

Paris, January 7<sup>th</sup> 2026,

**REF: Public consultation on draft executive order on use of TV rights to sport events of major importance to society**

Dear Members of the Minister for Culture,

We understand that the Danish Ministry of Culture is now launching a public consultation on the draft executive order in accordance with the provisions of § 90 of the Danish Radio and Television Broadcasting Act that brings Article 14 of Directive 2010/13/EU (AVMSD) into force ("**the Directive**").

After a thorough review and consideration of the criteria set forth in the Directive, we would like to provide the following explanation demonstrating why the Tour de France should not be included in the list of major events deemed to be of key importance to the Danish public.

**1. European Criteria for Major Events**

The criteria to determine what is to be considered as an event of major importance are the following:

- Paragraph 52 of the Directive's states that : *"Events of major importance for society should, for the purposes of this Directive, meet certain criteria, that is to say be outstanding events which are of interest to the general public in the Union or in a given Member State or in an important component part of a given Member State and are organised in advance by an event organizer who is legally entitled to sell the rights pertaining to those events."*
- Those criteria are further described in Commission Decision of 16 October 2007 (2007/730/EC) ("**the Commission Decision**") which further states that: *"The Commission was satisfied that the events listed met at least two of the following criteria considered to be reliable indicators of the importance of events for society: (i) a special general resonance within the Member State, and not simply a significance to those who ordinarily follow the sport or activity concerned; (ii) a generally recognized, distinct cultural importance for the population in the Member State, in particular as a catalyst of cultural identity; (iii) involvement of the national team in the event concerned in the context of a competition or tournament of international importance; and (iv) the fact that the event has traditionally been broadcast on free television and has commanded large television audiences."*

Keeping in mind those criteria enabling an event to be categorized as a "*major event*", it seems to us that the Tour de France should be excluded from the proposed list of major events in Denmark. As the Tour de France organizer and based on the data we gathered, we do not observe in Denmark a general resonance of the Tour de France nor a recognized and distinct cultural importance for the population, in particular as a catalyst of cultural identity.

**2. Lack of Widespread Interest for the Tour de France in Denmark**

While the Tour de France is undoubtedly a prestigious and globally recognized sporting event, its resonance within Denmark remains relatively limited. The cultural and social significance of the Tour de France in Denmark is a relatively recent phenomenon, largely driven by the 2022 "Grand Départ" held in Copenhagen. As such, this interest should be considered temporary rather than the result of a deep-rooted cultural tradition. The event does not serve as a unifying occasion for the Danish population in

the same way as the Olympic Games or major football and handball events, which traditionally bring together large segments of the population.

- Audience trends further illustrate the temporary nature of this interest :  
In 2025, Tour de France audiences in Denmark were significantly below the average of the previous three years, with a decrease of 27% in total viewers and 6.2 percentage points in audience share. The unusually high audience levels recorded during those years were largely driven by the exceptional context following the 2022 Copenhagen Grand Départ and the first Tour de France victories of Jonas Vingegaard.
- Moreover, the Tour de France does not involve any national teams, meaning there is no Danish national selection competing in the event. In addition, among the 23 teams at the start, none has a Danish owner or a Danish main sponsor, whereas more than 15 different nationalities were represented among team owners or main sponsors at the start of the last Tour de France.
- Tour de France historical participation data confirms this statement as Denmark did not provide significant numbers of professional riders over the years:
  - Only 2 Danes have ever won the Tour de France
  - Only 6 Danes were at the start of the last Tour de France (out of a total of 184 riders.)
- The recent interest in cycling in Denmark was mainly due to the exceptional performances of the talented cyclist Jonas Vingegaard. While his success deserves recognition, this remains an extraordinary circumstance rather than a reflection of a long-standing national tradition. Individual performances do not transform the event itself into a cultural cornerstone for the Danish population.
- We have a long-term agreement with a Danish free to air broadcaster, which will broadcast the Tour de France free-to-air until 2032. This guarantees that Danish fans will be able to follow the Tour de France and in particular Jonas Vingegaard until the end of his career, making it unnecessary to include the Tour de France on the list of events of major importance.
- In short, while the Tour de France commands great respect internationally, it does not represent in Denmark the “unique cultural significance for the population and manifestation of elements of cultural identity” required by EU criteria for major events.

The interest raised by the public on one single talented athlete in a specific sport does not justify by itself the inclusion of an entire event on the list of major events on the national scene.

## **Conclusion**

**Given the above-mentioned factors, A.S.O. is of the opinion that the Tour de France does not meet the criteria outlined in EU regulations for inclusion as a major event in Denmark and should be excluded from the proposed list of major events that require public access set out by the Council.**

We hope this explanation clarifies A.S.O.’s position.

Please feel free to reach out if you require further information or have any additional questions.

Thank you for your understanding.

Yours sincerely,

Yann Le Moënner  
CEO

## HØRINGSSVAR

17. DECEMBER 2025



KULTURMINISTERIET  
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## HØRING - BEKENDTGØRELSE OM UDNYTTELSE AF TV-RETTIGHEDER

Kulturministeriet har per mail 1. december 2025 givet udvalgte af idrættens organisationer mulighed for at komme med bemærkninger til forslaget om bekendtgørelse om udnyttelse af TV-rettigheider til begivenheder af væsentlig samfundsmæssig interesse – bedre kendt som 'Sportslisten'.

Dansk Boldspil-Union (DBU), Dansk Håndbold, Danmarks Cykle Union, Parasport Danmark, Team Danmark og Danmarks Idrætsforbund (DIF) har følgende fælles bemærkninger og opklarende spørgsmål.

### Processen

Historisk set har 'Sportslisten' været indført og afskaffet med skiftende regeringer. Vi vidste, at 'Sportslisten' ville blive genindført, da det står i 'medieforliget 2023-2026', og vi havde gerne set, at vi som hovedinteressent var blevet involveret tidligere, da vi kunne have bidraget positivt med viden fra sektoren.

Vi modtager udkastet til bekendtgørelsen den 1. december 2025 med deadline for høringssvar den 29. december 2025. Deadline er efterfølgende udskudt med 10 dage, men det er fortsat en kort høringsproces hen over julen og nytåret om et væsentligt og vanskeligt emne.

Når dette er sagt, så takker vi for at blive spurgt om vores opfattelse og vurdering af forslaget. Vores bemærkninger følger nedenfor.

### Opbakning til intentionen med 'Sportslisten'

Der findes 2.123.837 medlemmer i DIF-idrætten. Bag dem står hundredtusindvis af frivillige, der dagligt får hjulene til at rulle i 8.385 DIF-idrætsforeninger landet over. Idrætten fylder i danskernes hverdag. Og det er ikke kun lokalt, for vi danskere

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dyrker også de største sejre, det forfærdelige nederlag og alt derimellem, når vi samles foran skærmen. Idrætten kan nemlig noget særligt. Den samler os. Måske mere end nogensinde og måske som noget af det sidste i en fragmenteret verden.

Vi ønsker derfor – som kulturministeren – at få idrætten ud til flest mulige danskere, som skal have mulighed for at se de største og mest samlende sportsbegivenheder med dansk deltagelse. Det gælder primært De Olympiske Lege (OL) og De Paralympiske Lege (PL) – sommer og vinter – samt de mest væsentlige begivenheder i udvalgte idrætter.

I DIF-idrætten anerkender vi derfor og bakker op om den sympatiske intention med 'Sportslisten'. Vi glæder os samtidig over det klare politiske signal til DR og TV 2 om at prioritere sporten. Det er dog vigtigt at understrege, at visning af begivenhederne på 'Sportslisten' ikke må være på bekostning af andre mindre, men stadig fantastiske begivenheder. 'Den mangfoldige sport' forventer vi også synlighed af i fremtiden i public service-forpligtelsens tegn. Et eksempel er DIF DM-ugen, som er et 'mini-OL' på dansk grund, og som viser spændvidden i dansk eliteidræt.

