

On 13 January 2014, the European Commission has initiated formal antitrust proceedings against the major US studios (Twentieth Century Fox, Warner Bros., Sony Pictures, NBCUniversal, Paramount Pictures) and the largest European pay-TV broadcasters such as BSkyB (UK), Canal Plus (France), Sky Italia (Italy), Sky Deutschland (Germany) and DTS Distribuidora de Television Digital (Spain) for a suspected breach of EU rules (Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement). The initiation of proceedings is based on Article 11(6) of the Antitrust Regulation (Council Regulation No 1/2003) and Article 2(1) of its implementing Regulation (Commission Regulation No 773/2004).

The Commission intends to investigate whether provisions of the licensing arrangements between the US studios and the broadcasters prevent the latter from providing their services across borders, for example by refusing potential subscribers from other Member States or blocking cross-border access to their services.

In particular, the Commission's investigation focusses on whether provisions contained in such licensing arrangements, which grant to the latter "absolute territorial protection", may constitute an infringement of Article 101 TFEU and Article 53 of the EEA Agreement. "Absolute territorial protection" provisions ensure that the US studios' films, shown in each of the broadcasters' Member State via satellite and the internet, cannot be made available outside such a Member State, even in response to unsolicited requests from potential subscribers in other Member States.

The initiation of proceedings does not signify that the Commission has made a definitive finding of an infringement but merely signifies that the Commission will deal with the case as a matter of priority.