

Broadcasting of major sports events in the EU

The topic of audiovisual sports rights has gained increasing relevance, including in the light of the upcoming football World Cup in Russia this summer. As most people will not be able to attend the sports games they wish to see, they will use the media to hear the news or to get full direct coverage through live broadcasts. However, media coverage of sports events is regulated by complex copyright rules and the exclusive right to broadcast top sports events live comes at a cost. In 2014, the global sports rights market was worth nearly €19 billion. In the EU, broadcasters spent around €5.8 billion on the acquisition of rights in 2009, which represented nearly 17 % of their total €34.5 billion programming spend. But how exclusive can audiovisual rights be?

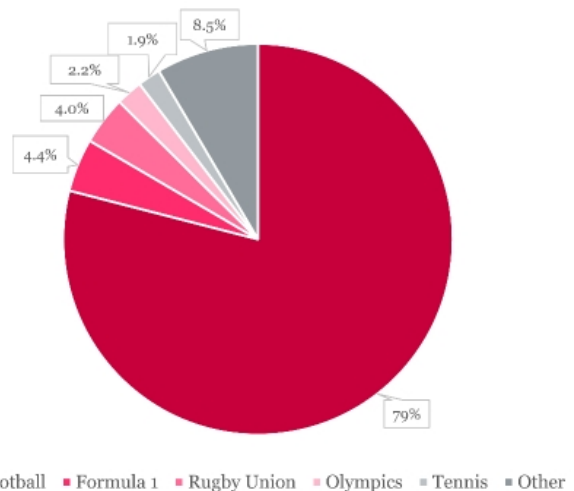
Legal rights applicable to sports events

Although sports events do not qualify as works of authorship, the audiovisual recordings of such events enjoy [copyright protection](#) and entitle the rights-holders of the first recording of the event to the right of reproduction, distribution, rental and communication to the public.

In this context, the [legal framework](#) within which audiovisual rights are negotiated in the EU features two predominant models – the joint selling of rights, where rights are sold by specially created associations on behalf of sports clubs, and exclusivity – a model referring to a given time frame, a specific distribution platform or a given territory for the exploitation of audiovisual rights. In spite of the prominence of the latter model in the EU, the [Audiovisual Media Services Directive](#) – currently under review – contains two provisions that curb the restrictive allocation of rights, making it possible for the public to freely receive information about events of major importance for

society and to have access to short extracts within general news programmes. In both cases, the legitimate interest in holding exclusive rights is waived in the name of freedom of information.

Figure 1 – Percentage of total spend on audiovisual sports rights in the top five EU markets in 2011



Data source: Asser Institute, [Study on sports organisers' rights in the EU](#), 2014.

Skyrocketing revenues from audiovisual rights

Audiovisual rights have been the greatest source of revenue for the Olympic Movement for more than three decades. While the sale of audiovisual rights to the 1960 Olympic Games in Rome fetched a 'mere' US\$1.2 million in [revenues](#), audiovisual rights to the 2016 Olympic Games in Rio de Janeiro were sold for an [estimated](#) US\$4.1 billion, which [represented](#) 74 % of the Olympic Games' revenue sources. The same is true for competitions organised by the International Football Association (FIFA). Worldwide, revenues from the allocation of audiovisual rights to the FIFA World Cup have increased from €84 million ([France, 1998](#)) to some €2 billion ([Brazil, 2014](#)).

The situation with regard to sports events organised by the Union of European Football Associations (UEFA) is slightly different and reflects national traditions. For instance, while audiovisual rights to the 2009-2010 Champions League season [generated](#) €179 million in the United Kingdom alone and nearly €100 million in other EU countries (€98 million in Italy, €91 million in Spain, and €85 million in Germany), the revenues raised in yet other EU countries were much lower (€2.9 million in Belgium and €2 million in Ireland).

Limitations to exclusive audiovisual rights

Broadcasting of events of major importance for society

The idea of drawing up a list of events of major importance for society was put forward by the European Parliament's Culture Committee. The triggering factor was German Kirch Group's [acquisition](#) in 1996 of all of the TV rights for the 2002 and 2006 football World Cups. As part of the revision process of the Television without Frontiers [Directive](#) (TVWF) in 1996, the committee issued a recommendation suggesting that a binding list of events be established at EU level, covering the Summer and Winter Olympics and the World and European football cups, and that EU countries be granted the right to expand this list.

While the idea of a binding list was ultimately rejected, the revised TVWF Directive retained the principle of subsidiarity, leaving the adoption of such lists up to each EU country on the basis of the principle of mutual recognition. This provision remained substantially unchanged during the third [revision process](#) of the TVWF Directive, which culminated in the endorsement of the Audiovisual Media Services ([AVMS](#)) Directive in 2007. The current [revision proposal](#), tabled by the European Commission in 2016, does not envisage any modifications to this provision.

Concretely, Article 14 of the AVMS Directive requires that events of major importance for society are selected in advance by EU countries wishing to grant access to them, and must respond to specific information needs. The European Commission must be notified of any [lists](#) adopted by the EU countries. In addition, the lists must receive the positive opinion of the [Contact Committee](#) – established to monitor the implementation of the directive – and be published in the Official Journal of the EU.

The guidelines for the implementation of this provision were provided in an unpublished working document (CC TVSF (97) 9/3) of the Contact Committee, and offer four indicators for the assessment of an event of major importance for society, two of which have to be fulfilled for the inclusion of an event in a national list:

- the event and its outcome have a special general resonance and are not simply of significance to those who ordinarily follow the sport or are actively concerned about it;
- the event has a generally recognised, distinct cultural importance for the population, in particular as a catalyst of its cultural identity;
- the event is of major international importance and features the national team in the sport concerned;
- the event has traditionally been broadcast free-to-air and has commanded large TV audiences.

As for the definition of what constitutes an event, the Court of Justice of the EU [ruled](#) that the World Cup and the UEFA European Championship must be considered divisible into different matches or stages. In other words, if an EU country considers the final stage of the World Cup or the UEFA European Championship in its entirety as a single event, they must send a justification to the European Commission.

The right to short news reporting

The right to short news reporting – defined in Article 15 of the AVMS Directive – consists of the possibility offered to audiovisual media providers to inform the public during general news programmes about events of high interest and is applicable without the submission of a list of pre-agreed events. Assessing who can broadcast short extracts from events of high interest is carried out on a case-by-case basis and the short extracts must be limited in scope. Once access has been granted, the broadcaster wishing to transmit short extracts must nonetheless respect the following conditions:

- the broadcaster must identify the source of the extracts;
- the extracts can be used solely in general news programmes;
- the use of the extracts in on-demand catalogues is allowed only in the case of deferred transmission of the same programme originally available on free-to-air services.

These limitations account for the need to respect the interests of the exclusive rights-holders and are justified only to the extent that they respond to the fundamental right to information. By contrast, limitations to exclusivity would not be justified where, for example, a broadcaster compiles a selection of highlights. Highlights are usually sold separately, as a different type of exploitation right. The details of the actual enforcement of the right to short news reporting are left to the discretion of EU countries.

The current proposal for a revision of the AVMS Directive does not envisage any changes to this provision.