### **'Sportslisten' har en god intention, men vi tvivler på effekten**

Vores vurdering er samlet set, at 'Sportslisten' – uanset hvilke justeringer der end måtte laves i forhold til bekendtgørelsesudkastet – er vanskelig at anvende som styringsredskab.

'Sportslisten' er et politisk signal, men kan i vores optik ikke ændre på prisudviklingen, medievirkeligheden og internationaliseringen af sportsrettigheder. I praksis vil rettighederne – på trods af den gode intention i bekendtgørelsen – fortsat blive erhvervet af den højstbydende, som det også er i dag. Derfor risikerer 'Sportslisten' at gøre processen omkring erhvervelse og videresalg af TV-rettigheder uigennemskuelig, bureaukratisk og usikker.

Såfremt man fra politisk side virkelig ønsker, at DR og TV 2 skal kunne vinde rettighederne på markedsvilkår, må man tilføre dem de nødvendige ressourcer.

### **TV-indtægter fra internationale begivenheder skaber mere idræt i Danmark**

I forlængelse deraf, er det et væsentligt budskab fra idrættens organisationer, at salg af TV-rettigheder til store sportsbegivenheder – især hovedparten af dem på 'Sportslisten' – medfinansierer bredde- og eliteidrætten i Danmark. Provenuet for TV-rettighedssalg varetages ofte af og lander hos store internationale idrætsorganisationer, og DIF og specialforbundene en del af dette økonomiske kredsløb.

TV-rettighedsindtægterne hos de internationale sportsforbund fordeles fx til de nationale specialforbund; herunder til fx Dansk Boldspil-Union og Dansk Håndbold. Det betyder i praksis, at Dansk Boldspil-Union og Dansk Håndbold i samarbejde med deres lokale foreninger udvikler og afvikler aktiviteter og projekter for TV-midlerne til glæde og gavn for danskerne. Nogle af midlerne går til eliten – andre til bredden. Derfor er vi modstandere af et potentielt kunstigt og snævert



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reguleret marked, hvor den samlede idræt alt andet lige må forventes at miste indtægter.

### **Førsteret og forlomme**

I høringsbrevet står 'førsteret til at byde', og samtidig omtaler ministeren i pressen en 'forlomme' til de medier, som danskerne bruger mest – aktuelt DR og TV 2. Vi ser ikke denne 'forlomme' eller 'førsteret' beskrevet i udkastet til bekendtgørelsen.

Det siges også i pressemeddelelsen fra 30. november, at visningsrettighederne fortsat vil blive forhandlet på markedsvilkår, og at der ikke vil være garanti for, at DR og TV 2 byder eller ender med at få rettighederne.

### **Konkrete bemærkninger og spørgsmål til bekendtgørelsesudkastet**

Vi bakker som nævnt op om den gode intention med 'Sportslisten' og har nogle konkrete bemærkninger og opklarende spørgsmål til udkastet til bekendtgørelsen.

- **Anerkendelse af parasporten, kvindesport og cykling:**

Vi vil gerne anerkende, at endnu flere sportsbegivenheder er tilføjet 'Sportslisten'. Cykelsport, flere begivenheder med kvinder samt parasporten betragtes nu som sportsbegivenheder med væsentlig samfundsmæssig interesse. Det understreger mere mangfoldighed og viser blandt andet den positive udvikling omkring diversitet og ligestilling, som samfundet befinder sig i, og det sender samtidig et vigtigt signal til kvinder og danskere med handicap om, at deres sportslige bedrifter er lige så meget værd som herrernes (almenidrætten).

- **60 procents-reglen:**

I udkastet lægges der op til, at der ikke længere skal være et krav om 90 procents penetration, men 60 procents månedlig brug hos danskerne som afgørende for, hvilke medier der kan vise begivenhederne på 'Sportslisten'. Den 60 procents månedlige brug skal opgøres årligt. Et par opklarende spørgsmål:

- Danskernes medievaner ændres hurtigt, men sportsrettigheder sælges ud i fremtiden. Så gælder de 60 procent ved salget af rettigheden eller ved visningen?  
Hvem kender fx danskernes medievaner i 2032, hvor OL afvikles i Brisbane, og hvor rettighederne allerede er solgt? Skal disse rettigheder udbydes på ny, hvis 60 procent af danskerne i 2032 ikke længere bruger de medier, som har købt rettighederne otte til ti år tidligere?
- Er det udelukkende DR- og TV 2-moderkanalerne, der aktuelt lever op til 60 procents-reglen – gælder det fx også for DR2, DRTV, TV 2 Sport, TV 2 Play osv.? Flere af disse kanaler har tidligere vist fx OL, men kan de det i fremtiden?



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- **12 måneders-reglen**

Vi har ligeledes spørgsmål til forslaget om, at rettighederne skal tilbydes 12 måneder før begivenheden afvikles.

- Hvad sker der, hvis rettigheden slet ikke er udbudt af de internationale idrætsforbund med 12 måneder til begivenheden?
- Dansk deltagelse har stor betydning for værdien af en begivenhed, og det forhold kendes ikke nødvendigvis 12 måneder før afvikling. Vi ved fx først den 31. marts 2026, om Danmark deltager ved herrefodbold-VM den kommende sommer. Og derfor ved vi først 3-4 måneder før afvikling, om begivenheden overhovedet er omfattet af 'Sportslisten'.
- Er det erhvervelsestidspunktet eller datoen for en eventuel senere voldgiftssag, der afgør prisen for videresalg? Kan et medie fx have købt en OL-rettighed dyrt, men mange år senere via en voldgiftssag blive tvunget til et billigt videresalg, fordi mediet ikke opfylder 60-procentskravet – og er det hensigtsmæssigt?

- **Begivenheder skal transmitteres i deres helhed**

Begivenhederne på listen skal transmitteres i deres helhed – dog med undtagelser for OL og PL. Betyder det, at fx samtlige etaper i Tour de France skal transmitteres i deres helhed og udelukkende på en kanal, der er indbefattet af 60-procents-reglen?

- **Uenighed om pris afgøres i voldgiftssager**

Uenighed om blandt andet pris skal afgøres ved voldgift. Her skræmmer sporene, da voldgift kan være en både tung og svær proces.

- Hvordan fastsættes en markedspris for sjældent udbudte rettigheder på et mediemarked i hastig udvikling?
- Voldgiftssager kan være tunge og langvarige. Hvad er processen for disse sager, så der findes en afgørelse i rette tid, før en begivenhed afvikles?
- Store sportsrettigheder sælges ofte til medier på det internationale marked. Det daværende Discovery Networks købte fx i 2015 visningsretten til en OL-pakke på mange landes markeder. DR og TV 2 kunne tilsammen ikke hamle op med prisen. Discovery Danmark solgte efterfølgende dele af retten videre til først DR og senere DR og TV 2 på det danske marked. Hvis samme eksempel kommer i fremtiden og ender i voldgift, hvordan prissættes rettighederne, som kan være købt ekstremt dyrt af en international spiller, men nu skal deles op og sælges i mindre stykker på et dansk marked?
- Hvem deltager og vurderer pris i en eventuel voldgiftssag – det kræver både stor medie- og sportsekspertise på et marked med mange nuancer, og som hele tiden er i hastig udvikling?

- **'Gratis fjernsyn'**

Under flere paragraffer står formuleringen 'gratis fjernsyn'. Vi er usikre på definitionen af 'gratis fjernsyn'.

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- Er DR 'gratis fjernsyn', når danskerne ikke betaler direkte, men indirekte via skatten?
- Anses TV 2 som 'gratis fjernsyn' og gælder det i så fald for alle TV 2's kanaler og platforme som fx TV 2 Sport og streamingtjenesten TV 2 Play?

