European Commission: Decision on film studios' commitments over licensing contracts for cross-border pay-TV services

IRIS 2019-4:1/6

Ronan Ó Fathaigh
Institute for Information Law (IViR), University of Amsterdam

On 7 March 2019, the European Commission adopted a decision accepting commitments made by a number of well-known film studios and the broadcaster Sky UK to address the Commission's concerns regarding clauses in the studios' licensing contracts for pay-TV with Sky UK. The film studios are Disney, NBCUniversal, Sony Pictures, and Warner Bros., and according to the Commission, the clauses at issue "prevented Sky UK from allowing EU consumers outside the United Kingdom and Ireland to subscribe to Sky UK's pay-TV services to access films via satellite or online", and also required NBCUniversal, Sony Pictures and Warner Bros. to "ensure that broadcasters other than Sky UK are prevented from making their pay-TV services available in the United Kingdom and Ireland".

Disney, NBCUniversal, Sony Pictures and Warner Bros. have now committed to not applying these clauses in existing film licensing contracts for pay-TV with any broadcaster in the European Economic Area (EEA), and have also committed to refraining from (re)introducing such clauses in film licensing contracts for pay-TV with any broadcaster in the EEA. Sky will also neither apply existing clauses nor (re)introduce new ones in its film licensing contracts for pay-TV with Disney, Fox, NBCUniversal, Sony Pictures and Warner Bros. The Commission's decision, known as a commitment decision, was made under Article 9 of the Antitrust Regulation (1/2003), and allows the Commission to conclude antitrust proceedings by accepting commitments offered by companies; and while it does not reach a conclusion on whether EU antitrust rules have been infringed, it legally binds the companies to respect the commitments.

The decision follows on from the Commission's investigation, started in 2014, which "identified clauses in licensing agreements between the six film studios and Sky UK which require Sky UK to block access to films through its online pay-TV services (so-called "geo-blocking") or through its satellite pay-TV services to consumers outside its licensed territory (the United Kingdom and Ireland)"; and in 2015, the Commission sent a Statement of Objections to the broadcaster and film studios, setting out the Commission's preliminary view that the parties had "bilaterally agreed to put in place contractual restrictions that prevent Sky UK from allowing EU consumers located elsewhere to access, via satellite or online, pay-TV services available in the United Kingdom and Ireland" (see IRIS 2015-9/1).

© European Audiovisual Observatory (Council of Europe) 2026

The Statement of Objections also included Paramount Pictures, and in 2016, Paramount offered commitments to address the Commission's competition concerns, which were also accepted and made legally binding.

The Commission stated that it was satisfied that the commitments offered by Disney, NBCUniversal, Sony Pictures and Warner Bros. addressed its concerns, and has made them legally binding on the studios. The commitments will apply throughout the EEA for a period of five years. Under the Antitrust Regulation, if a company breaks such a commitment, the Commission can impose a fine of up to 10% of the company's worldwide turnover, without having to find an infringement of the EU antitrust rules.

European Commission, "Antitrust: Commission accepts commitments by Disney, NBCUniversal, Sony Pictures, Warner Bros. and Sky on cross-border pay-TV services", 7 March 2019

http://europa.eu/rapid/press-release_IP-19-1590_en.htm

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026