

Dear Sir/Madam,

RE: Concerns of commercial broadcasters and radios across Europe on EP suggestion on must offer provisions - electronic communications code

Ahead of the next trilogue meeting on Electronic Communications Code, we wanted to kindly draw your attention on the provisions adopted by the European Parliament (Art 106.1) suggesting [...] ***“Member States may additionally impose reasonable must-offer” entitlements, in respect of specified radio and television broadcast channels of general interest, to the undertakings subject to must carry obligations under their jurisdiction”***, which we would recommend to oppose.

When it comes to must-carry provisions, commercial broadcasters and radios agree with the European Commission’s and Council’s approach that there is no need to change them at EU level. We believe they should be left to the discretion of Member States who should be able to decide which service is worthy of greater findability (for example commercially funded new service or publicly financed entertainment channel).

When it comes to newly suggested must-offer provisions by the European Parliament, commercial broadcasters and radios oppose them due to the following reasons:

- **There is no rationale of imposing new rules on must-offer at the EU level to ensure services of general interest are available. It is not clear that there are any issues with the current must-carry regime that would make a must-offer obligation necessary. In any event these matters ought to be decided at a Member State level (different market structure, different commercial developments in the Member States, Member States' competence in defining public service and general interest obligations...).**
- **Broadcasters should have contractual freedom to decide on their distribution since they are the ones producing, financing or acquiring content and should have the final say over where their content appears.**
- **The existing EU copyright rules are designed to ensure that those who create and invest in intellectual property can ultimately decide what to sell, to whom and at what price.**

Association of Commercial Television in Europe with Bulgarian, Czech, Romanian, British, Italian, Spanish and German national associations representing commercial television and Association of European Commercial Radios