### **Ingen brændende platform**

Vi er klar over, at bekendtgørelsen rækker ud i fremtiden, men vi er i en situation i øjeblikket, hvor 'Sportslisten' i de kommende år synes at være overflødig. De væsentligste sportsbegivenheder er sikret hos DR og TV 2, så vi står ikke på en brændende platform.



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Med venlig hilsen

Erik Brøgger Rasmussen, adm. direktør Dansk Boldspil-Union (DBU)  
Henrik M. Jacobsen, direktør Dansk Håndbold  
Ivan Løvstrup, direktør Parasport Danmark  
Niels Bo Daugaard, direktør Danmarks Cykle Union  
Peter Fabrin, adm. direktør Team Danmark  
Morten Mølholm Hansen, adm. direktør Danmarks Idrætsforbund (DIF)

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København 9. januar 2025

Danske Mediedistributører takker for muligheden for at bidrage til høring vedr. udkast til bekendtgørelse om udnyttelse af tv-rettigheder til begivenheder af væsentlig samfundsmæssig interesse.

Vi finder det positivt, at partierne bag den nuværende mediaaftale har taget initiativ til at genindføre en liste over sportsbegivenheder, som er af særlig national interesse og derfor bør sikres så bred tv-distribution som muligt. Erfaringsmæssigt er store sportsbegivenheder med dansk deltagelse blandt de absolut største samlende tv-begivenheder.

I lyset af de senere års udviklingen på tv-markedet med en mere fragmenteret forbrugeradfærd er det passende at sænke penetrationskravet fra 90 pct. i en tidligere sportsliste til nu et krav på 60 pct. af danskerne. Det er et niveau, som kan efterleves af en lang række af både statsfinansierede og kommercielle tv-kanaler men formentligt potentielt også af enkelte rene on demand streamingtjenester.

DMDs medlemmer har samlet omkring ca. 1,5-1,6 mio. husstands-kunder, og det betyder, at samtlige kanaler i de traditionelle grundpakker og en del dyrere tilvalgskanaler vil overholde kravet. Dette kan sikre fortsat bred interesse blandt broadcasterne til at byde på tv-rettighederne.

Det forekommer indlysende og relevant, at sportslisten igen vil omfatte alle OL-arrangementer samt VM og EM inden for håndbold og fodbold, samt at herre- og damelandshold sidestilles på listen.

Hvorvidt andre sportsbegivenheder skal omfattes, må bero på en konkret vurdering. Den privatejede franske sportsbegivenhed, Tour de France, har i de senere år haft meget stor dansk seerinteresse, men det må i al væsentlighed tilskrives den succes, som navnlig én dansk rytter har haft i løbet.

I tidligere år uden dansk succes, har løbet på enkelte dage ikke haft flere seere end enkelte af de mest populære kampe i Superligaen. Hvis miraklet skulle ske, at et dansk fodboldhold kvalificerer sig til slutrunderne i Champions League, vil det formentlig resultere i endog meget høj seerinteresse, og vil det i så være relevant at kræve denne turnering på sportslisten?



Af forslaget § 9 fastslås det, at parterne i tilfælde af uenighed om vilkårene jf. § 6, stk. 1-3 har pligt til at finde en løsning ved privat voldgift. Vi finder, at en sådan forpligtelse vil være et unødvendigt indgreb i den frie markedsdannelse. Det bør være op til parterne selv, om de ønsker en forhandling løst ved voldgift.

Ms Asta Marie Kristensen  
Ministry of Culture  
2 Nybrogade  
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Lausanne, January 8, 2026

**Response to the public consultation on the draft executive order on use of TV rights to sport events of major importance for the society.**

Dear Ms Kristensen,

I am writing in response to the public consultation on draft executive order on use of TV rights to sport events of major importance to society (draft Executive Order), launched on 1 December 2025.

The IOC would like to share following observations in the context of the above-mentioned consultation:

The sale of the media rights to the Olympic Games plays a key role in enabling the IOC to fulfil its mission to promote a better world through sport. Over five billion people followed the Olympic Games Paris 2024 (Paris 2024), where over 11,000 athletes from 206 National Olympic Committees and the Refugee Olympic Team participated. The entire structure of the Olympic Movement is built on a solidarity-based funding model which is funded, in large part (currently 61% of total revenues), from the sale of media rights. 90% of the IOC's income is redistributed to the wider sporting movement, to help athletes and sports organisations at all levels around the world. This amounts to the equivalent of US\$ 4.7 million being invested every day towards supporting the hosts of the Olympic Games as well as the development of athletes and sport.

The IOC licenses the media rights of the Olympic Games through a competitive process that aims to maximize the reach of the Olympic Games in compliance with the Olympic Charter. In January 2023, the IOC awarded media rights in Europe (including the Denmark) for the four Olympic Games (i.e. Milano-Cortina 2026, Los Angeles 2028,

French Alps 2030 and Brisbane 2032) in the 2026-2032 period to the European Broadcasting Union (the EBU) and Warner Bros. Discovery.

The Olympic Charter ([Rule 48](#)) requires the IOC to take all necessary steps to ensure the fullest coverage by the different media and the widest possible audience for the Olympic Games thus proactively fulfilling the principles of art.14 of the EU Audiovisual Media Services Directive (AVMSD) implemented in Denmark through the draft Executive Order.

Rule 48 of the Olympic Charter is reflected in our media rights agreements (including for the territory of the Denmark) by ensuring that Olympic media rights-holders distribute on a free-to-view basis a minimum of 200 hours of the Olympic Games and 100 hours of the Olympic Winter Games of high viewer interest events<sup>1</sup> (the “Broadcast Commitment”). In complying with the Broadcast Commitment, the broadcaster retains full editorial control.

Based on the statistic of media consumption during Paris 2024 of the IOC, the average consumption of Olympic Games content in Denmark was approximately 27.2 hours per viewer or 1.6 hours per day over 17 days of the Games while the 200 hours under the Broadcast Commitment amounts to over 11.8 hours of content per day. Similarly, media consumption results for Beijing 2022, the last edition of Olympic Winter Games, suggest an average viewership of 0.68 hours per day per viewer in Denmark while the 100 hours under the Broadcast Commitment amounts to over 5.9 hours of content per day.

Hence, without interfering with the broadcasters’ editorial control over the content that they transmit, the Broadcast Commitment for both the Olympic Games and the Olympic Winter Games ensures that at least seven times the amount of content consumed by the average viewer is made available via free means of media distribution, offering the most interesting sports events based on historical viewing practices.

Given the Broadcast Commitment offers broadcasters a very wide selection of content to meet viewers expectations and interests, the IOC believes that it is the best solution for defining “representative coverage” as it relates to the Olympic Games, for the purpose of art.8 of the draft Executive Order.

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<sup>1</sup> “**High Viewer Interest Event**” means, with respect to each Country, any event or match that has traditionally been among, or is likely to attract, the highest viewer interest within the relevant country including, without limitation, the medal round of any sport of the Games in which a competitor representing the relevant country is participating.

Regarding the obligation on rights holders to offer the exclusive rights to broadcasters that meet the requirements at least 12 months prior to the sporting event, we are not entirely clear on how this would operationally be feasible.

Given the dynamic nature of the broadcast and streaming industry, the requirement for the rights to be licensed “exclusively” to a qualifying broadcaster would only limit the reach of the sporting event. As a current example, the IOC’s media rights are shared co-exclusively between the EBU’s members (i.e. both DR and TV2 in Denmark) and Warner Bros. Discovery, which ensures that the Olympic Games are made available to a diverse demographic, which would not be possible if limited to one single broadcaster. Furthermore, we fear that this requirement, while substantively limiting rights holders when it comes to the choice of the broadcaster, may also not serve the interests of the consumers, in the event more suitable broadcasters and streaming services are only able to enter into deals in the 12 months leading up to the sporting event. Such a limitation may, in effect, foreclose the opportunity to work with the most relevant broadcasters in Denmark at the time of the sporting event if an agreement between the rightsholder and the broadcaster is required to be made so far in advance. We therefore request that you reconsider imposing such an obligation.

