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The impact of potential changes to geo-blocking regulation on sport

A report for SROC
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O&O

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Key figures

€13.6 billion	The estimated annual value of EU28 sports rights based on publicly available information and input from Sports Rights Owners' Coalition members. This is the amount paid by broadcasters on a territory-by-territory basis in exchange for access to sports content in their home markets. Demand from broadcasters reflects demand from customers in their national markets.
100 per cent	The European consumers who would be adversely affected by a ban on geo-blocking of sports content. Broadly speaking, sports rights would end up in the hands of the broadcasters who can extract the most value from them. Typically, this means the broadcasters in a sport's domestic market – fragmenting the availability of sports content between broadcasters across Europe. Without taking multiple subscriptions, all European consumers would lose access to the existing diversity of international sport which they currently enjoy.
11	The number of European territories where consumers wishing to access coverage of top tier sports from other territories are likely to have to pay more – even if they drop their current sports subscription – in the event of a ban on geo-blocking. This is because dominant broadcasters offering top tier sports will primarily monetise domestic demand, typically at relatively high access costs. Those in smaller, typically lower access cost markets, will therefore suffer disproportionately.
103 million	The number of citizens in those 11 territories who could face higher prices to access top tier sports coverage from overseas compared to today. Of these, around 76 million live in homes with an existing pay-TV subscription and an estimated 21 million currently live in homes which subscribe to pay-TV services in order to access sports content. These consumers would be directly affected by an increase in the cost of access. Like everyone else, they would also have to pay for multiple subscriptions if they wanted the same breadth / diversity of coverage as today.
More than 80 per cent	The proportion of sports bodies' revenues that can be accounted for by media rights. This varies between individual properties, but for almost all sport, media rights are an important means of supporting grassroots investment.
69 per cent	The percentage of European sports rights income that would be at risk if a ban on geo-blocking was introduced. In reality, the market would react, but this is the proportion of revenue at risk if we assume that only consumers respond and do so by shifting their consumption to lower access cost territories. This would lead broadcasters elsewhere to re-evaluate the value of sports rights, potentially bidding less or not at all at auction for the next rights cycle.
26 per cent	The percentage of European sports rights income that might be lost for some types of sport – with smaller properties suffering disproportionately. Dominant buyers would acquire pan-European rights, and sports would lose rights funding from lower value territories. The largest properties with the highest value domestic rights might lose around 12 per cent of revenue, whilst smaller properties and those with similar popularity in multiple territories could lose up to 26 per cent. The average loss of revenue across all European sport would be around 15 per cent.

Summary

The European Commission's Digital Single Market Strategy aims to remove barriers to allow Europe to compete in the global digital economy. A key element of this strategy relates to 'unjustified geo-blocking', which involves preventing consumers from accessing a choice of online services based on their nationality, place of residence, or place of establishment. Existing regulation has already addressed this issue, but it excluded, amongst others, audiovisual services and (from Article 4 on discrimination) non-audiovisual services providing access to audiovisual content.

This issue is now being considered again, and O&O has been commissioned by the Sports Rights Owners' Coalition (SROC) to provide independent research into how the audiovisual sector, and sports in particular, would be affected – given the characteristics and economics of those industries.[1]

The European Commission wishes to establish a Digital Single Market

The main objectives of the European Single Market Strategy are: to create better access to online goods and services, to create the right conditions for digital networks to flourish, and to maximise the growth potential of the European digital economy. The European Commission has pursued this through a broad range of legislation, with the ban on 'unjustified geo-blocking' introduced to other sectors in December 2018. This has prevented the use of technology or other means to stop customers having equal access to online interfaces, based on their geographic location. If this were applied to audiovisual content, it would mean giving all EU consumers access to audiovisual services currently tailored to consumers in specific European territories.

The debate around the potential impact, and associated usefulness, of this Regulation on the audiovisual and sports industry is more complicated than for many other types of goods and services. In most sectors, the product being sold to consumers is pre-defined and independent of total revenues generated by the industry. Where this is the case, a single European market may squeeze producers, but it does not put at risk the quality of the product. In the audiovisual industry, and for sport in particular, the total level of funding generated directly influences the quality of the product, and the extent to which it can invest in supporting audience interest while increasing its reach and levels of participation.

These issues have been raised by a range of industry stakeholders including: the European Film Agency Directors (EFAD), the British Film Institute, a report for SROC by Analysys Mason, and a report by Oxera and O&O which looked at the potential impact of cross-border access for a consortium including 20 significant industry players from across Europe. The European Commission has commissioned its own research which will feed into its evaluation of the Regulation which is due by the end of March 2020. In light of the Commission's assessment of and potential changes to the Regulation, the present report provides a clear illustration of the potential implications for sport.

The existing sports ecosystem is finely balanced

To understand all of the potential implications of a ban on geo-blocking for sports content, it is necessary to understand the sports ecosystem, and how it is intertwined with the audiovisual value chain. Funding for sport typically comes from a broad range of sources, but for many of the best known and most widely followed sports, media rights are by far the most significant income stream – accounting for up to 80 per cent of a sports body's funding (and relating almost entirely to live broadcasts). This is passed along the value chain, from sports governing bodies via annual payments and prize money, to clubs and teams, athletes and support staff. Each stage of this is

[1] A group of over 50 sports bodies and competition organisers representing the interests of the industry: https://www.sroc.info/about/

configured around expectations of funding entering the system, which is typically dominated by media rights income.

As well as the level of funding being important in sustaining established ecosystems around sport, it is crucial to developing sport in the longer term – both in terms of interest and participation. Broadly speaking, there is a close correlation between the value of media rights and the level of investment in grassroots sport. Often this is voluntary, but in some territories it is enforced. For example, in France, the “Buffet Tax” requires that 5 per cent of sports bodies’ media rights revenues are paid to a state-run agency, to help finance grassroots-level sport.[2] This shows how important media rights income can be to getting the most out of European sport, through increased access and participation, as well as the health benefits and sense of national ‘togetherness’ which can come from sport. Since short-term pressures must be taken care of first, it is this investment at grassroots level which could be immediately at risk if the established rights income streams were disrupted.

Given the significance of media rights income to the financial sustainability of sport, the relationship between sport and the audiovisual sector is very important. Sports rights are generally sold on a territorially exclusive basis because that is the nature of demand; buyers are typically broadcasters based in one country. They use sport as part of a content / product mix which is tailored to their local market, and therefore only wish to acquire sports rights (and provide coverage) which will build audiences within their territory. This territory-by-territory approach to rights selling also supports competition in national markets, since several national broadcasters who could not afford a pan-European licence can compete for national rights. Buyers for the most valuable rights tend to be pay-TV platforms, which use sport to drive subscriptions to their services and, in doing so, extract significant value due to the additional services they can sell to subscribers as part of a communications bundle (i.e. broadband, landline, and mobile). Disruption to the value of sports rights could therefore have far-reaching implications for the European audiovisual sector.

This well-established and finely balanced value chain around sports media rights is currently being challenged by the emergence of online services. Sport is increasingly competing for audiences with genres such as high-end drama, as well as new forms of digital entertainment. Even where consumers remain interested, young audiences are adopting new ways of accessing and engaging with sports content. And this is in the context of cooling competition for rights between pay-TV platforms in several territories including the UK, France and Spain, which has contributed to expectations that sports rights revenue growth may be about to slow.

An extended ban on geo-blocking could devastate the sports industry

The characteristics of sports funding, as described above, illustrate that an extended ban on geo-blocking is not in the best interests of consumers or the sector more generally – indeed, the implications could be significant and would be exacerbated by the existing pressures in the market. With the European sports rights market worth an estimated €13.6 billion annually, we have explored how a ban on geo-blocking might affect this, both hypothetically, in the absence of an industry response (i.e. where consumers can access sports in other territories at their current price points), and if rights buyers were to respond to protect their businesses.

Supporters of a ban on geo-blocking argue that consumers in high access cost territories would be able to access lower-cost content from international providers. With a lower price point available to many consumers, the level of access would also increase as more consumers are ‘priced in’. However, this view overlooks the knock-on effects this would have on overall revenues and the impact on the overall quality of sport from the associated decline in funding. Moreover, it ignores the fact that the market would respond, and thus current prices may not be available

[2] From 2020, the French Football League will pay €60 million for the financing of all grassroots sports associations and €30 million to FFF for the financing of grassroots football.

to consumers. Nevertheless, although purely hypothetical, the likely chain of events in the absence of a response from the industry would be:

- **Consumers switch services:** in territories where access to sport is relatively expensive, consumers switch their subscriptions to lower cost "over-the-top" (OTT) services (services delivered over the internet) offered in other territories;
- **Lapse of rights in 'higher access cost' markets:** services losing subscribers to lower access cost markets would no longer value sports content and would not seek to reacquire rights as they come up for retender, or would make significantly reduced bids – disrupting the economics of the European pay-TV sector;
- **Significant decline in media rights revenue:** sports would see a significant decline in rights revenues which would undermine their existing funding models, with knock-on effects all the way along the value chain;
- **Decline in investment in sport at all levels:** as well as disrupting business models throughout professional sport and those involved at every stage of the value chain, grassroots investment would suffer;
- **A downward spiral of declining quality and interest:** without adequate funding, the quality of sport available to consumers would diminish and interest in sport would decline;
- **Reduced cultural diversity of sports content:** if consumers from across Europe could switch to a lower cost sports service, this service would likely centre its offer around coverage with mass appeal – this could mean that English emerges as the dominant language option, and consumers lose access to local pundits who currently offer tailored insights for their territory.

