



Tuesday, 14th May 2024

To the attention of: Maria Martin-Prat, DG TRADE
Cc: Alexandre MATEUS, alexandre.mateus@ec.europa.eu;
Ivan BRESKOVIC, ivan.breskovic@ec.europa.eu

By email

Subject: WTO Joint Initiative on E-Commerce

Dear Madam,

The issue of electronic commerce was first introduced into the WTO at the Second Ministerial Conference in May 1998¹, when WTO Members adopted a Declaration on global electronic commerce. This Declaration urged the WTO General Council to establish a work programme to examine all issues related to electronic commerce.

On 21 February 2024, the WTO circulated a Chair's text on an electronic commerce agreement in the form of a JSI (Joint Statement Initiative). We understand that a first agreement could be reached in June 2024, followed by a broader agreement, the timetable for adoption of which has yet to be determined.

To the best of our knowledge, the European Commission **is considering not requesting that audiovisual services be included in the exceptions to the scope of this draft agreement. It considers that the provisions of this draft agreement have no impact on audiovisual services and that this exception could be reassessed at a later date.** We understand that the European Commission gave assurance to the Member States that this agreement will have no impact on the ability of Member States to implement cultural policy measures.

However, traditionally, since 1986 and the Uruguay Round, which aimed to extend the GATT international trade principles to services, copyright and the audiovisual sector, European countries have agreed to exclude the audiovisual sector from the scope of the agreements. Since then, by virtue of the principle of cultural diversity, the European audiovisual sector has not been subject to any free trade agreements.

¹ https://www.wto.org/english/tratop_e/ecom_e/joint_statement_e.htm#background

Since 1986, the Commission was therefore consistently given the clear mandate by Member States to **always** exclude the audiovisual sector from the scope of application². We therefore think that reversing this position would set a dangerous precedent for the future of the sector and the protection of the cultural diversity. It must be stressed that the current conditions for the production and the distribution of audiovisual content are most wholly impacted by electronic technologies and exponentially by the dynamics of platforms operating at global level. These conditions are redrawing all the maps we have known thus far. In this context, even basic “technical” rules for the design of a future framework are highly relevant.

We understand that the balance of the current state of negotiations is delicate and that there is a kind of trade-off for non-exclusions. However, we note that another values-based exception, or red line, has been made – rightly so – for the privacy issue.

This is why **we are asking you to reconsider your position and we would like to ask you for a meeting to discuss the above.**

Yours sincerely,

Signatories:

CEPI - The European Audiovisual Production Association

CICAE - The international confederation of arthouse cinemas

ECCD – European Coalitions for Cultural Diversity

Europa Cinemas - The network for the circulation and diversity of European films

Europa Distribution - The international association of independent film publishers and distributors

Europa International - The European organization for films international distributors.

EUROKINEMA – The association of film and audiovisual producers

FERA – Federation of European Screen Directors

FIAD - The International Federation of Film Distributors' and Publishers' Associations

FSE - Federation of Screenwriters in Europe

IVF - International Video Federation Publishers of Audiovisual Content on Digital Media and Online

SAA - The Society of Audiovisual Authors

UNIC – International Union of Cinemas

² See paragraph 12 of the negotiating mandate of 20 May 2019 (8993/19): "*Moreover, the European Union and its Member States shall maintain the possibility to preserve and develop their capacity to define and implement cultural and audio-visual policies for the purposes of preserving their cultural diversity. **The European Union shall not agree to rules or commitments for audio-visual services. The European Union shall not take commitments on services supplied or activities performed in the exercise of governmental authority.***"