Finally, we would like to express our deep interest in continuing to engage with you in this consultation and any subsequent processes. As we were only made aware of this consultation close to the deadline, we may have additional, supplementary feedback to provide you with and look forward to having the opportunity to do so.



Jérôme Parmentier  
Vice President, Media Rights & Content Partnerships

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Odense, 9. januar 2026

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### **Høring over bekendtgørelse om udnyttelse af tv-rettigheder til begivenheder af væsentlig samfundsmæssig interesse**

Kulturministeriet har ved e-mail af 1. december 2025 givet TV 2 Danmark A/S (i det følgende TV 2) mulighed for at fremkomme med bemærkninger til udkast til bekendtgørelse om udnyttelse af tv-rettigheder til begivenheder af væsentlig samfundsmæssig interesse (i det følgende udkastet eller sportslisten) senest den 9. januar 2026.

Udkastet giver TV 2 anledning til at fremkomme med følgende generelle bemærkninger.

Overordnet kan TV 2 tilslutte sig, at sportslisten har sin berettigelse ud fra en samfundsmæssig betragtning om, at befolkningen bør have adgang til at se væsentlige begivenheder lineært på kanaler og tjenester med størst mulig udbredelse i et marked med stor konkurrence og mange forskellige udbydere.

De oplyste rettigheder er derfor også rettigheder, TV 2 - i det omfang det er økonomisk muligt - forsøger at erhverve eller allerede besidder i øjeblikket og flere år ud i fremtiden. Sportslisten er et vigtigt mediepolitisk signal om opbakning til disse bestræbelser.

Det er derfor også afgørende, at sportslisten udformes på en måde, så dette hensyn varetages bedst muligt.

TV 2 har noteret sig, at Kulturministeriet i udkastet søger at tage højde for flere af de problemstillinger, som TV 2 har påpeget ved tidligere lejligheder, på møder, i høringer og evalueringer, hvilket TV 2 kvitterer for.

TV 2 er dog bekymret for, om intentionen med regelsættet kan imødekommes med det foreslåede udkast, idet dette efter TV 2s opfattelse rejser nogle væsentlige problemstillinger, der bliver vanskelige at håndtere i praksis, jf. nærmere nedenfor.

Til trods for at de tidligere bekendtgørelser har vist sig meget udfordrende at anvende, har sportslisten og det signal, den sender til sportsrettighedshaverne, sin berettigelse, da TV 2 er enig i, at befolkningen i videst mulige omfang bør have adgang til at se væsentlige begivenheder på medietjenester med stor udbredelse og en relevant national redaktionel

dækning, herunder med danske kommentatorer, hvilket ikke er en selvfølgelige, såfremt rettighederne alene udbydes af store grænseoverskridende tjenester.

Udkastet sikrer ikke, at sportsrettighedshaverne først skal tilbyde rettighederne til fx TV 2 og DR, der i dag er de eneste enkeltstående tv-kanaler, der opfylder det foreslåede forbrugskrav, hvilket naturligvis ville have været den optimale løsning.

Rettighederne til store og populære sportsbegivenheder udbydes imidlertid som oftest ikke land for land, men for en flerhed af territorier, samtidig med at de er uhyre bekostelige.

Det betyder, at en public service-kanal som TV 2, hvis udsendelsesvirksomhed alene er rettet mod Danmark, på trods af sin popularitet ikke altid er i stand til at matche de bud, som store kommercielle internationale medieaktører kan give, ofte for en flerhed af territorier.

Selvom medieaktører, der måtte have erhvervet rettigheder til en af de oplistede begivenheder på sportslisten, i udkastet pålægges at tilbyde rettighederne til fx TV 2, som i dag opfylder forbrugskravet, er det således langt fra sikkert, at TV 2 formår at matche den (markeds)pris, som rettighederne tilbydes til, hvilket formentlig vil være baggrunden for, at TV 2 ikke har erhvervet rettighederne i første omgang.

Udkastet bidrager ikke umiddelbart til løsningen af dette problem.

Den konkrete udformning af udkastet giver TV 2 anledning til følgende bemærkninger:

#### **Ad §§ 1 og 2**

Hvis bekendtgørelsen skal opfylde sit formål, skal alle tjenester, der udbyder audiovisuelt indhold som fx streamingtjenester indeholdende såvel lineært som on demand-indhold og lignende udbydere, omfattes.

I udkastet er anført, at reglerne finder anvendelse på "fjernsynsforetagender", omfattet af §§ 1 og 2 i lov om radio og fjernsynsvirksomhed, men det må forudsættes, at også de førnævnte "blandede" audiovisuelle tjenester omfattes af bekendtgørelsen.

Det forudsættes endvidere, at fjernsynsforetagender og blandede audiovisuelle medietjenester med såvel lineært som on demand-indhold, og andre udbydere med lineært indhold, som ikke er underlagt §§ 1 og 2 i lov om radio- og fjernsynsvirksomhed, men som måtte være etableret inden for AVMS-direktivets anvendelsesområde, omfattes af forpligtelsen til at respektere sportslisten, jf. direktivets artikel 14, stk. 3, da det er helt afgørende for listens praktiske betydning, at store kommercielle internationale aktører, som også udbyder lineært indhold, omfattes af reglerne og forpligtelserne.

Terminologien er i øvrigt ikke helt konsistent, idet der i udkastets § 5, stk. 1, nr. 1 og 2, og § 6, stk. 3 og 5 også henvises til "on demand audiovisuelle medietjenester" og "udbydere".

Det er afgørende, at også streamingtjenester, som ikke udelukkende udbyder egentlige kanaler, men som ud over on demand-indhold også stiller lineært indhold til rådighed, såsom sportsindhold, omfattes af regelsættet, hvis det skal have en reel betydning.

Man kunne derfor overveje at præcisere i disse bestemmelser, at forpligtelserne ikke udelukkende omfatter fjernsynsforetagender i klassisk forstand, men alle, som udbyder audiovisuelt indhold lineært og on demand.

#### **Ad § 4**

Det forudsættes, at det afgørende er, at der er tale om lineær sening af audiovisuelt indhold, uanset hvilken enhed der anvendes til modtagelsen, og at "fjernsyn" således ikke alene skal opfattes i traditionel men i bredere forstand som "lineær udsendelse".

#### **Ad § 5**

TV 2 er enig i, at det penetrationskrav, som var det afgørende kriterie i de tidligere bekendtgørelser vedrørende begivenheder af væsentlig samfundsmæssig interesse, ikke er hensigtsmæssigt at anvende i dag, hvor lineært indhold og særligt sport distribueres på mange forskellige måder til modtagelse på mange typer enheder og ikke kun via traditionelle tv-kanaler, hvorved penetrationen i det traditionelle tv-marked falder.

TV 2 er også enig i, at forbrugsniveauet kan være et relevant kriterie at anvende, men ser samtidig visse udfordringer forbundet hermed.

Forbruget af TV 2s og DR's lineære (hoved)kanaler er stadig nedadgående, også selvom man, som man bør, tæller seningen via streaming på TV 2 PLAY og DRTV med.

Det gælder imidlertid for alle aktører på mediemarkedet, at de har en dalende dækning, målt i forbrug, idet konkurrencen fra fx sociale medier, som eksempelvis YouTube er meget stor. Derudover begynder sociale medier også at agere som redaktørstyrede medier, fx viser YouTube i dag også sport, men med et betragteligt blandet indhold, hvilket kan forudses at kunne rykke fordelingen af forbruget yderligere.