Of course, the specific implications would vary depending on the sport, in particular the outcome for a given sport is driven by: the extent to which there is asymmetry of access between markets across free-to-air (FTA) and pay platforms, the relative access cost of sport in different territories, and the value to particular buyers. It is also an over-simplified view, because there are frictions which would prevent consumers from switching to foreign services, though these could be largely overcome by an enterprising 'low access cost' service provider. Nevertheless, we estimate that this change would put an annual total of €9.4 billion of funding at risk.

As broadcasters respond prices would increase for many, reducing access

In reality, rights buyers would respond to a ban on geo-blocking to protect their interests, and would probably pre-empt the changes in regulation, so we might therefore see a switch to a new 'steady state' relatively quickly. The nature of a single European market means that all sports rights would be licensed on a pan-European basis and so a pan-European buyer or buyers would emerge as rights come up for retender. This would likely occur in one of two ways depending on the particular circumstances of each sport:

- **Exclusive pan-European licensing:** where rights values are strongly skewed towards the domestic market the domestic broadcaster(s) could demand exclusivity to continue to pay for the rights at the current level. Having done so, they would most likely price access at the current level, to most effectively monetise their existing domestic audience, while also serving any international consumers willing to pay that access cost.

  This would preserve the rights value of such properties in the territories where they hold significant value for broadcasters (typically those with higher access costs), while broadcasters in other territories would be priced out, leaving consumers in such territories exposed to higher prices (from the remaining, now pan-European provider) or loss of access.
- **Non-exclusive pan-European licensing:** where the domestic rights buyer does not have significant buyer power, there is no domestic buyer (e.g. the international competitions), or there is strong demand in multiple territories, the rights owner may be able to sell pan-European rights to broadcasters in multiple territories on a non-exclusive basis.

> This would be possible in territories where broadcasters were willing to share rights because they currently offer similar consumer access costs, and so their customers would not be incentivised to switch to alternative services in other territories. As such, rights owners may continue to realise the value of rights in a couple of the most valuable territories, but all other rights funding would be lost. Since the broadcasters that would be able to bid most for the rights are typically in higher access cost markets, consumers would again be priced out or see costs increase.

Perhaps most worrying is the fact that there could be a significant negative impact on access to sports content in Europe. The ability of dominant buyers to insist on exclusive rights for many sports would result in a much more fragmented landscape than today. Consumers would not be able to access all top tier sports rights in one place and, for most, this would mean losing access to international sport. Furthermore, those in smaller (typically lower access cost) territories would be the most disadvantaged, since the most popular sports, which are most valuable to broadcasters and thus generate the highest media rights income, are concentrated in relatively high access cost markets. So broadcasters acquiring the pan-European rights would set relatively high access costs to effectively monetise their domestic markets, and consumers in lower access costs markets would have to pay more or would be priced out and lose access altogether. We estimate that a total of 103 million people in 11 territories could be exposed to higher prices to access sports content, with around 21 million people currently residing in households who subscribe to pay TV (and one of the reasons for their subscription is to access sport) facing higher costs than today to follow any top tier international sport.

The financial implications would vary by sport, with some suffering more significant losses in rights revenue than others, but overall we estimate European sport could suffer a loss in annual revenue totalling around €2.0 billion, or 15 per cent. It is important to note, however, that it is the largest sports properties with significant rights revenue skew towards their domestic market, which would be least affected. The loss of rights revenues for smaller sports and those with similar popularity across multiple territories could be up to 26 per cent. Once again, this loss of revenues would have a knock-on effect for investment in the quality of the sports on offer and for the level of funding committed at grassroots level, to drive participation and interest.

The listed status of some sports limits the ability of the market to respond

Our quantification of the impact, set out above, assumes that sports do not face restrictions on how they are made available to consumers. Our analysis is based on relative value to broadcasters and the access costs to consumers – and the interaction of these factors, given current availability. This determines how services would be made available in the event of a ban on geo-blocking, including whether FTA or pay-TV access will remain. However, the reality is more complex, and our estimate is conservative, because of the listed events regime.

The listed events regime is designed to ensure that events of national importance are made available to the majority of the population, normally via FTA television. It applies to all types of event (for example, the Vienna Opera Ball and the Vienna Philharmonic Orchestra's New Year Concert in Austria, and the San Remo Italian music festival in Italy), but is primarily used for sport; the regime provides localised benefits to consumers to reflect the differing importance of particular sporting events between nations. This is, of course, incompatible with a pan-European licensing regime. Where sports or particular fixtures are made available in one territory via FTA television, they would also be available to consumers in all other territories for free. Even where listings are normally limited to a few fixtures, this can have a significant impact on pay-TV values, as consumers could combine FTA access from a variety of territories to access much of the competition for free – such as with UEFA national competitions. Territorial selling due to listed status is reinforced by legislation requiring some holders to offer rights for sale on a territorial basis (including UEFA).

If the existing listing regime were enforced, it would distort demand from broadcasters and rights holders could find themselves unable to monetise their content with pay-TV broadcasters. So for these listed events, the consequences of a ban on geo-blocking could be even more significant than for those which are, at least, able to continue to monetise their rights in some of their more valuable territories.

The existing regime already allows for the benefits of sport to be realised

The current system of territorial exclusivity, underpinned by geo-blocking, is the best way for rights owners to sell rights. It responds to rights buyer and consumer demand, whilst sustaining a high-quality product for spectators, maximising revenues to fund grassroots sport, and supporting competition in national audiovisual markets. If the ban on geo-blocking were to be extended to include audiovisual content, the new market equilibrium would see a significant loss of access to sport and / or increased access costs. While the response of broadcasters could see rights values protected in some of the relatively high access cost territories, total funding and the quality of the events on offer to consumers would decline significantly. Most of these outcomes are directly counter to the Commission's objectives:

- **Increased access costs or loss of access for many:** those in markets which currently enjoy relatively low access costs for sport would see prices increase as broadcasters for whom the rights are typically most valuable are in relatively high access cost territories – and they would outbid smaller players for rights and retain current pricing to monetise domestic demand;
- **Consumer harm focused on low access cost territories:** this increase in price for those in low access cost territories would lead to these consumers paying more or losing access (i.e. being priced out). Those in smaller territories would also be disproportionately exposed to a loss of cultural diversity; in particular, the likely loss of market specific coverage and a potential tendency towards English language coverage;
- **Anti-competitive impact at national level:** the current regime ensures that national broadcasters in each territory can afford to bid for sports rights and compete to acquire them for their customers. Without geo-blocking, the resulting pan-European licensing regime means that many broadcasters will simply be priced out of bidding on rights;
- **Reduced funding for sport:** even with the reaction from broadcasters, sport would still lose important rights income which could have knock-on effects for investment at all levels of the value chain;
- **Inability of sports to drive interest via free access:** pan-European access would prevent sports from being offered for free in low interest markets – this is currently an important route to growing interest and increasing access in new territories whether via traditional broadcasters or direct to consumer OTT services;
- **Piracy would likely become an even larger problem:** consumers losing access to content due to increases in the access costs would be more motivated to turn to piracy, which has become much harder to tackle following the development of reliable delivery for sports content over the internet;
- **Second-order effects could harm domestic sports in smaller territories:** while local market sports may be insulated from the direct impact of pan-European licensing they could still lose rights income. Where pay-TV broadcasters' business models rely on sports rights, the loss of important properties could make sports channels uneconomic, removing their ability to invest in rights to domestic sports – which could therefore see their rights value destroyed.

It is the existing regime of territorial exclusivity which has enabled the European sports market to develop the way that it has, with considerable diversity of sports offerings across Europe, and each service catering for its own audiences, while providing consumers with access to events from other territories. A loss of the ability to geo-block would put this at risk and could deny all Europeans the same level of access to sport that they currently enjoy. Furthermore, the unique nature of the sports market, where its quality is directly dependent on the revenues it generates – and demand for media rights is on a territorial basis – means that the existing approach remains the most effective means of maximising the quality of the events on offer to consumers.

1 Introduction

O&O has been asked by SROC to undertake a study into the potential impact that changes to the scope of the EU regulation on geo-blocking may have on the sports market.

1.1 Background

In 2015 the European Commission announced its Digital Single Market Strategy (DSMS), with the aim of removing barriers to Europe competing in the global digital economy. It included measures aimed at ensuring better access to online goods and services, and at encouraging the conditions in which the digital economy can grow. Some of the areas it promised to tackle included harmonization of copyright, revision of consumer protection regulation, a review of the Audiovisual Media Services Directive (AVMSD), a European Cybersecurity Strategy, strengthening protection of personal data, and ensuring that the regulatory environment for platforms and online intermediaries is fit for purpose.

A key element of the DSMS is the enhancement of cross-border access: non-discriminatory pricing of parcel delivery, reduction of VAT obstacles to cross-border selling, portability of online services, and an end to 'unjustified geo-blocking'. Regulation on cross-border portability of online content services came into force in April 2018, and since then consumers have been able to access online services such as subscription video on-demand services (SVoDs), to which they pay to subscribe, while they are temporarily in another Member State. 'Unjustified geo-blocking' (that is, preventing consumers from accessing a choice of online services based on their nationality, place of residence or place of establishment) was addressed by Regulation (EU) 2018/302, introduced in March 2018, and which came into force in December of that year. However, transport services, retail financial services, and audiovisual services were excluded from scope. Non-audiovisual services providing access to audiovisual content were included in the scope, but were excluded from Article 4 (prohibiting discrimination). A full description of the Regulation can be found in Part 2 of the present report.

