services, she or he is required to provide a valid UK postal code and access it from a UK Internet Protocol (IP) address.

We would also like to draw your attention to the European Court of Justice's ruling in the Premier League case, in which the Court stated that "*clauses of an exclusive license agreement concluded between a holder of intellectual property rights and a broadcaster constitute a restriction on competition prohibited by Article 101 TFEU where they oblige the broadcaster not to supply decoding devices enabling access to that right holder's protected subject-matter with a view of their use outside the territory covered by that license agreement*".

We consider that anti-competitive restrictions through contractual agreements related to the technical blocking of access to broadcasting services as identified in this ruling should analogously be applied to the online distribution of content and the different technical and contractual means used to block consumers attempting to access online content from outside the exclusive territory.

Therefore, we ask the European Commission to assess whether the different territorial licenses across member states for the broadcasting of the Rugby World Cup matches have actually infringed upon Article 101 TFEU.

Whether the issue is the Rugby World Cup or any other sporting event or audiovisual content, it is not acceptable from a consumer and a single market perspective that these practices are used to prevent people from accessing legal offers. Although EU competition law plays a very important role in this debate, it is important to take into consideration that it generally applies ex post and on a case-by-case basis. Therefore, it is also necessary to consider other regulatory solutions to address the problem of the online distribution of content.

BEUC welcomes the fact that the European Commission has put the revision of the Satellite and Cable Directive forward for consultation, and that the extension of its scope to cover online services is being considered. BEUC will submit a response to the consultation, and we would welcome a constructive dialogue with the European Commission about how to ease access to cross-border content whilst ensuring that this serves as an incentive to European productions.

We look forward to continued cooperation in ensuring that all European consumers across the Union have access to fair and competitive audiovisual content offers.

Finally, I have taken the liberty to also address this letter to Commissioner Oettinger, Commissioner Vestager and Commissioner Jourová.

Yours sincerely,

Monique Goyens
Director General