Det er derfor helt afgørende, at forbrugskravet på de 60%, som foreslået i udkastet til bekendtgørelsen, løbende evalueres og justeres, således at det hele tiden forholder sig til den virkelighed, som medierne, og særligt public service-medierne, befinder sig i. Dette bør ske mindst en gang årligt, fx i forbindelse med indsendelsen af det foregående års forbrugstal.

Det er endvidere afgørende, at alle medier opgør forbruget på samme autoritative måde, således at der sikres en overensstemmelse mellem de opgørelser, som aktørerne skal sende ind. Det bør præciseres i udkastet, præcis på hvilken måde forbruget måles, samt hvilke datakilder der accepteres.

Det bør gennemtænkes og overvejes nøje, om et forbrugskriterie er det rigtige, og i givet fald hvorledes det præcist skal beskrives, således at det er det relevante forbrugskriterie for sportsindhold, der bliver anvendt. Den foreslåede formulering i udkastet forekommer

ikke tilstrækkeligt præcis, og det er meget vanskeligt at fastsætte et kriterie, der er relevant og rimeligt for alle, når de relevante udbydere er så forskelligartede, som de er.

Forbrugskriteriet er således meget vanskeligt at anvende, da de medieforetagender, som i dag er interesserede i og udbyder sport lineært, er meget forskellige i karakter og udbud.

Fx har en tjeneste som Disney+, der primært består af on demand-indhold, der ikke er sport, live fodbold som en del af sin indholdsportefølje, men ikke i form af en egentlig kanal. Det samme gælder Prime Video, der også tilbyder live fodboldrettigheder, ligesom det sociale medie YouTube også sender livesport som en del af sit indhold, der i øvrigt i vidt omfang er brugergenereret.

Disse tjenester er således ikke direkte sammenlignelige med fx TV 2s hovedkanal, der alene har flow-indhold, rettet mod et dansk publikum og derfor har et omfang, som er langt mindre end de nævnte tjenester. Det er derfor vigtigt, at forbruget hos de audiovisuelle tjenester og/eller sociale medier ikke måles på den samlede store blandede tjeneste, men kun på udbuddet af det lineære indhold, eller de lineære kanaler, der udbydes, hvilket i dag ikke er muligt. Hvis ikke der tages højde herfor og for forskellighederne i tjenesterne, vil reglerne i udkastet få en helt anden virkning end tiltænkt.

På den baggrund bør den foreslåede bestemmelse i § 5, stk. 1 nr. 1 omformuleres, da det ellers kan have utilsigtede konsekvenser.

Ifølge udkastet vil kriteriet være, om kanalen/tjenesten månedligt i et kalenderår i gennemsnit blev set af mindst 60% af danskerne. Efter TV 2s opfattelse er denne periode for kort, da forbruget i høj grad kan afhænge af, hvad der "sker" – både i sportens verden og men også generelt.

Forbruget af TV 2s kanaler og streamingtjeneste er generelt højere i år med flere store sportsbegivenheder og andre begivenheder som fx folketingsvalg og lignende. Derfor kan det være problematisk at anvende et enkelt kalenderår som reference – det bør være målt over en flerårig periode fx over 4 år, da forbruget kan have udsving fra år til år, alt afhængig af hvad der tilbydes.

Endvidere skal det bemærkes, at sportsrettigheder sædvanligvis erhverves mange år, før begivenheden finder sted.

TV 2 har fx for nylig erhvervet rettigheder til Tour de France for perioden 2026 til 2032. Hvis TV 2 i en hypotetisk situation i 2026 er i kontakt med gennemsnitligt 60,1% af danskerne, men i 2027 alene opnår et gennemsnitligt kontakttal på 59,8% af seerne, vil det betyde, at TV 2 i sommeren 2028 er afskåret fra selv at udnytte rettighederne, medmindre det kan dokumenteres, at TV 2 ikke har kunnet afsætte rettighederne til en kanal eller tjeneste, der har været i kontakt med 60% af danskerne i 2027. I en sådan situation vil det i øvrigt ikke være muligt at udbyde rettighederne til salg i 12 måneder forud, jf. § 6, stk. 2, da opgørelsen for 2027 foretages i januar 2028, jf. udkastets § 5, stk. 2.



Tilsvarende kunne det være, at det ved opgørelsen af TV 2s kontakttal ved udgangen af 2028, viste sig, at forbruget af TV 2 i 2028 rent faktisk er steget igen – fordi det er et år med mange store sportsbegivenheder - og at TV 2 igen opfylder det gennemsnitlige forbrugskrav på 60% og derfor godt selv kunne have udnyttet rettighederne.

En sådan urimelig og uberegnelig konsekvens af mindre udsving i forbrugstallene vil gøre det meget usikkert at investere store summer i de dyre oplyste sportsbegivenheder i udkastet.

Samtidig vil det antagelig være vanskeligt at afhænde rettigheder, som en udbyder ikke opfylder forbrugskravet til at kunne udsende, til en rimelig pris.

#### **Ad § 6**

TV 2 er enig i, at fristen for at tilbyde rettighederne til en kanal eller tjeneste, der opfylder forbrugskravet, skal være så lang, som det er praktisk muligt, og af budgethensyn gerne længere end de 6 måneder, der var gældende i den tidligere bekendtgørelse.

Som udgangspunkt finder TV 2 således 12-måneders fristen angivet i det foreslåede stk. 2 for hensigtsmæssig. Eftersom det er det foregående års forbrug, der først kan opgøres ved udgangen af kalenderåret, der er afgørende for, om en rettighed kan udnyttes på en kanal/tjeneste, kan det imidlertid være vanskeligt at opfylde 12-måneders fristen i den situation, hvor en kanal/tjeneste har forbrugstal, som ligger lige omkring de 60%, og hvor en begivenhed finder sted om sommeren. Fristen kan på denne baggrund ikke være absolut.

#### **Ad § 7**

Henvisningen i stk. 1 nr. 3 skal være til § 3 fremfor § 2.

Sportsrettigheder udnyttes som altovervejende hovedregel lineært og direkte, da det er her attraktionsværdien er der for seerne og brugerne, men TV 2 forstår ikke umiddelbart grunden til, at en aktør, som ikke opfylder forbrugskravet, og som ikke har kunnet få rettigheden afsat til en, der gør, ikke er forpligtet til at sende begivenheden direkte (og kun tidsforskudt under nogle nærmere angivne omstændigheder).

Det vil dog nok være et mere teoretisk end praktisk problem for seerne og brugerne, da sportsrettighedshaverne også har en interesse i, at begivenhederne sendes direkte i videst mulige omfang og derfor også kontraktuelt ofte stiller krav herom.

#### **Ad § 8**

Efter TV 2s opfattelse bør der i stk. 1 være en henvisning til § 3, således at det er helt klart, at det ikke nødvendigvis er hele begivenheden, men alene de dele af fx EM- og VM-slutrunder i håndbold og fodbold, der er oplyst i § 3, der skal sendes på en kanal eller en tjeneste, der opfylder forbrugskravet.

### **Ad § 9**

Det er en betingelse for, at en kanal eller en tjeneste, som ikke opfylder forbrugskravet, selv kan udnytte rettighederne, at denne kan dokumentere, at der ikke er en kanal eller tjeneste, der opfylder kravet, som har ønsket at erhverve rettighederne på markedsvilkår.

TV 2 er enig i, at ordet ”rimelige” ikke har selvstændig betydning, idet sportsrettigheder handles til de beløb, som sportsrettighedshaverne kan acceptere.