The exclusion of audiovisual services (and the exclusion of non-audiovisual services providing access to audiovisual content from Article 4) was because the Regulation was a clarification of the Services Directive, from which such services were already excluded. Many representatives from the industry had successfully argued that including audiovisual services in the regulation could have a serious impact on revenues, consumers' access to content, and ultimately to the amount that could be reinvested in content.

The European Commission is currently undertaking its first evaluation of the impact of the Regulation, including whether it should extend the ban on geo-blocking to include audiovisual services.

1.2 About O&O

O&O is a leading advisor to the sports media industry, having been involved in some of the biggest changes to affect the industry over the last twenty years. We have advised rights owners, platforms, broadcasters and investors on the value of sports rights in territories across the globe, including advising Discovery on the purchase of the rights to the Olympic Games in 55 territories, advising beIN on sports media rights acquisitions in France, Spain and Turkey, and providing strategic advice to sports bodies including the EFL, ECB, Bundesliga, WWE and GAA. Beyond sport we have worked across the media sector with platform owners (such as Vodafone, Sky and BT), producers (Endemol, Banijay, All3Media), and broadcasters (RTL, UKTV, ProSiebenSat.1).

We have depth and breadth of experience across the regulatory environment, and in this issue in particular: our work includes a major report on the impact of DSM proposals on behalf of a consortium of 20 international members of the audiovisual industry, as well as work for the Commission itself to assess the impact of the AVMSD. Recently we advised on the European competition clearance for the merger of Disney and 21st Century Fox.

1.3 The scope of this report

The purpose of this report is to explore the possible implications of extending the ban on geo-blocking to audiovisual content, specifically on the impact it could have on sports rights. While the types of impact and the associated logic underpinning them is very similar for the audiovisual sector as a whole, the impacts on sport are acute. In particular we assess:

- The incentives the proposed changes might create for consumers;
- How sports rights holders and their licensees/broadcasters might respond and the potential implications for consumer access;
- Whether the proposed changes might deliver against the Commission's objectives.

To inform our assessment we provide a detailed explanation of the current sports rights landscape, how rights are currently sold, and the importance of exclusivity and the ability to price discriminate.

1.4 Our methodology

We began by conducting a literature review to examine the proposed changes to the current regulation; in doing so, we considered documents feeding into the debate on both sides, including those published by the Commission, and other independent reports and articles. A full list of titles is included in Appendix 2.

Based on our detailed knowledge of the media and sports industries, we then outlined the current state of play, before conducting thought experiments to understand how different market participants are likely to respond. Using this approach we set out a base case which shows the likely outcome if the market does not react to regulatory changes (and only consumers alter their behaviour). We then considered the more likely scenario – that the market would pre-empt regulatory changes – and explored what this might mean for sport.

Our analysis takes into account differences in the levels of popularity of sports in different territories, and we include some individual events as case studies to illustrate the types of impacts which may occur. We have also produced estimates of the scale of the impact on the industry as a whole across the EU28, both in terms of revenue generated by sport and, perhaps most importantly, the level of consumer access.

Appendix 1 contains further details on our quantifications and methodology.

2 What are the issues?

PART 2: SUMMARY

- The Geo-blocking Regulation is a DSMS initiative, removing geo-blocking for goods and services being bought and sold online. In 2020 the legislation will be reviewed, and the Commission will consider whether to include audiovisual services;
- Existing research argues that sport and audiovisual services require different treatment to other goods and services;
- The sports sector differs from other industries in that the level of funding it generates is closely related to the quality of the events it can offer to consumers, and the amount it can invest in development, such as via grassroot sport;
- While consumer access costs vary by territory, this is a reflection of differing demand from broadcasters and consumers in each market. Differentiating prices allows rights owners to serve demand from buyers in all territories;
- This is especially important for sport since its value is skewed towards live viewing and thus there is limited opportunity to raise the funding needed to maintain a professional-level product and support grassroots investment.

The current debate forms part of the European Commission's broader initiative to ensure that consumers within the Single Market are not discriminated against on the basis of nationality and geographical location. The Digital Single Market Strategy (DSMS) is a key part of this, and in this part, we provide an overview of the Commission's stated vision and objectives, along with relevant contributions to the debate, and consider the objectives within a broad economic context.

2.1 The Digital Single Market aims to break down barriers to trade

In 2014 the new President of the European Commission announced ambitious plans for a European Digital Single Market.[3] A year later the Commission released its Digital Single Market Strategy, outlining its plans to break down digital barriers to enable Europe to compete in the global digital economy.[4] The main objectives of the DSMS are:

- To create better access for consumers and businesses to online goods and services across Europe;
- To create the right conditions for digital networks and services to flourish;
- To maximise the growth potential of the European digital economy.

To achieve these objectives the Commission has proposed, enacted, or is in the process of enacting, legislation to address a number of issues, including but not limited to cross-border delivery, combatting illegal content, reducing VAT obstacles, digitization of manufacturing, improving digital literacy, roll out of 5G, developing eHealth and eGovernment, revising consumer protection regulation, modernisation of the copyright framework, and widening access to high-speed broadband. Key legislation includes the Portability Regulation, the General Data Protection

[3] Jean-Claude Juncker, *A New Start for Europe: My Agenda for Jobs, Growth, Fairness and Democratic Change* (15 July 2014), p. 5.
[4] European Commission, *A Digital Single Market Strategy for Europe* (6 May 2015)

Regulation (GDPR), ePrivacy Regulation, updates to the Audiovisual Media Services Directive (AVMSD), the Copyright Directive, and the Geo-blocking Regulation.

Geo-blocking is the practice whereby consumers are prevented from accessing goods and services from another market based on their geographical location, and is a form of price discrimination (a term used by economists to describe the practice of charging consumers different prices for the same goods or services). Various types of technology are used to deny access to websites, and one of the most common indications to consumers that geo-blocking has happened is when they try to access a website based in a particular market and are automatically redirected to the equivalent website for their current location. For example, a consumer in Poland trying to access amazon.es or amazon.fr, before the Geo-blocking Regulation, would automatically be redirected to amazon.pl.

The Geo-blocking Regulation came into force in December 2018, and banned 'unjustified geo-blocking' – that is, 'through the use of technological measures or otherwise, prevent[ing] customers from having full and equal access to online interfaces, including in the form of mobile applications, based on their nationality, place of residence or place of establishment'.[5] The Regulation includes goods and services bought and sold online, with the exception of: transport services, retail financial services, and audiovisual services (and non-audiovisual services providing access to audiovisual content is excluded from Article 4 outlining discriminatory access to goods and services). These exceptions were made either because it was felt that existing rules adequately covered these services already, or because further research was needed into the impact in these areas. Additionally, audiovisual services were excluded from the scope of the 2006 Services Directive (2006/123/EC), which removed legal and administrative barriers to trade such as territorial restrictions on providing and purchasing services. As the Geo-blocking Regulation is designed to clarify parts of the Services Directive, this existing exclusion was carried forward into the new Regulation.

By 23 March 2020 and every five years thereafter, the Regulation shall be subject to review. Article 9, Paragraph 2 of the review clause specifically states that one of the areas for consideration is whether the Regulation should be extended to include 'electronically supplied services the main feature of which is the provision of access to and use of copyright protected works or other protected subject matter, […] provided that the trader has the requisite rights for the relevant territories'. Extending the ban on geo-blocking to include this content could have far-reaching consequences for the audiovisual market – and the value of sports rights in particular.

The Commission is reviewing whether to extend the ban to include audiovisual services

The Geo-blocking Regulation, and any proposed changes, should be read within the context of a broader widening of access to audiovisual content, and particularly against the Portability Regulation, which came into force in April 2018. This Regulation enables consumers to access services to which they pay to subscribe in their home country while they are temporarily staying in another Member State. For example, a consumer from Belgium who subscribes to Netflix Belgium, will be able to access his or her account when on holiday in Italy (meaning access to the content licensed to Netflix Belgium). Free services can opt in, but the difficulties in verifying a subscriber's residency without payment details means that few free services have so far chosen to implement portability.[6] In the most recent Eurobarometer study of portability, just over half of respondents said they were aware that they could now access

[5] Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing 'unjustified geo-blocking' and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market […]', *Official Journal of the European Union* (2 March 2018), Recital 18.
[6] OBS, *First feedback from the implementation of the Portability Regulation by free online video services* (July 2019), states that difficulties in verification (imposing a login etc.) is one of the main reasons for not implementing portability, p. 10.

content for which they have paid subscriptions when travelling in the EU, of which a third were aware of what that actually involves.[7]

The Portability Regulation means that consumers are still only able to access content which has been licensed for their home territory; price discrimination still takes place and subscribers can only access the content they would get at home. Extending the geo-blocking ban would, in contrast, mean that any consumer could access online services targeted at any market – in effect full access to all foreign services. This would have a direct impact on "over-the-top" (OTT) audiovisual offerings, but is likely to have a knock-on effect on broadcast rights values. Full access, the consequences for sports streaming, and the unintended impact on broadcast rights values, are the focus of this report.

2.2 Arguments in favour of extending the Regulation do not consider the knock-on effects

The debate around extending the ban on geo-blocking is a complex one, but it often boils down to a battle between the industry, looking to maintain its funding, and those arguing that it would give consumers greater access and more choice. Such arguments from the latter group are valid for other retail segments, but while they may seem logical, an extension of the ban on geo-blocking to audiovisual services would have the opposite effect of that which is intended – and would lead to both sides losing out.

