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**From:** IRUARRIZAGA DIEZ Ignacio (TRADE)  
**Sent:** 17 April 2013 15:18  
**To:** [Art 4.16] (TRADE); SCHLEGELMILCH Rupert (TRADE) [Art 4.16] (TRADE); GARCIA BERCERO Ignacio (TRADE); [Art 4.16] (TRADE)  
**Subject:** FW: TTIP-Audiovisual services and mandate  
**Attachments:** TTIP\_letter\_final.pdf; ATT00001.txt; ATT00002.htm  
**Categories:** Comments from party

**From:** [Art 4.16]@ebu.ch  
**Sent:** Wednesday, April 17, 2013 10:25 AM  
**To:** IRUARRIZAGA DIEZ Ignacio (TRADE); [Art 4.16] (TRADE)  
**Subject:** TTIP-Audiovisual services and mandate

Dear Mr Iruarrizaga,

Dear [Art 4.16]

For your information, and following our previous discussions on this issue, please find attached a letter concerning the scope of the mandate for future negotiations of the TTIP between the EU and the USA. This letter was addressed on Thursday, 11 April to Ministers in charge of Trade/Foreign Affairs and Culture in the Member States, ahead of the informal Trade Council meeting of 17-18 April (starting today).

Best regards,

[Art 4.16]  
[Art 4.16]

**EBU**

EUROPEAN BROADCASTING UNION

Avenue des Arts, 56

B-1000 Brussels

Tel. +32 [Art 4.16]

Fax. +32 [Art 4.16]

[www.ebu.ch](http://www.ebu.ch)

OPERATING EUROVISION

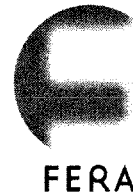
# EURO CINEMA

Association de producteurs  
de cinéma et de télévision



## EBU

OPERATING EUROVISION AND EURORADIO



## FIAD

## UNIC

Union Internationale des Cinémas  
International Union of Cinemas



Brussels, 10 April 2013

Subject: Transatlantic Trade and Investment Partnership (TTIP)

Dear Minister,

The signatories of the present letter noted with interest the starting of internal procedures by US and EU institutions to launch negotiations on a Transatlantic Trade and Investment Partnership agreement (TTIP). However, they want to express their surprise and deep concern regarding the fact that the negotiating mandate of TTIP, as prepared by the European Commission (DG Trade), may not explicitly exclude cultural and audiovisual services from its scope.

Only stating that "the Agreement shall not contain provisions that would risk prejudicing the Union's cultural and linguistic diversity, namely in the audiovisual sector", would not be robust enough to ensure that no commitment will be taken regarding audiovisual services, including those offered in the digital and online environment. Further, clear provisions in that sense need to be listed not only under the "Objectives" of the mandate, but also under relevant specific titles. Due to the inherent logic and the mechanism of the WTO Treaties, and since those services are not listed negatively, this would even imply that the Commission may intend to take commitments in the field.

With regard to trade negotiations under the GATS rules, and in the absence of any recognition of the intrinsic legitimacy of cultural policies in WTO treaties, the EU 'Seattle mandate' ensures that the Union and the Member States maintain the possibility to preserve and develop their cultural and audiovisual policies. As a result, the EU has systematically carved out the European audiovisual sector from any commitment in its trade agreements. This is reportedly the case also for the negotiations on CETA with Canada, which are based on a negative list format.

Furthermore, the right to promote culture is enshrined in Article 167 of the Lisbon Treaty as well as in the UNESCO 2005 Convention on the protection and the promotion of the diversity of cultural expressions. Based on the subsidiarity principle, Article 167 aims at bringing the common cultural heritage to the fore whilst respecting Member States' national and regional diversity, excluding any harmonisation of laws and regulations in EU incentives measures in the field.

.../...

#### Coalition Contact

EURO CINEMA, Association of film and television producers  
19 rue des Chartreux bte 12 – 1000 Brussels – Tel.: +32.2.732.58.30 – [eurocinema@eurocinema.eu](mailto:eurocinema@eurocinema.eu)

Unlike other countries with which the EU has concluded FTAs to date, the United States has not ratified the UNESCO Convention on Cultural Diversity, which recognises the sovereign right of Member States to formulate and implement cultural policies and measures for the protection and promotion of cultural diversity.

The Signatories are convinced that, if transatlantic trade negotiations are to start on a fair and solid ground, the US as a trading partner should recognise the legitimacy of essential principles and policy instruments of the EU and its Member States promoting and developing cultural and linguistic diversity. We underline that the Union and the Member States must maintain the possibility to preserve and develop their cultural and audiovisual policies, including in the digital and online environment.

Making the audiovisual sector subject of upcoming free trade negotiations would not only send a wrong political signal about EU policy in the fields of culture and audiovisual services. It could severely undermine the ability of EU Member States to support and regulate their audiovisual industries.

The recent statement by the European Commission (Directorate General for Trade)<sup>1</sup>, delivering information on balances in bilateral trade in goods and services between the EU and US, does not reflect the situation regarding the audiovisual sector. In fact, analysis<sup>2</sup> by the European Commission observed a shift in the respective global market shares of the EU and the US audiovisual industry: while in 1994 the European audiovisual industry still had the largest global market share of 35% versus 31% for the US, in 2008 the US dominates the market with a share of 54.5% versus a share of 25.2% for Europe. These figures suggest that the European audiovisual market is already open to fair competition. This information deserves to be pointed out in view of EU-US future negotiations.

Economic interests of major importance for the European audiovisual industry are at stake. This is particularly sensitive at a time when the European Commission is considering the implications of technological convergence in the audiovisual sector and when European cultural and audiovisual services are facing increasing competition from new, sometimes global, players on the market.

For these reasons we would respectfully ask you to oppose the present mandate until a clear and broad exclusion of cultural and audiovisual services is enshrined in the mandate.

Yours faithfully,

List of signatories

**EBU** - European Broadcasting Union  
Nicola Frank, Head of European Affairs – [frank@ebu.ch](mailto:frank@ebu.ch)

**EPC** – European Producers Club  
Alexandra LEBRET, Managing Director – [alexandra@europeanproducersclub.org](mailto:alexandra@europeanproducersclub.org)

**EURO CINEMA** – Association of films and television producers  
Yvon Thiec, General Delegate – [yvon.thiec@eurocinema.eu](mailto:yvon.thiec@eurocinema.eu)

**FERA** - Federation of European Film Directors  
Elisabeth O. Sjaastad, Chief Executive - [elisabeth.sjaastad@filmdirectors.eu](mailto:elisabeth.sjaastad@filmdirectors.eu)

**FIAD** - International Federation of Film Distributors Associations  
Jelmer Hofkamp, Secretary General - [jelmer.hofkamp@fiad.eu](mailto:jelmer.hofkamp@fiad.eu)

**SAA** – Society of Audiovisual Authors  
Cécile Despringre, Executive Director – [c.despringre@saa-authors.eu](mailto:c.despringre@saa-authors.eu)

**UNIC** - International Union of Cinemas  
Jan Runge, Chief Executive - [jrunge@unic-cinemas.org](mailto:jrunge@unic-cinemas.org)

<sup>1</sup> EC-MEMO/12/212 du 12 mars 2013

<sup>2</sup> <http://ftp.jrc.es/EURdoc/JRC69435.pdf>, p 98