Som TV 2 tidligere har påpeget, fx i forbindelse med evalueringen af den tidligere bekendtgørelse i 2018, er det særdeles vanskeligt og på ingen måde åbenbart at fastlægge, hvad der udgør markedsvilkår, herunder markedsprisen i forbindelse med køb af sportsrettigheder. Problematikken forstærkes af, at sportsrettigheder ofte udbydes i store pakker med flere rettigheder/begivenheder i flere territorier, hvor markedsprisen for en enkelt begivenhed i et enkelt land ikke altid er mulig at fastlægge.

Samtidig er de kommercielle aktører, som kan være relevante bydere, som fx Viaplay, DAZN, Prime Video etc., ikke underlagt de restriktive danske reklameregler, hvorved de i langt højere grad kan udnytte de kommercielle muligheder, som sportsrettighedshaverne tilbyder i tilknytning til flere af de begivenheder, der er på listen. Hermed er den kommercielle værdi af rettighederne større for disse, hvilket påvirker markedsprisen.

Endelig er der også eksempler på, at nye store aktører, som gerne vil ind på et marked i et territorie, er villig til at betale en høj pris herfor, hvilket også er med til at vanskeliggøre fastsættelse af markedsprisen.

Efter TV 2s erfaringer med de tidligere bekendtgørelser er forhandlingerne om overdragelse af rettighederne til de oplistede begivenheder fra en kanal eller tjeneste til en anden netop strandet på grund af uenighed om, hvad der er markedsvilkårene, herunder særligt prisen, for den pågældende begivenhed. Denne uenighed kan kun forudses at blive større i den nuværende medievirkelighed, hvor der er stor sandsynlighed for, at uenigheden vil opstå mellem en lokal aktør som fx TV 2 og et multinationalt foretagende, der opererer globalt, og hvor rettighedssummen ikke nødvendigvis er fordelt på de enkelte begivenheder og territorier.

Det er derfor helt afgørende for bekendtgørelsens praktiske betydning, at der er fuldstændig klarhed omkring procesreglerne, og at der er mulighed for hurtig tvistløsning.

I udkastet henvises der til lov om voldgift, hvilket efter TV 2s opfattelse ikke giver en sådan klarhed.

Tvist om vilkår forudses som nævnt primært at kunne opstå mellem foretagender, som er etableret i forskellige lande. Det fremgår ikke, hvilke retsregler der finder anvendelse på processen, og hvor tvistløsningen/voldgiften skal finde sted, fx hvis den ene kanal/tjeneste er etableret i Danmark og den anden i Irland eller Benelux-landene, som kunne være et muligt scenarie.

Det bør som minimum præciseres i regelsættet, da denne uklarhed indebærer, at det er vanskeligt at forudsige, hvilke ressourcer processen kræver. Den mulige konsekvens kan være, at en part vælger ikke at søge uenigheden afklaret og dermed ikke når en aftale. Det er der flere praktiske eksempler på under de tidligere bekendtgørelser.

Derudover er det helt nødvendigt, at voldgiften kan træffe en hurtig afgørelse, som ikke kan bevidst forhales af parterne, da planlægning af den redaktionelle dækning af de store sportsbegivenheder som OL og slutrunder i håndbold og fodbold kræver en vis forberedelsestid.

TV 2s erfaringer med de tidligere sportslister har været, at de ikke har haft den ønskede virkning, og da det foreliggende udkast efter TV 2s vurdering indebærer nye udfordringer, særligt forbrugskriteriet – og igen uklarhed om tvistløsningen - er TV 2 tvivlende over for, om man med udkastet vil opnå den ønskede politiske intention, om end TV 2 bakker op om bevæggrundene bag sportslisten.

TV 2 står naturligvis til rådighed for spørgsmål og uddybende kommentarer, såfremt Kulturministeriet måtte ønske dette. I givet fald kan undertegnede kontaktes herom.

Med venlig hilsen

Rikke Buch-Rønne  
Teamchef, advokat  
TV 2 Jura



Confidential

**Sent by e-mail only:**

askr@kum.dk

**For the attention of:**

Asta Marie Kristensen  
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DK-1203 Copenhagen  
Denmark

09 January 2026

Dear Sir/Madam

**Public consultation on draft executive order on use of TV rights to sports events of major importance to society: response from the Union of European Football Associations ("UEFA")**

We refer to the draft executive order published by the Danish Ministry of Culture concerning the use of television rights to sports events of major importance to society (the "**Draft Executive Order**").

As you will be aware, UEFA is the governing body for association football in Europe and is commercially responsible, inter alia, for the sale of the media rights to certain matches forming part of the competitions included in the Draft Executive Order.

These are:

- (a) in respect of the final tournament of both the men's and women's editions of the UEFA European Championship (also known as "UEFA EURO" and "UEFA Women's EURO"): the finals and semi-finals as well as all matches of the Danish national team; and
- (b) in respect of the qualifying tournament of the men's edition of the UEFA European Championship and the FIFA World Cup (known as "the European Qualifiers"): all matches of the Danish national team.

together, the "**Matches**". We understand no other matches to which UEFA owns the commercial rights are included within the Draft Executive Order.

Before turning to our views on the Draft Executive Order, it should be noted that UEFA was not contacted directly in respect of the consultation at the time of its launch and we were only made aware of the same shortly before the Christmas break when a short extension to today's date appears to have been granted (bearing in mind this is a known holiday period). This is somewhat surprising given a legislative consultation should presumably provide organisations whose sporting and commercial interests are at the heart of the proposed changes with a reasonable period of time in which to consider the proposals

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and discuss the same with stakeholders/partners before formulating a submission. As such, we would reserve our right to comment further and adduce further evidence at a later stage of the process. We have, in any event, provided our initial observations below.

By way of brief introduction, those observations comprise the following:

- UEFA's view that there is a balance to be struck between (i) free-to-air exposure of a competition and (ii) the generation of revenues from the sale of media rights to that competition (which contribute to the overall health of European football (including locally in Denmark)) with UEFA, as a responsible governing body, being best placed to determine that balance.
- A description of how UEFA's responsible exercise of its discretion (as per the above) has, in practice, ensured, and continues to ensure, that Matches are given appropriate free-to-air exposure with the result that there is no demonstrable market failure and, therefore, no "issue" which justifies this disproportionate level of legislative action.
- Certain questions and comments regarding the detail of the Draft Executive Order, particularly in respect of the 60% threshold and how this might operate in the real world observing that, in the absence of complete clarity, there is a risk that a confused situation will further harm competition for rights to the Matches and potentially block new entrants to the detriment of Danish consumers.
- A question regarding the free-to-air definition and why, in a country with nearly 100% internet penetration and usage, internet-only content outlets which would meet the 60% requirement are not included within the Draft Executive Order further diminishing competition without objective justification.
- Questions and observations in respect of the 12-month "offer obligation" in terms of (i) to whom this applies, (ii) its enforceability, (iii) competition law matters and (iv) commercial considerations which do not appear to have been considered (as well as how any disputes might be resolved by arbitration).
- UEFA's view that there is simply no justification for "exclusive rights" to be offered to the market. The objective of the legislation is met in circumstances where Danish consumers can view the relevant events free-to-air irrespective of whether one or more other media partners are also making that content available.

### **Balancing Revenue Generation and Free-to-Air Exposure**

As part of its role as a governing body, UEFA is mandated, *inter alia*, to generate revenues for the benefit of the game in Europe. These monies are critical to the maintenance and development of football at all levels of the game. As a "not-for-profit" organisation, UEFA redistributes revenues back into the sport of football in Europe whether via distributions to the UEFA Member Associations (including the DBU) or direct investment, for example, in community or "grassroots" projects (including in Denmark). Therefore,

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as a matter of first principle, we question any measure which may artificially compromise our ability to optimise the commercial revenues deriving from the media rights to the Matches.