The Commission's stated aims in implementing a geo-blocking ban are to abolish digital barriers which are inconsistent with internal market freedoms. Consumer groups recognise that there are significant consumer benefits in the increased access to and greater choice of content, with the European Consumer Organisation (BEUC) claiming that it is consumers who already actively search for better offers abroad who will benefit the most. Speaking of geo-blocking of audiovisual content in general, the Director General of BEUC has said that a removal of geo-blocking 'does not undermine the right of content producers to appropriate remuneration of their works',[8] though – as we demonstrate in this report – it is in fact the ability to sell on a territorially exclusive basis which enables producers to best serve consumers whilst also achieving the full value of their work, which in turn ensures the quality of programming. BEUC also argues that territorial licensing in order to maximise revenues is against the essence of a European Single Market.[9]

Such arguments are valid, and make sense in industries where enabling greater consumer access will not have a detrimental impact on the product itself; however, the overall impact of extending geo-blocking is in fact likely to have the opposite effect on sport to that which is intended. Unlike in other segments, the quality of the product available to consumers is directly linked to the audiovisual and sports industries' ability to protect funding – and a large part of this is down to territorial rights sales, protected by geo-blocking. As will be discussed in Parts 6 and 7, scenarios in which consumers react to the change, and in which the market pre-empts consumer behaviour, are both likely to have negative knock-on effects for the value of sports rights, in turn leading to less revenue which can be invested back into the professional product and grassroots sport.

> Unlike in other segments, the quality of the product is directly linked to the audiovisual and sports industries' ability to protect funding

[7] Eurobarometer, *Accessing content online and cross-border portability of online content services* (April 2019), pp. 38-39.

[8] Monique Goyens, quoted in 'European Parliament must grasp opportunity to open up Europe's audiovisual diversity to consumers', *beuc.eu* (11 December 2017)

[9] Agustin Reyna, 'Why we must stop geo-blocking for audiovisual services', *The European Consumer Organisation* (24 June 2016)

For this reason, when the Geo-blocking Regulation was first proposed there was substantial opposition from the audiovisual industry. The European Film Agency Directors (EFAD) and the British Film Institute expressed initial concerns when the DSMS first implied that geo-blocking regulation was on the horizon.[10] Later the EFAD wrote that banning geo-blocking would lead to 'diminished investment, a reduction in the value of rights, weaker competition, fewer European audiovisual works and co-productions, and less access, all to the detriment of audiences and cultural diversity'.[11] SROC has commented on the importance of territorial selling for sports rights, noting that it is consumer demand which drives the type of selling and that '[t]here is no such thing as one single demand across the EU'.[12]

Several detailed reports have assessed the impact of regulations to widen access to content on the industries concerned in terms of revenues and number of consumers. O&O and Oxera's 2016 report for the MPAA considers the impact of cross-border access generally on the audiovisual industry, and explores several market-response scenarios including moving to a pan-EU licensing model, restricting availability on OTT platforms, moving to wholesale pricing arrangements that are more variable, and licensing content on an enforced dubbing basis. The report concluded that none of these would overcome the losses in revenues and consumers caused by the changes.[13] Analysys Mason's report in the same year looked at the impact on sport, concluding that while changing portability regulations could have a positive effect, enabling passive sales would have a neutral effect on consumers whilst harming broadcasters and rights holders, and banning geo-blocking and moving to pan-EU licences could have a negative impact.[14]

Recently, a Eurobarometer study into cross-border access found that, while the proportion of consumers who in the last year had tried to access online sports content aimed at people in another territory had increased (from 2 to 3 per cent), there was relatively low demand for such content compared to audiovisual content (9 per cent), music (8 per cent), and games (4 per cent). Similarly, of those who have not attempted to access online content aimed at another territory, 15 per cent said they were interested in accessing sports, versus 31 and 29 per cent for audiovisual and music content respectively.[15] This relatively low demand for cross-border access to sports would not compensate for the damage done by an extension of the geo-blocking ban.

2.3 Territorial exclusivity is a response to local market demand from broadcasters

One of the issues with sport which runs counter to the DSMS, is the existence of different prices for consumers in different territories. But it is important to remember that the differing consumer access costs and associated differences in rights values to individual territories are a reflection of differing consumer demand and willingness/ability to pay. The differing demand is evidenced by the fact that channel packages and content offerings (including sports content) are tailored by local broadcasters to cater for the tastes and preferences of their target audience. For sport, territorial selling enables broadcasters with exclusivity in their territory to invest in coverage which is attractive to their audience, for example by using local pundits, or focusing on national performances / athletes.

Audiences are largely culturally specific and territorial licensing of sports content allows broadcasters to offer tailored coverage

[10] BFI, 'European Commission announcement on its strategy for a digital single market' (6 May 2015)
[11] European Film Agency Directors, 'Statement: The inclusion of audiovisual services in the Geo-blocking Regulation would mean European audiences have fewer new European works to enjoy' (20 March 2017)
[12] SROC response to the preliminary results of the E-commerce inquiry, p. 3.
[13] Oxera and O&O, *The impact of cross-border access to audiovisual content on EU consumers* (May 2016)
[14] Analysys Mason, *A study on the potential impact of the digital single market on the sports audiovisual ecosystem in Europe* (May 2016)
[15] Eurobarometer, *Cross-border access to content online* (June 2019), pp. 5, 43.

Unlike for many products, where sellers set the price, rights owners do not set the price of sports rights; under the current regime it is a result of what national broadcasters choose to bid, which in turn reflects the local demand from consumers. Given demand for sports content varies significantly between territories, this approach ensures that local broadcasters can tailor their products to their customers. The fact that this results in different European broadcasters charging their consumers different amounts for access to the same sports content is merely a reflection of differing interest and willingness to pay.

In fact, differing price points for the same product is by no means unusual; it is a common feature within many markets, and geography being the determining factor is just one means by which consumers are segmented, for example:

- **Timing**: having different release dates for different versions of the product:
    - Peak versus off-peak travel (time of day and time of year); happy hours in restaurants and bars; and cheaper mid-week cinema tickets;
    - In the audiovisual industry the release of content is staggered across different platforms (cinema, DVD owned, DVD rental, SVoD, pay TV, free-to-air (FTA) TV etc.) in an activity known as windowing.
- **Different experiences or quality**: hardback versus paperback books (there's also an element of timing-based price discrimination here); special edition CD boxsets and limited-edition vinyl pressings; varied seating prices at events; and cinema versus home viewing;
- **Ownership versus rental**: this provides the same experience of the product with the price differentiation between the feeling of owning the product and access to it whenever the consumer wants;
- **Access in different locations or geographies**: foreign currency at airports; sweets bought at the cinema; and food or petrol in a motorway service station. In audiovisual terms, this is traditionally achieved via national boundaries, or territorial exclusivity (and in the internet age, this is achieved using geo-blocking technologies);
- **Quantity purchased**: three-for-two offers; offering a higher price for the first X of an item purchased, and a lower price for subsequent units.

All industries segment their customers in this way, where differing demand from buyers exists, as it enables sellers to cater for all markets while, at the same time, optimising revenues. This is particularly important for businesses generating positive externalities – benefits beyond the immediate optimisation of value, such as cultural benefits. It is especially important for the audiovisual industry, which relies on optimising revenues via territorial segmentation, in order to reinvest in the risky business of content production – where the hit-and-miss nature of the product requires a chance of high rewards to secure additional financing.

Segmenting audiences is especially important for businesses generating positive externalities, such as cultural benefits

For the sports segment of the audiovisual market, price discrimination is *even more* important, as the value is so heavily weighted towards live viewing, with a comparatively small residual value in replays and highlights. Sport generates positive externalities including the social, health and wellbeing benefits gained through participation. It is therefore vital that sports rights holders are able to achieve the maximum market value for their product to maintain the levels of funding they need to reinvest in grassroots sport (in turn increasing participation), to maintain the overall quality of the professional output (in turn sustaining and increasing viewership).

3 What does the current sports landscape look like?

PART 3: SUMMARY

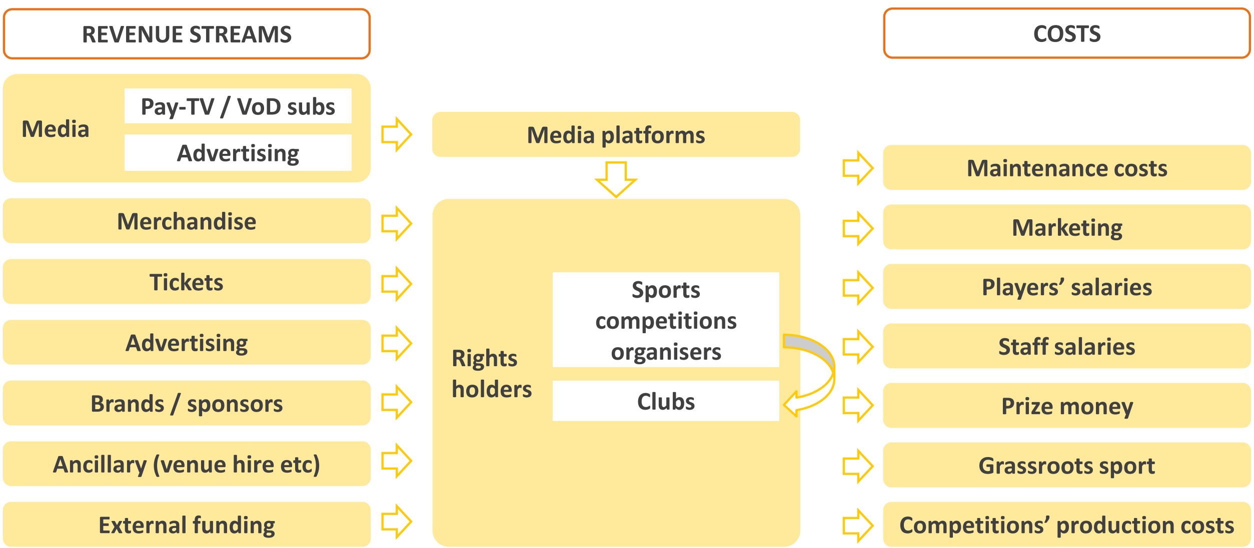
- Media revenues are the largest and most important funding source for sports, and support the sports ecosystem;
- Sport is a key factor in the economics of pay TV, driving value for platforms. Any disruption to the sports ecosystem will have knock-on effects across the audiovisual sector;
- For business management purposes, sports competitions organisers, teams, and athletes, rely on media revenues being in line with historic expectations – this is particularly important as sport is increasingly being challenged by new forms of digital entertainment and changing consumer behaviour.

