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Green Paper: 'Preparing for a Fully Converged Audiovisual World: Growth, Creation and Value' Consultation Response by the Sports Rights Owners Coalition (SROC) July 2013

The Sports Rights Owners Coalition (SROC) welcomes the opportunity to respond to this public consultation, on a series of issues which are crucial to us. SROC is an informal group of representatives of international, European and national sports bodies, operating as a forum through which sports can share information and experiences. Individually and collectively, we represent a majority of European and international sports and competitions, attracting millions of spectators, with our events available to consumers across a growing variety of broadcast platforms.

The members of SROC share the Commission's objective of providing "the widest possible access" to our content for European citizens and more importantly "the widest choice of high quality offers". We indeed do our best, day-in day-out, to organise the best possible sporting competitions and to create the following virtuous circle: the more exciting and high quality our events are, the more we generate revenues that we can re-invest in our member associations, clubs and teams in order to support our sports from the grassroots up to the elite level.

Our response to this consultation will not cover all of the questions posed by the Commission, as they are not all of relevance to our member organisations. Our response will focus on market considerations and the regulatory framework.

Question 1: What are the factors that enable US companies to establish a successful presence in the fragmented EU market despite language and cultural barriers, while many EU companies struggle? What are the factors hindering EU companies?

The Commission seems to be framing this consultation in a negative sense, suggesting that the market does not work, and that European companies are suffering and consumers are under-served. SROC's members would disagree with the basic premise of this question. In the sport sector, the Europe-based organisations are clearly leaders, at least in Europe. If we would add up viewing figures of the main European football competitions (taking into account only one sport), we would largely outnumber the US sports' figures. Therefore we would strongly challenge the initial Commission analysis and any subsequent implications that regulatory intervention is needed to resolve this so-called "problem".

Considering the broadcasting market, we would also argue that European companies such as Canal+, Orange, BSkyB, Belgacom, RTL to name only a few – continue to innovate and offer our members' content across a wide range of traditional and new media platforms. DailyMotion offers excellent online sporting content (French Football League, French Rugby), L'Equipe and other traditional European print media offer sports content on their own online platforms. To say that these companies have failed to establish a successful presence is inaccurate. Our members' content is available thanks to them across Europe and on different platforms.

Obviously whether our members' content is fully available everywhere in Europe or not depends very much on the consumers' demand. Sport remains territorial by nature and national matches and competitions are watched more fervently by those from hosting or participating countries. This can be seen at a glance from the national lists of designated "events of major importance" which can be safeguarded by Member States for free-to-air television broadcasting. While the lists of course include major world events like the



Olympics, they serve as a clear demonstration that sports events – from the Giro d'Italia in Italy, the “Vier-Schanzen-Tournee” ski jump in Germany, to the All-Ireland Senior Inter-County Hurling Finals in Ireland – are principally of importance in domestic markets; their value and appeal likewise differs across Europe.

Nevertheless, we seek to engage with our fans across multiple technological platforms and to ensure our content is available to those that wish to access it. Our service offer is continuing to expand, much faster than the pace of regulatory change in this area, with an increasing number of European citizens accessing an increasing number of services. We are proud to offer content directly to our fans via our own dedicated platforms when broadcasters are not willing to buy our rights or screen our content. This is for instance the case for the French Volley-Ball League which produces, at its own costs, the images of the games and uses a specific Youtube channel.

We were therefore surprised to read in the Green Paper about the Commission's idea of a “consumer experience of the future”, whereby two students living in London can watch sports events from various EU countries. This is not the future but the present. UK broadcasters and online platforms legally accessible in the UK already offer access to football matches, athletic competitions, motor racing, equestrian sports and many other disciplines from across Europe and around the world. The same is true of other Member States. The offer might not be absolutely complete (all sports competitions might be all available in all Member States) but is rapidly expanding as our organisations react to consumer demand and technological change.

Question 2: What are the factors affecting the availability of premium content? Are there currently practices relating to premium content at wholesale level which affect market access and sustainable business operations? If so, what is the impact on consumers? Is there a need for regulatory intervention beyond the application of competition rules?

Question 3: Are there obstacles which require regulatory action on access to platforms?

The most important factor affecting the availability of content is the consumers' demand. When there is a market, SROC members and their broadcasting partners will serve it.

In this Green Paper, the Commission refers to concerns around “barriers to entry for new players”. However, in the sports sector we see evidence of the changing landscape. In fact, the Green Paper also highlights “BT's participation in the Premier League's tenders for the television rights to its football matches over the three seasons commencing in 2013/2014”. BT is a new entrant to this market and has managed to compete very effectively against the other bidders. Telecom/Internet companies which decided to compete in other jurisdictions have also been successful. We also see a growing market for online dissemination of sports content, for example with the agreement between the French Football League and three online platforms (DailyMotion, L'Equipe, YouTube) for broadcasting the highlights of its competitions. Many other European sports also use online platforms to reach their fans.

We sometimes have the feeling that the Commission is a step behind the evolution of the industry. We believe that by the time the Commission has concluded this latest round of consultations and the institutional changeover has taken place in 2014, the questions asked will be largely redundant, as the market and consumers will have already responded to them.

As regards access to platforms, we believe that there are no market barriers which inhibit rights holders and broadcasters from offering content to consumers. The market in the European Union is rapidly evolving, and will continue to do so in the coming years. The premise that regulation is needed to stimulate business ignores the fact that businesses are keen to reach as many consumers as possible, and is constantly working to take advantage of new technological opportunities to do so.





With all due respect to the European Commission's goodwill and desire to help industry and consumers, in this fast-moving sector any legislative proposal will take at least two years to go from drafting by the Commission to adoption by the European Parliament and Council, and implementation by Member States. Any regulatory intervention would no doubt come after the industry finds its own solutions.

We would call on the Commission to focus its activities in this sector on the challenges in the field of IPR enforcement. In this area a valuable role can be played. Digital piracy is actually the main obstacle to innovation and development of business models online. Major sports events and competitions are very attractive, their value remains largely in the live broadcast, making them particularly vulnerable to digital piracy. During the 2012/13 season, the Premier League has detected approximately 33.000 live streams, an increase of 15% from the previous season. Notices have been sent to around 250 sites that embed Premier League content and there are over 400 linking sites that are constantly reviewed.

Nowadays, very few of the websites illegally streaming sports competition charge a fee to the users for access. Clearly this is not because the operators of such sites revel in some sort of "anti-censorship" or "freedom of the internet" ideals, believing they are performing a valuable service for end users. We are dealing with extremely well organised and extremely adept businessmen who now recognise that they can dwarf the money they ever made by charging a fee to access content, by advertising revenue. By way of example, the website which is the subject of a Premier League's blocking application in the UK is purely funded by advertising revenue. The Premier League has estimated this to generate up to £12m a year. These are large businesses, and we must approach them as such.

If we are not able to adequately prevent their theft of our content, we must look to (at the very least) stop them from being rewarded for that theft. The removal or prevention of advertisements on these websites would in our view have a dramatic effect on their prevalence and impact. The entire business case for the website disappears, leaving them to revert to a subscription or donation model. SROC members are calling on the European Commission to step in and to help the content producers and the advertising industry to find efficient solutions to cut off the revenue of these rogue websites.

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