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European Commission
DG Competition

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COMMENTS ON THE PRELIMINARY REPORT ON THE E-COMMERCE SECTOR INQUIRY

Bonnier Broadcasting is a Nordic based broadcasting group comprising the major Swedish and Finnish commercial broadcasters TV4, MTV Oy and Cmore as well as news producers Nyhetsbolaget and Mediahub. Our ambition is to bring the best Nordic content to the consumers via the most up to date technology and solid and sustainable financial solutions, fully apt for the modern digital world.

We are commenting on the European Commission's findings in the Preliminary Report on the E-commerce Sector Inquiry both in the capacity of a free-to-air (FTA) broadcaster as well as a pay-TV broadcaster. In particular we want to react to the findings that some of the current licensing practices in the audiovisual sector may make it more difficult for new online business models and services to emerge and for new or smaller players to enter the market or expand their activities into other markets, in particular cross-border due to geo-blocking requirements. According to European Commission this may be particularly true when online rights are sold exclusively on a per Member State basis.

As a pay-TV broadcaster C More regularly enters into license agreements regarding exhibition rights for films, series and sports in the Nordics. This is also true for TV4 in the Swedish market and MTV Oy in the Finnish market. Our licenses are based on an absolute exclusive territorial basis for the markets we operate in. The license agreements regarding films and series includes inter alia pre-acquisitions of European and local productions including local drama. Moreover, C More, TV4 and MTV Oy co-produce local drama in their national markets.

Content from Hollywood studios for which we hold absolute exclusive rights in the Nordics, is an important part of our content portfolio. The absolute exclusivity is essential in order for our pay-TV service C More to attract new subscribers and limit churn, i.e. to build subscriber volume. It is evident that the attraction of the C More services and, as a consequence, the subscriber volume would decrease significantly in the event that the C More and C More's licensors could not restrict passive sales in respect of Hollywood content. This will in turn lead to less financial strength and decreased possibility to invest not only in local and European productions but also in the technical platform and user friendly functions. This will have a negative effect for the Nordic consumers since there will be less local productions created and less development of the technical platform and user friendly functions in the different services offered by Bonnier Broadcasting's entities.

Furthermore, our incentives to invest in local productions such as news and drama productions will decrease significantly if licensors and licensees cannot restrict passive sales, since the occurrence of passive sales will increase the risk that we are not be able to recoup our investments. This will inevitably have the consequence that we will invest less in local drama production and this in turn will lead to that the consumers in the Nordics and Europe will have less access to local drama productions from Sweden and Finland. An alternative is that consumers in other European markets than the main market for the

production, i.e. Sweden, will not get access to such local drama production until after the license period in the main market has expired. This will obviously lead to a poorer list of content available for European consumers and over time will have a negative effect on cultural diversity in Europe.

Moreover, we are concerned that the findings do not appear to take into account the harm that would be caused to the production and investment in content that would be caused by the prohibition of territorial restrictions. We are aware of one recent study that have done this on behalf of a cross-sectoral group of broadcasters, producers and state film funding agencies.¹ It estimates that for some categories of content production would fall up to 48% in consequence of weakening territorial licensing.

In our view, it would be very unlikely that any production of a film or TV series could secure adequate finance from presales without territorial restrictions. Presales require legal certainty in respect of exclusivity. A distributor or broadcaster would not take the risk for anything less.

We also do not believe that any state film fund, distributor or FTA broadcaster would be prepared to make up a budget with calculated shortfall due to devaluation of the pay-TV rights. We do not see that the Bonnier Broadcasting FTA broadcast business, for example, would do so. Our content budgets are extremely tight, and highly reliant upon financing from the pay-TV window.

Finally we urge the European Commission to quickly clarify the situation by publishing a final report about what it has found and its next steps. Until then we have widespread market uncertainty that will have an impact on current licensing negotiations.

Yours sincerely,

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¹ The impact of crossborder access to audiovisual content on EU consumers Prepared for a group of members of the international audiovisual industry, Oxera and O&O May 2016