Having set out the Commission's objectives and key contributions to the current debate, this part sets out how the sports market currently operates and, in particular, how media rights contribute to the health of the sports industry as a whole.

3.1 Media revenues are essential to support sport and reinvestment at grassroots level

There are multiple revenue streams supporting the sports industry, including ticket sales, merchandise, sponsorship, ancillary revenues such as the use of venues for concerts, and external funding from governments and EU initiatives. These are set out in **Figure 1**, along with the costs that the funding supports.

Figure 1: Sports income flows



Of these sources of income, media rights are amongst the largest and most important, and can account for more than 80 per cent of total revenue for the largest rights owners, such as the English Premier League (EPL), UEFA, and the IOC.[16] Indeed, the European Commission's *White Paper on Sport* notes that 'television rights are the primary source of income for professional sport in Europe'.[17] The proportion of total revenues constituted by media rights can be significant for sports as a whole (i.e. including clubs and not just rights owners) with, for example, media rights for the EPL making up almost 60 per cent of total league revenues.[18] Media rights as a total share of revenue differs depending on the popularity of a property as a spectator sport; additionally the proportion of revenues from media rights is often higher for sports bodies than it is for individual leagues, as the latter also generate ticket sales and other matchday revenues. Reciprocally, the ability to access sport via media outlets is extremely important to fans who are not able to attend live events.

Sports seek to maximise their funding – media rights included – to maintain the quality of the professional product and ultimately encourage both support and participation. Unlike other goods and services, which can be sold provided that prices exceed the cost of producing and distributing them, the quality of sport is determined by the level of funding. Clubs and sports bodies need to:

- Meet significant day-to-day costs such as player and staff salaries and maintenance costs;
- Invest substantial revenues into the property itself to ensure they deliver a professional product that fans will keep wanting to watch;
- Market the sport to attract new fans and maintain existing ones, both domestically and internationally;
- Reinvest in grassroots sport to encourage participation and facilitate the development of the athletes of the future.

Sport is unique in that participation and spectating go hand in hand; revenues from viewing ultimately support grassroots participation which in turn fuels interest and provides athletes for the professional level. Financing of grassroots sport is in almost all countries proportionally dependent on the value of the media rights of the top competitions. Of course, media rights are also important because the audiovisual product itself generates new interest and maintains long-standing allegiances, brings audiences together, defines both national and shared identities, and, above all, offers a compelling form of entertainment.

3.2 The media landscape has evolved over recent years

Live TV broadcast and live OTT viewing are the main ways in which consumers access sports content, although other media formats including radio, and broadcast and online highlights, are also popular. Traditionally, pay TV has been the key driver of the value of live rights, as it attracts subscribers to pay platforms. The importance and value of live viewing lies in the fact that live sport has such a short shelf life, and the unpredictability of the sporting result – a large part of the excitement is around experiencing sport in the moment; once the outcome is known there is limited interest in watching the entire event again, and highlights are normally an adequate substitute.

For the time being, live viewing is predominantly via traditional broadcast distribution, but platforms' OTT and stand-alone OTT services will become increasingly important over the next five to ten years. Just five years ago there were few on-demand services providing access to sport, available in just a handful of markets (Czechia, Germany, Spain, France and the UK), whereas now there are at least nine services available in every EU market (**Figure 3**). We assume that OTT will become the dominant distribution technology, or at the very least will be available, in all markets alongside traditional broadcasting of sport.

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[16] For example, 73 per cent of the IOC's revenues, and 81 per cent of UEFA's revenues, are from media rights. *Olympic Marketing Fact File 2019 Edition*, p. 6; *UEFA Financial Report 2017/18*, p. 3.
[17] European Commission, *White Paper on Sport* (11 July 2007), p. 17.
[18] Statista, *Premier League Dossier*, p. 15.

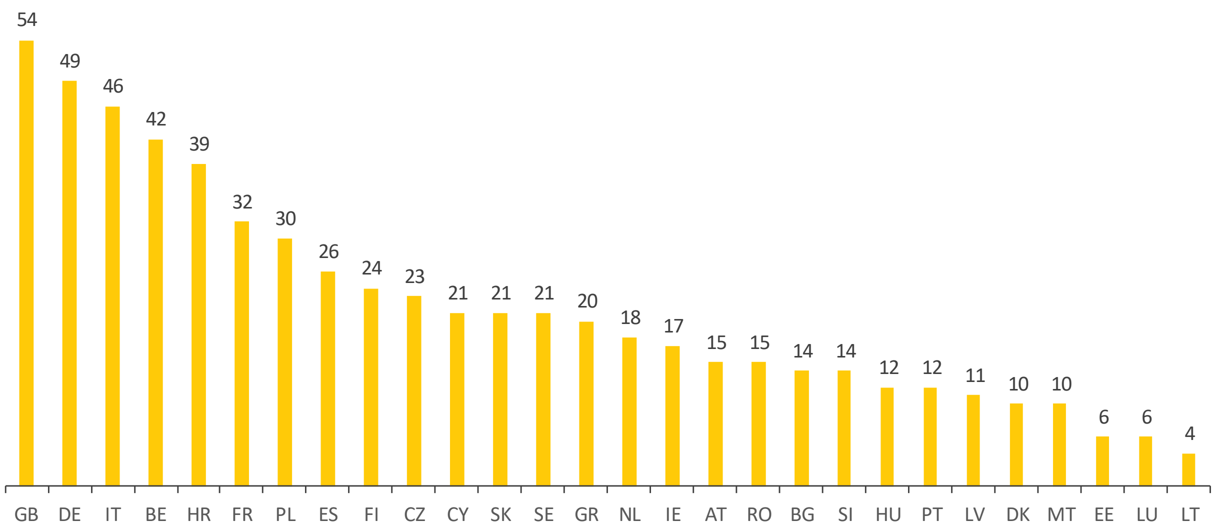
3.2.1 Sports content is largely distributed via broadcast TV – though "over-the-top" delivery is becoming increasingly important

The delivery mechanisms for sport via broadcast channel vary by market and depend on whether it is carried on pay TV or FTA. Pay-TV platforms are typically satellite, cable or IPTV, with FTA TV carried via digital terrestrial television technology (which has largely replaced analogue) or cable. Shares of each technology within a given territory are often down to historical and geographical factors – which technology was the earliest to be deployed, which technology is best suited to reaching the majority of the population.

Broadcasters offering sports content do so to increase their audience appeal – they package sports content of local interest with other relevant content and services. Premium sports are usually carried by premium sports channels, which are typically packaged by pay-TV platforms and offered on top of basic pay-TV channels – while FTA is more suitable for events of national interest, infrequent events, or sports looking to grow their fan base.

Generally speaking, there are a decreasing number of live events broadcast on FTA, though significant competitions such as the UEFA national competitions (Nations League, Euros and qualifiers) remain largely on FTA in many territories. We are also seeing an expansion in the number and scope of listed events – those which must be made available to the majority of the population (see further explanation in Part 4) – particularly as women's events are growing in popularity. As shown in **Figure 2**, there is wide variance in the number of dedicated sports channels (some free but the majority pay) across Europe, with 54 channels available in the UK and just four in Lithuania.