Having said that, we appreciate that free-to-air exposure can be an important component in the development of any sport and its role in society. However, we do not consider that legislation is required to achieve this. It is already clearly in the interests of sports governing bodies such as UEFA to ensure widespread availability of matches whilst balancing this with the desire to generate the revenues mentioned above. To be clear, this would mean that, in terms of free-to-air exposure, UEFA would continue to exercise its own good judgement to ensure that, across Europe (and as has historically been the case), an appropriate level of free-to-air access to relevant competitions is maintained whilst ensuring revenues crucial to the sport are not lost.

In this regard, the inclusion of the Matches in the Draft Executive Order will inevitably reduce broadcaster competition for the media rights to them by limiting the number of prospective bidders to certain "traditional" broadcasters only (i.e. those meeting the relevant threshold). In the absence of a normal and healthy market for the rights to the Matches, it is clear that there simply cannot be the same expectation that comparable levels of revenues will be available for distribution by UEFA to its stakeholders (including the DBU) or invested in local development projects. We would, therefore, ask that this wider consideration and negative impact is borne in mind as part of the consultation.

### **Absence of Demonstrated Market Failure or Justification for Intervention**

We do not consider that the Draft Executive Order demonstrates the existence of a clear or persistent market failure that would warrant regulatory intervention of this scale. In practice, the Danish media market already delivers broad and effective access to football events of national importance through a well-functioning mix of free-to-air television, pay-TV services, digital platforms and highlights coverage.

By way of illustration, as far as the Matches are concerned:

- between 2022 and 2028, all Danish Men's National Team matches (including qualification matches for UEFA EURO 2024, the 2026 FIFA World Cup and UEFA EURO 2028) have, to date, been broadcast on a free-to-air basis by TV2 Danmark A/S ("**TV2**");
- all matches of UEFA EURO 2024, including those involving Denmark, were shown free-to-air by TV2 and DR (Danish Broadcasting Corporation) ("**DR**"); and
- all Danish National Team matches at UEFA Women's EURO 2025 were broadcast on a free-to-air basis by Viaplay Group Sweden AB on TV3.

We can also confirm that all Matches of UEFA EURO 2028 are already contracted to be broadcast on a free-to-air basis in Denmark.

This evidence suggests that, as far as UEFA and the Matches are concerned, the existing market is already delivering the policy outcomes the Draft Executive Order appears to be seeking. Without clear evidence of harm to viewers or competition, we are concerned that further regulatory intervention risks being



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unnecessary and potentially counterproductive for the reasons described in the previous section of this letter.

### **Issues Arising from the Proposed 60% Viewership Threshold and Means of Distribution**

The Draft Executive Order introduces a requirement that a listed event must be broadcast on a service which "on average, was viewed by at least 60% of Danes monthly in a calendar year". On a literal reading, this requirement appears likely to preclude new entrants to the market as well as other services which are technically capable of reaching 60% of the population but which, for commercial or other reasons, have not yet achieved that level of viewership. In practice, this will likely favour incumbent broadcasters with established audiences and unjustifiably distort competition. Moreover, there is scope for material consumer detriment as a result of new and innovative services being artificially excluded from the market for the rights to the Matches. Indeed, where incumbent broadcasters are effectively "guaranteed" access to the rights, there is little or no incentive upon them to develop or improve their services and/or the production of the content around the Matches.

The Draft Executive Order also provides limited clarity on how and when this threshold would or might be measured or applied in practice. This lack of clarity, at least until any precedent is established, creates legal and commercial uncertainty for both rights holders and broadcasters. This is liable to discourage participation in rights acquisition processes and yet further diminish competition for (and the value of) the rights to the Matches.

Finally, it would appear that services offered on an Internet-only basis are not considered, under the Draft Executive Order, as sufficient to deliver the required free-to-air coverage in Denmark. Our understanding is that Denmark has one of the highest internet penetration and usage rates in the world. It is, therefore, somewhat perplexing that the Draft Executive Order ignores the existence of such services which might again deliver a technologically-advanced and innovative coverage of the Matches to a number of Danish consumers comfortably above the 60% threshold. Indeed, at first glance, it seems arguable that the proposed legislation is designed more to protect the interests of certain incumbent broadcasters than to advance the interests of Danish consumers in viewing the highest quality audiovisual product on a free-to-air basis.

### **12-Month Advance Offering Obligation and Arbitration**

We also have significant concerns regarding the requirement that media rights are offered at least 12 months before the relevant event. However, before turning to the detail of those concerns, we are, in any event, confused as to its application. In the covering letter which came with the Draft Executive Order, it appears that this obligation would apply to "rightsholders", a term typically meaning the owner or first seller of the relevant rights e.g. UEFA. However, in the draft text of the Draft Executive Order, it seems instead that this might apply only to "broadcasters" (see Section 6) although it is not crystal clear.

Given this lack of clarity, we have set out below our more general views on this proposal in principle. To be clear, should this provision be deemed applicable to UEFA, we will have further comments and

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questions, not least as to how any such obligation is capable of enforcement on an extraterritorial basis to entities located outside of Denmark.

In overall principle terms, the 12-month "offer" obligation introduces a rigid deadline that risks further distorting the market without any, or reasonable, justification. Indeed, as noted above, from a competition law perspective, the Draft Executive Order already envisages a narrowing of competition in terms of the pool of potential buyers for rights to the Matches. The 12-month obligation exacerbates that issue by diminishing the free operation of the market yet further when, in reality, there is no necessity for it given the apparently policy objective of the Draft Executive Order is met provided the content is on-screen on a free-to-air basis for the Danish public at the relevant time. This can be achieved at any time prior to the first Match of a given competition taking place. Indeed, from UEFA's experience, broadcasters around the world are more than capable of making available our content at very short notice (and do so all the time) and we do not see why the pool of Danish broadcasters would be any different in this regard.

The deadline is also liable once again to be detrimental to the interests of Danish consumers. For no apparent and/or justifiable reason, a new and innovative service which becomes available, say, 6 months prior to the first Match of a competition (and otherwise meets the relevant criteria under the Draft Executive Order) will be precluded from bidding for the rights to the Matches which will only have been available to longer-standing broadcasters, further limiting the healthy operation of a competitive market for the rights.

Moreover, the relevant seller of the rights will also be unable to freely judge for itself the best time to go to market with those rights meaning its ability to optimise revenues is hugely compromised. This is not only because it can no longer maximise competition between bidders or, for example, wait for a new entrant to be in a position to bid but also because prospective buyers will be fully aware of this rigid situation.

Indeed, for UEFA, this approach is particularly problematic because, in many cases, the participating teams in the relevant competitions will simply not be known 12 months in advance. As will be obvious, this uncertainty has a direct impact on the value of the media rights, especially for national team competitions, where audience interest and commercial value are closely tied to the qualification and participation of teams in which the domestic viewing audience has an interest. In addition, should any offer or arrangement be the subject of a dispute, it seems to us that any valuation will be incredibly difficult to make without, for example, certainty as to the core elements of what is being sold.

All of the above leads us once again to question the underlying intention behind the proposed legislation and whether an anti-competitive intervention of this very serious nature (and in varying forms) is genuinely justifiable and/or to the benefit of the Danish viewing public.

Finally, we note that, in terms of any dispute arising out of this process, it is proposed that the relevant issue is referred to arbitration for resolution. In the limited time available to UEFA for this consultation, we have been unable to look into the detail of the Danish Arbitration Act but, overall, would question whether what tends to be a lengthy and expensive process is appropriate or necessary. We reserve our right to comment further on this point if additional detail is provided.



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### **Exclusive Rights to be Offered**

As a final observation, UEFA sees no objective justification for the apparent requirement that the rights are offered for exercise on an "exclusive" basis. Again, this seems to be the position from the covering letter in respect of the Draft Executive Order but the text of that order is less clear as to whom this applies and, for example, whether UEFA is required to offer such "exclusive" rights.