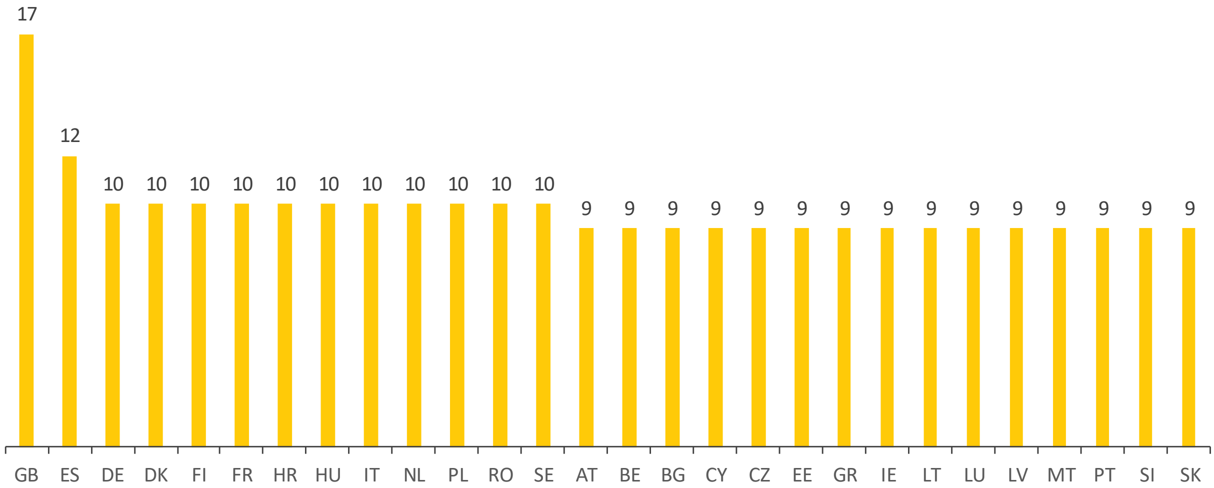
Figure 2: Number of sports TV channels available in each EU28 market, as of December 2018



Note: BE is 2017. Consists of dedicated sports channels
Source: OBS Mavise, Oliver & Ohlbaum analysis

As well as broadcast channels, there is now a substantial choice when it comes to services offering sport via the internet. **Figure 3** shows that there are typically nine or ten services; of course, not all of these are sports specialist or offer premium sports content, but the volume of these OTT services carrying some sports content is expanding. The most prominent service types include: dedicated sports on-demand streaming services such as DAZN, broadcasters' OTT services, and generalist stand-alone VoD services (such as Amazon Prime Video) which have recently started to experiment with sports rights. Those carrying premium sports content are typically paid subscription services, rather than FTA.

Figure 3: Number of on-demand sports services available in each EU28 market, as of December 2018



Note: *Includes general catch-up services offered by PSBs / telco providers, but excludes individual catch-up services, i.e. a catch-up service for a single sports channel*

Source: *OBS Mavise, Oliver & Ohlbaum analysis*

Given the expansion of OTT services carrying sport, and the general shift of the audiovisual industry towards OTT provision of content, this is clearly an important means of sports distribution for the future. While changes to the Geo-blocking Regulation would be aimed specifically at OTT access to audiovisual content, there would be a knock-on effect on broadcast, as the availability of free or cheaper streams online could cause consumers to cancel pay-TV subscriptions.

3.3 There are several challenges facing sport

Sport is of course a hugely popular form of entertainment, both in terms of spectating and participation, but it is facing several challenges including: competition from other forms of entertainment, changing consumer habits (particularly amongst younger audiences), and new digital sports.

Within the audiovisual sector, television is experiencing a golden age; major content investment from US OTT players is supporting a rise in popular high-end drama series. Netflix was reported to have spent $13 billion on content in 2018, set to grow in 2019, and has pledged 85 per cent of spending to go on originations.[19] While sport has historically been the key factor in the battle between pay-TV providers, drama has now emerged as an important asset and an alternative to sport when attracting and retaining subscribers. Furthermore, inflation in rights values in recent years has meant that platforms have started to re-evaluate their spend on sports. There has been a cooling off of the battle between the major pay-TV providers in the UK, France and Spain, with providers reaching mutual wholesale agreements. They are also focusing their efforts on the biggest properties, with sports which are less able to drive subscriptions at risk of being dropped or relegated to schedule filler, and these have therefore struggled to grow their value.

Consumption habits are changing, and sport must compete with a wealth of new forms of entertainment

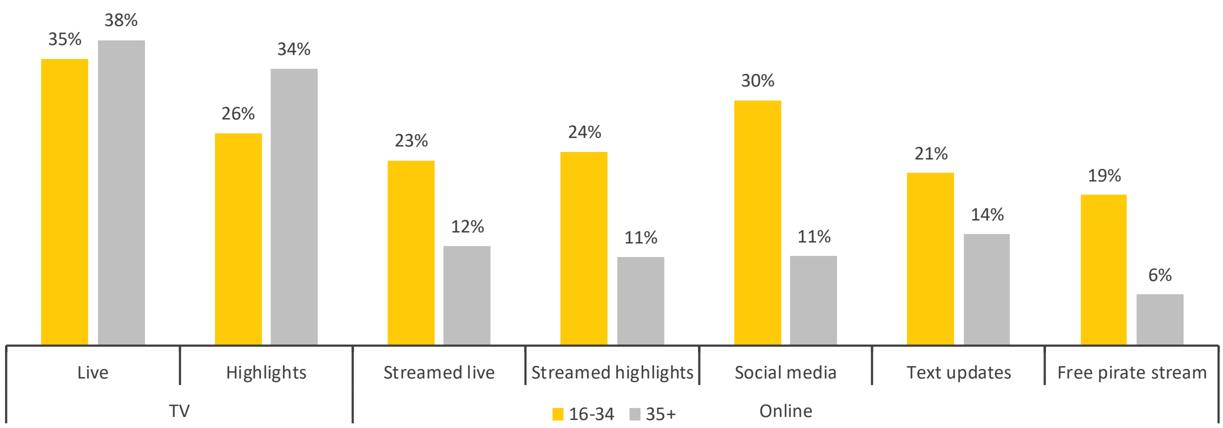
As well as an increasing challenge from television content and the rise of on-demand (OD) content, easy access to the internet via smartphones means sport must compete for consumers' attention with many more digital services.

[19] David Trainer, 'Netflix's original content strategy is failing', *Forbes* (19 July 2019)

Consumers can now be distracted by near constant access to any audiovisual content, music, games, news, books, and shopping, anytime and anywhere.

Even within sports consumption, approaches to access are changing – with younger consumers less likely to watch live. As shown in **Figure 4**, while live TV remains the most common way in which people access their favourite sport, younger audiences are more likely than older people to access sport online – particularly via social media. Sports OTT platforms are also changing the way the product is consumed – the NBA League Pass for example allows fans to pay to watch just the last quarter of a game.[20]

Figure 4: Proportion of UK sports fans using different media to access their favourite sport, by age



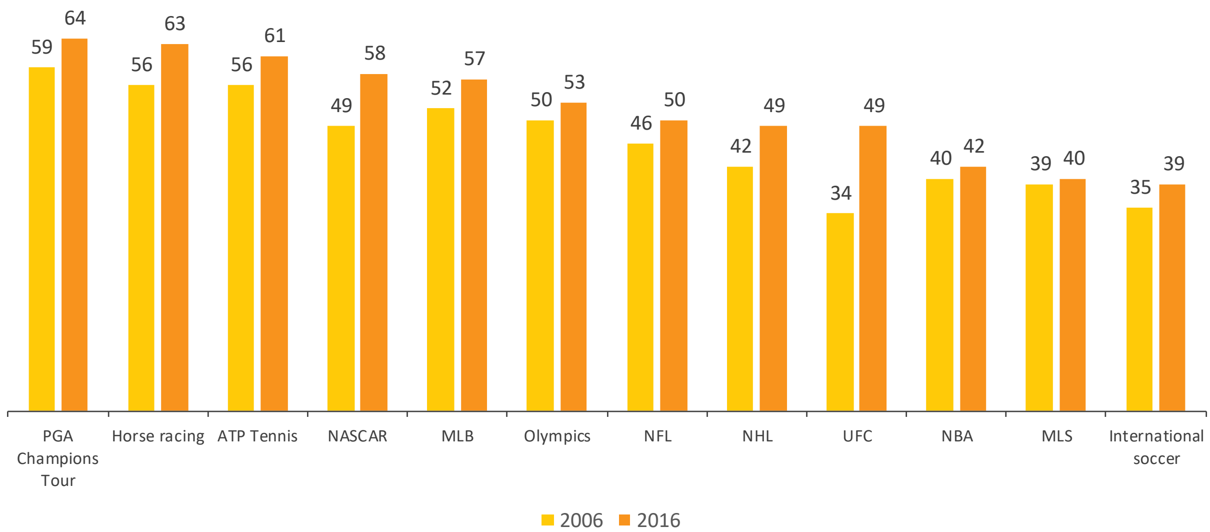
Source: Fly Research (n=1,483), Oliver & Ohlbaum analysis

Of course, consumers do not only use online platforms for highlights and updates or niche sport OTT platforms; generalist OTT platforms such as Amazon have made some high-profile acquisitions of sports rights, including the US Open tennis rights in the UK. They are also experimenting with sports rights in smaller markets; it is not clear that they will be able to extract the same value from sport as do current pay-TV platforms but nevertheless this is putting pressure on the traditional buyers of sports rights and driving change in the sector.

Perhaps most worryingly for sport is that these changing consumption habits, and the asymmetry of approaches to consumption between age groups, is resulting in an ageing fanbase for many sports. As illustrated in **Figure 5**, in the US, the average age of fans of all of the major sports properties has increased over the last decade. If sports continue to rely on traditional distribution mechanisms to attract and retain fans (largely via pay TV), they will fail to attract younger people who are increasingly choosing digital content.

[20] BBC, 'NBA League Pass: fans to be able to buy access to live fourth quarter action' (28 September 2018)

Figure 5: Average age of sports fans in the US, by sport, 2006 and 2016



Source: SportBusiness Daily, Oliver & Ohlbaum analysis

Finally, one other change that the traditional sports industry will have to face over the next few years comes from the rise of esports (organised competitive video games playing). The number of esports enthusiasts worldwide is estimated to have grown from 121 million in 2016 to 143 million in 2017, and is predicted to hit 250 million by 2021.[21] Esports has grown in legitimacy and popularity, and is particularly popular with young fans. The recent publicity around the 2019 Fortnite World Cup, in which the 16-year old winner took home prize money of $3 million, was a wake-up call to the industry and showed that esports has a huge and passionate fanbase.

All of this shows that consumers are demanding high-quality digital content. Sport can provide that quality, but it is crucial that the rights holders are able to optimise their funding if they are to maintain that quality. This includes being able to continue to pay for high-quality TV production, so they can deliver a premium product which appeals to TV audiences and ultimately supports and maintains the attractiveness of sports competitions. This is especially important given that sports content is now competing with so many other forms of entertainment, and when the ways in which content is consumed are changing so rapidly.

[21] Newzoo, *2018 global esports market report* p. 11.

4 How are sports rights currently bought?

PART 4: SUMMARY

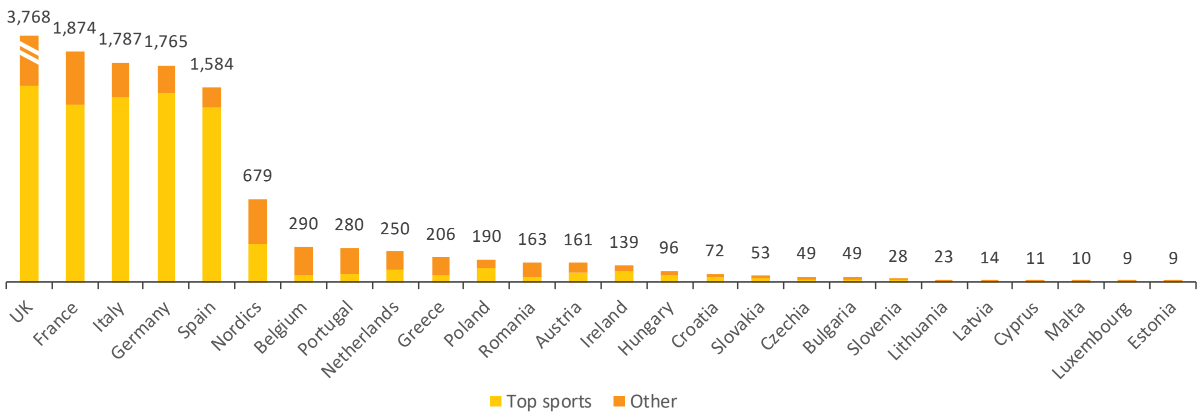
- The European sports rights market was worth around €13.6 billion in 2018, of which around 80 per cent relates to the top 12 properties;
- Sports rights are typically sold on a territorially exclusive basis to meet national demand. The value of sports rights depends on several drivers, including competition between broadcasters on a national level, and differing consumer tastes and preferences;
- The availability of sport can depend on the listing regime, which acknowledges the differing 'special status' which sports have in different territories, and is designed to ensure consumers have free access to sports of national interest in their home territories;
- Ultimately, the potential impact of a ban on geo-blocking depends on the asymmetry of sports' availability on FTA and pay TV, as well as the relative value of sports rights to broadcasters – which depends on consumer demand.

We saw in the previous part how the sports landscape is evolving and some of the challenges facing sport; in this part we examine the value of sports rights and how they are currently bought by national broadcasters.

4.1 The European sports rights market was worth around €13.6 billion in 2018

We estimate the European sports rights market to be worth around €13.6 billion per year, based on a combination of published sources, in-house knowledge, and sense testing of rights values with SROC members. As shown in **Figure 6**, we estimate that the UK is the largest individual market, followed by France, Italy, and Germany. In each of these territories, the major rights are the domestic football leagues, followed by UEFA club events national team competitions, and such properties as motorsports and golf.

Figure 6: Estimated breakdown of the total sports rights market in the EU28 countries, 2018, EURm



Source: Sportcal, sports bodies' financial reports, regulators' reports, Oliver & Ohlbaum research and analysis
Note: "Top sports" are: UEFA club and national competitions, FIFA World Cup, EPL, LaLiga, Bundesliga, Serie A, Ligue 1, Formula 1, MotoGP, and Summer and Winter Olympics

Of course, media rights are not the only form of income for sports events and competitions, but they are a very important revenue stream for most of the world's most popular events. As we saw in Part 3, the proportion of revenues derived from media rights differs across sports, but could be as high as 80 per cent. Other sources of income include: sponsorship, advertising, ticketing, and merchandising, all of which are important, but they are ultimately facilitated by the interest in sport which is sustained by the broad availability of sports content on television.

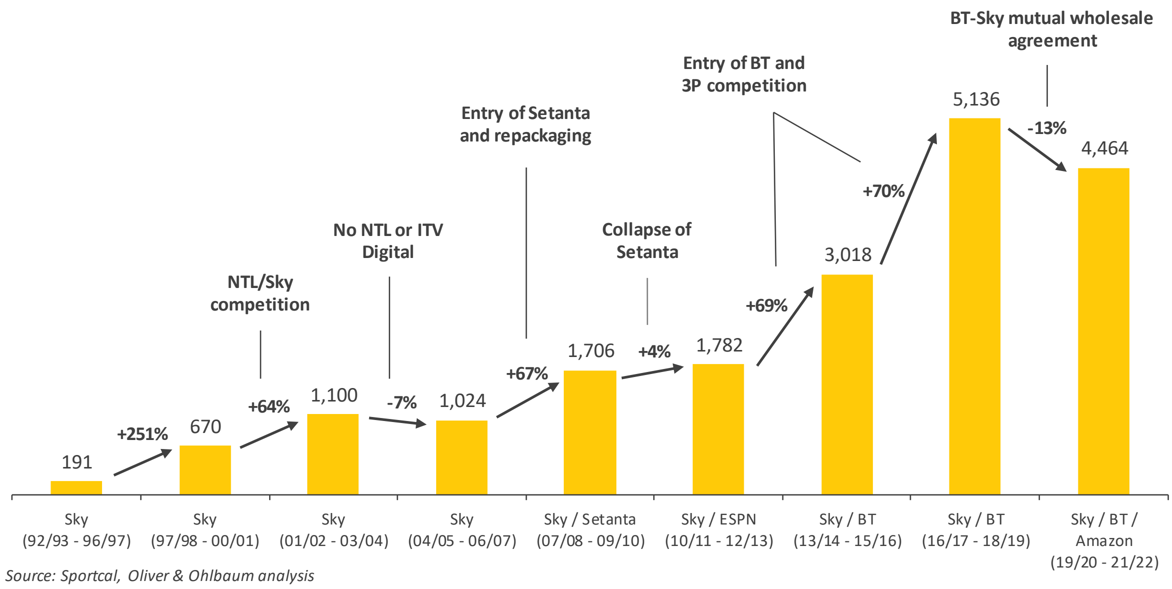
As such, changes in media coverage (as well as associated media rights income), or even uncertainty around it, could significantly disrupt participants at all levels of sport. This would also have knock-on effects for other major revenue streams, and if both viewing and revenues were to be damaged, this would ultimately damage the viewing spectacle offered to consumers.

4.1.1 The price of sports rights depends on the value broadcasters can derive from them

The value of sports rights is driven by a range of factors which influence how much revenue a broadcaster or platform can generate from the sport. The level of interest in a particular sport is clearly key because, for commercial FTA broadcasters, this impacts on viewership and thus the amount of advertising or sponsorship revenue they can generate around the broadcast. For pay-TV broadcasters, the level of interest and resulting viewing impacts on both advertising and subscription revenues. Interest metrics include: fanbase; levels of participation, since this supports overall interest and can encourage sponsorship and viewing; and historic TV audiences.

For pay-TV platforms, the value of a sport is complicated by the additional value platform owners can derive from sport beyond that of direct consumption; this is known as ‘platform value’. Pay-TV platforms typically offer consumers a range of products as well as premium sport, including: basic pay TV, internet, phone line, and mobile phone packages. If a sport can attract subscribers to the platform, the platform owner benefits from selling other products within the media bundle. Competition between providers for the biggest rights can have a major impact on rights values – as shown in **Figure 7**, which sets out the inflation in EPL rights from competition between Sky and BT in the UK.

Figure 7: EPL UK rights value over time, £m



Source: Sportcal, Oliver & Ohlbaum analysis

Sport's "live" quality means that it is high value, but this value diminishes very quickly, and is weighted towards the most popular sports (such as domestic football leagues) which are a major driver of pay-TV subscriptions. On both pay and FTA TV, sport holds a unique value to advertisers because, due to the fact that they are viewed live, consumers are more likely to watch the adverts than pre-record and skip through them. The most popular sports on commercial TV can provide advertisers with brand-safe wide reach. At the same time, the desire to watch sports as they happen, to share in the collective experience, means that the value of rights is heavily weighted towards live broadcast or streaming.

Sports are a key driver of value in the pay-TV market

4.1.2 The national footprint of buyers means rights are bought on a territorial basis

Within each territory, rights holders sell rights to distributors or directly to platforms and broadcasters (via a bidding process, if there are multiple interested parties). Rights can be packaged according to medium (TV only, radio only, TV and online combined, etc.), or by type of fixture (individual matches, knock-out stages, matches played in a particular time slot, etc.).

Packaging at both national level and within territories is a response to demand from buyers (e.g. broadcasters) who want the flexibility to only purchase rights to the content they wish to offer on their service – and typically cannot afford rights on a pan-European basis and / or have no means of exploiting them internationally. Territorial exclusivity means broadcasters know their investment cannot be undermined by suppliers from other territories targeting their customer base with the same content. Crucially, it also means that rights remain affordable in all territories, while alleviating the risk of market foreclosure, whereby a powerful international buyer could acquire pan-European rights and deny access to sports rights for national broadcasters – particularly those serving audiences in smaller territories. It is also an important means of promoting competition amongst broadcasters in national markets, since multiple broadcasters typically have the means to pay for a territorially exclusive licence, while few could compete at the price required for a pan-European licence.