Acknowledging this confusion, if the policy objective is to ensure free-to-air availability of the Matches, this can be fully-achieved on a non-exclusive basis. Indeed, the interests of the Danish viewer would be better-served in circumstances where she or he has a choice of services to choose from. This requirement, if correct, would also preclude UEFA itself from enjoying its own rights in the territory of the Kingdom of Denmark. We do not think this can be correct and would also observe that, in many cases, rights are not technically-licensed on an exclusive basis by the rightsholders. For example, there may be numerous exceptions and reservations to allow for, for example, the exploitation of certain footage rights by UEFA Member Associations, sponsors, commercial affiliates etc.

Given the above, we would ask that the position is clarified and that the reference to "exclusive" is removed.

### **Final Observations**

We hope that our views are clear from the above. In summary terms, we see the proposed legislative action as unnecessary, lacking clarity and intervening in a normally-operating market with insufficient justification from a competition law perspective. Indeed, to the contrary, the measures envisaged are liable to be to the detriment of both the Danish viewing public as well as the sport of football in Denmark given the likely negative financial impact upon the revenues which might otherwise be generated from the rights to the Matches.

For completeness, our understanding and belief, as at today's date, is that no other UEFA competitions are under consideration as part of the assessment process and we have, therefore, not included any other UEFA competitions in these observations.

We hope that the content of this letter is of assistance and would, of course, be happy to discuss any aspect of it – just let us know. In addition, if you have any immediate follow-up questions, please do not hesitate to contact me at [simon.parry@uefa.ch](mailto:simon.parry@uefa.ch).

Yours faithfully,



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**Simon Parry**  
**Head of Commercial Legal Services**

## **Ministry of Culture Denmark: Executive Order on listed sports events**

Warner Bros Discovery Sports is grateful for the opportunity to comment and in particular for the short extension allowing us to consult with colleagues over the Christmas period.

Warner Bros. Discovery Sports represents the Warner Bros Discovery (WBD) company's portfolio of sports brands, channels and platforms across Europe. We distribute content for 24/7 programming and content across all platforms where consumers are spending time including free-to-air TV, pay-TV, streaming, online and social. As such, we are familiar in many European countries with the complex interface between the Listed Events regime, the rights of sports rightsholders, investments made by sports broadcasters and the evolving audiovisual landscape.

In Denmark, our services include HBO Max and Eurosport as well as generalist services Kanal 5, 6eren and Canal 9; sport is included in all these channels, with hundreds of hours of sport being broadcast last year. WBD Sport also produces many hours of content related to sport in the Nordics. The services and channels available in Denmark are under Dutch, German or French jurisdiction.

### General

All governments seek to ensure an appropriate balance between access to sporting events and allowing sports bodies to use their contractual freedom to maximise revenue from sale of rights. As a broadcaster/streamer active across the EU, WBD would observe that the normal workings of the commercial marketplace will tend to meet many of the policy objectives under discussion as rightsholders wish to strike a balance between maximising revenue and ensuring wide viewership and many media businesses, including WBD, have a distribution mix which includes pay, free, broadcast and streaming.

For broadcasters and for rightsholders, one key objective is predictability: we therefore welcome the fact that the new Executive Order only applies to events “for which an agreement has been entered into for the exploitation of exclusive rights after the Executive Order enters into force”, i.e., no retroactive effect. We would however caution against the risk of arbitrary, reactive changes to listed events which would endanger multi-annual investments in sports rights.

These basic principles have been established since the mid-1990s, when pay-TV became established in Europe. Today, in the light of changing consumer habits, many European authorities are looking to future-proof the listed events regime.

We have a few specific comments on the proposal in Denmark:

### The content of the list

We understand that the list will be extended to cover FIFA and UEFA international women's football tournaments, and the Paralympic Games. Similar extensions have been seen in other EU Member States and do not give rise to any specific comments on our side.

The extension of the list to include qualifiers for the Danish football and handball teams, male and female, for international competitions is more complicated. In some countries, the market could operate so as to ensure that the decisive qualifying match, in which there is enhanced public interest, may be made available free even if the earlier matches, appealing to a more dedicated fanbase, were

available on pay-TV. This may be a more equitable way of balancing the conflicting interests at stake in any listed events regime.

We also note that the Tour de France is listed for the first time. The wording in the draft executive order itself merely states “Tour de France”. Other listed events are more specified for instance Olympics “including opening and closing ceremonies”, football World Cup “all matches with Danish participation and semifinals and finals”, whereas Tour de France is just “Tour de France”. The accompanying documents do not shed any further light on whether this is intended to cover the entire three-week race or, more realistically, a highlights package and/or the closing stages of the race.

WBD currently has non-exclusive rights to the Tour de France in Denmark. We make available highlights packages to all stages of the Tour de France to EBU members across Europe, a normal commercial arrangement (i.e., without listing) which seems to work well. We feel that adding the event to a statutory list is disproportionate and not in compliance with the criteria for listing established by the EU authorities.

Clearly the proposed addition to the list is in response to the recent success of Danish cyclists. We do have a wider concern with Member States adding events to the list in response to an upturn in a country’s sporting fortune in this way: listing a sports event is an incursion into the exclusive rights of the rightsholder, and as such should be construed narrowly. We have seen similar examples recently in other EU Member States who are seeking to respond to an upturn in their country’s performance in tennis tournaments. We do not believe that such reactive listing of sports meet the criteria of the European institutions (AVMS Contact Committee, Council of Europe) for an event to be listed, under which the event in question should:

- have a special general resonance, not simply of significance to those who ordinarily follow the sport or are activity concerned;
- have a generally recognised, distinct cultural importance for the population, in particular as a catalyst of its cultural identity;
- involve the national team in the sport concerned in a major international event;
- have an established tradition of being available free to viewers and have generated large audiences<sup>1</sup>.

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<sup>1</sup> These criteria have not been published but were reproduced in full in the EFTA Court Case E-21/13, FIFA vs EFTA Surveillance Authority

### Which services qualify for the list ?

As noted above, many countries are seeking to adjust their lists to respond to changing viewer behaviour. We would agree that the previous penetration requirement of availability in 90 percent of all Danish households will potentially become outdated. We also agree with the fact that it will be possible to fulfil the obligation via on-demand services and not only channels, as this seems welcome given the ongoing changes in audience behaviour (although live sport is arguably less affected by these changes than other genres).

However, we understand that a new requirement is to be introduced: that a qualifying service must on average be viewed by at least 60 percent of Danes on a monthly basis in a calendar year. This seems unnecessarily complicated – not least given the obligation on a qualifying service to prove these numbers – and appears likely to shore up the position of the incumbent public service media companies. Listed events legislation should be designed not to favour a particular broadcaster or group of broadcasters but rather to ensure that viewers have access to defined events free of charge. In our opinion, the draft executive order introduces metrics which are unduly narrow regarding the definition of a qualifying service.

The reasoning behind the shift to the 60 percent actual use model of the current draft seems unclear. The proposed 60 percent model as mentioned seems to unduly favour certain (public service) broadcasters/streaming providers in the Danish market, without benefitting the viewers' access to the listed events, and thereby disturbing the market unnecessarily.

We note for example that under the equivalent legislation in Norway, the requirement is that 90% have the possibility to get access – which is fulfilled by several services, broadcast and online, given the high broadband penetration. Previous Danish rules on listed events also operated with a 90% reach model similar to the Norway model, ref. the now historic Danish executive order no. 546, dated April 19, 2015.

A model based on viewers' possibility to access a service (e.g., the Norwegian 90% model) would be more future-proof and consumer-friendly than a test of actual monthly viewership and also would relieve the incumbent public media players from the obligation of regularly proving their status as having reached the threshold. Such a model would also allow for some of the more innovative partnerships we have seen in other countries in non-listed events, such as making use of a broadcaster's YouTube channel to make available an unexpectedly popular event.

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