Indeed, tastes and preferences vary significantly by market and consumers are therefore better served by national broadcasters who tailor their content and set their prices for the audiences they serve. Given the highly country-specific popularity of different sports, and the existence of just one pan-EU broadcaster (Eurosport), selling sports rights along national lines is a natural fit. Even Eurosport carries different programming in different territories – to reflect varying national demand. Multi-territory deals do exist, but these are normally when the broadcaster or platform has a multi-territory presence, and the sport in question has similar levels of popularity – for example the pay-TV channel C More holds rights for the Swedish Hockey League in Sweden, Denmark, Finland and Norway.

Rights are sold on a territorial basis to meet consumer demand

Of course, territorial exclusivity is partly also a legacy of the limitations of physical broadcast infrastructures, with broadcasters only able to serve consumers in one market. While these physical considerations are becoming less of a barrier to serving international customers in the digital age (and now rights bundles often include broadcast and digital), demand from consumer services remains fragmented between territories and the benefits of segmenting the market remain for sport, broadcasters and consumers.

4.1.3 Territorial rights buying supports demand for a diverse range of sports and competitions

As significant buyers of sports rights, pay-TV platforms and their associated business model, are extremely important to the sports sector. As we have seen, pay-TV providers rely on being able to offer exclusive access to content which attracts subscribers; sport has developed as a crucial means of achieving this and so pay-TV platforms are an important source of demand for sports coverage. These platforms derive significant value from the top tier sports – which differ by territory – since they draw in the largest audiences and thus are most effective in attracting subscribers. However, sports with smaller fan bases are also important to pay-TV platforms, particularly sports which appeal to niche audiences, or whose fans have limited overlap with those of the larger sports properties. Such sports rights are important complements to the top tier sports and allow pay-TV platforms to serve as many potential customers as possible.

As such, it is pay-TV platforms – whose business relies on territorial exclusivity of content – which are responsible for much of the demand for media rights to smaller sports properties. The pay-TV business model is essentially the reason that coverage of many sports outside of the largest properties exists and is financially viable.

Furthermore, the pay-TV business model also facilitates coverage for sports' smaller events. When selling rights to pay-TV providers, rights owners often package the rights for their most significant events with those of their smaller events, which might not otherwise be broadcast. This approach by rights holders, ensures audiences benefit from coverage of competitions which might not otherwise be available. For example, county cricket matches are often packaged with test matches, leading broadcasters to offer coverage of county matches which might not otherwise exist. As such, rights owners rely on the pay-TV business model to ensure that the current diversity of coverage of sporting events remains available.

4.2 The availability of sport can be influenced by their listed status

Before we examine how consumers might respond to changes in availability of sports content, it is useful to understand what determines the availability of such content. To a large extent, this depends on demand from broadcasters – free or pay, and the value they can derive, which we discussed in Section 4.1.1 – but it also depends on an event's 'listed status'.[22]

Listed status rules are designed to ensure consumers in individual territories are not deprived access to events of national interest. These rules apply to any type of event, for example, the Vienna Opera Ball and the Vienna Philharmonic Orchestra's New Year Concert in Austria, and the San Remo Italian music festival in Italy, but are mainly used for sporting events. They were originally introduced to prevent a situation arising such as when in 1996 Kirch Group in Germany acquired all rights for the FIFA World Cups in 2002 and 2006 (recommendations were made for such protection the following year, and were written into the AVMSD).[23] The European Commission describes the AVMSD as laying down 'framework conditions to prevent major events from being monopolised by pay TV. This framework enables Member States to ensure that broadcasters under its jurisdiction do not broadcast events of major importance for society on an exclusive basis, as it would deprive the possibility for a majority of the public to follow them'.[24]

It should be noted that listed events are nationally regulated; while the AVMSD sets out a framework, it does not create any lists, nor does it require any listed event provisions to be put in place. Chapter 5 Article 14 of the AVMSD states that Member States may draw up a list of events "which it considers to be of major importance for society" and decide whether partial or whole coverage of these events should be made available on FTA television (in the UK this means channels which can reach 95 per cent of the population).[25] Guidelines define these 'listed' events as those sports competitions which:

[22] Guidelines for implementation of Article 14 of the AVMSD set out in CC TVSM (97) 9/3

[23] European Parliament, *Audiovisual rights in sports events: an EU perspective* (March 2017), p. 9.

[24] European Commission *Content & Distribution Rules* https://ec.europa.eu/digital-single-market/en/content-distribution-rules-avmsd

[25] John Woodhouse, *Listed Sporting Events, House of Commons Briefing Paper*, No. 802 (4 October 2019), p. 4.

- Have a special general resonance, and are not just significant to those who ordinarily follow the sport or are actively concerned about it;
- Have a 'generally recognised, distinct cultural importance for the population, in particular as a catalyst of its cultural identity';
- Be of major national importance and feature the national team.

The need to protect access to sport at a national level illustrates the lack of a single European demand for sport

The existence of listed events, their primary application to sport, and the EC's expectation that lists are drawn up by national regulators on a territory-by-territory basis, is a clear symptom of differing national demand for sport – and a lack of a single European market.

While listed sporting events can be sports which are specific to one or a few territories, they tend to be international competitions such as the Olympics, the FIFA football World Cup, and parts of UEFA competitions. The extent of the listed status varies between territories; given the focus on national importance, such international events feature on most Member States' lists, but with differing scope – some examples are set out below. The Olympics is the only sporting event where the vast majority of individual competitions / fixtures are featured on almost all Member States' lists.

- Fixtures featuring the home nation, or a team / athlete from it, have listed status, such as UEFA Champions League matches involving Dutch clubs in the Netherlands and finals of the major tennis Opens involving Croatian athletes in Croatia. Other non-knock out fixtures in a competition are not usually listed;
- Listings only include specific fixtures from particular events, for example the semi-final and final;
- Listings relate to more nation-specific events, for example Word Championship Wrestling in Bulgaria, the Volta a Portugal cycling race in Portugal, and the Commonwealth Games in the UK. Of course, such events require less protection from an international rights buyer, but their listed status ensures FTA access for local residents.

Since individual territories can choose what is included on their own lists, and national interest in and demand for sport differs, there is an asymmetry of listed status for sports which are of interest to some audiences in multiple territories. For example, the FIFA football World Cup is a universally popular event, and its quadrennial calendar makes is well suited to FTA broadcast because it offers little platform value to pay-TV providers. Nevertheless, its listed status varies between countries, with most territories choosing to list only the back end of the tournament and fixtures of national interest, while the UK and Belgium include the whole event on their lists.

4.3 The current availability of sports content determines the impact of geo-blocking

Before we can assess the potential impact of the removal of geo-blocking restrictions, it is important to understand the variations in how sport is currently available and how this is underpinned by consumer demand and the associated distribution of rights values to broadcasters and platforms. We have defined three availability types to describe how availability of a given sport varies between territories. These are:

1. Universal pay-TV access – with asymmetry of access costs between territories;
2. Mix of FTA and pay-TV access – asymmetry of access costs between territories, with some FTA availability;
3. No asymmetry of availability between territories.

We set these out in more detail below and use this framework in Parts 6 and 7 to quantify the impact of a ban on geo-blocking.

Type of access	Value distribution	Availability	Elements listed?	Examples
Universal pay-TV access **(€7.7 bn)**	High value with significant skew towards the domestic market	All or most territories	N	Domestic football leagues in major territories
	Weighted towards a few valuable territories	All or most territories	N	Golf tournaments including The European Tour, British Open, and Ryder Cup EuroLeague Basketball
	Evenly distributed across territories (niche sports)	A few territories	N	World Wrestling Entertainment (WWE) National Football League (NFL)
Mix of FTA and pay-TV access (€4.1 bn) – Mostly pay-TV access	Weighted towards one or a few very valuable (typically pay) territories	All or most territories	N	Moto GP Formula 1
	Even distribution across territories	All or most territories	Y	UEFA Champions League UEFA Europa League
	Significant skew towards the domestic market	All or most territories	Y	Wimbledon Roland Garros
Mostly FTA access	Weighted towards one or a few valuable FTA territories	All or most territories	Y	Six Nations Tour de France
	Even distribution across territories	All or most territories	Y	UEFA Euros UEFA Nations League and Euro Qualifiers
	Weighted towards a single pay-TV market. FTA is low value but used to build profile in emerging territories	All or most territories	N	ECB Cricket (England and Wales Cricket Board) Overseas cricket events
	Universally on FTA: distribution based on value to domestic FTA broadcasters	All or most territories	Y	Summer Olympics Winter Olympics
	Available only on FTA: distribution based on value to domestic FTA broadcasters	One or a few territories	N	Snooker Darts

Type of access	Value distribution	Availability	Elements listed?	Examples
No asymmetry of access[26] **(€1.8 bn)**	Available only on pay TV: all value is with single pay-TV provider	A single territory	N	Domestic football leagues and cups in smaller territories

Note that to simplify this framework, and our analysis later in the report, we have considered the availability of live rights only, since this accounts for the vast majority of value – we have not considered clips or highlights. We have also simplified sports' availability status: throughout our analysis we assume the same coverage is available in all territories, and for some sports we have simplified their availability status. For example, with the NFL a very small number of fixtures are available on FTA television in some territories – we have characterised this as an 'all pay' property.

In Part 5 we set out how consumers would likely react to the extension of the ban on geo-blocking to include sports content, before going on to quantify the funding at risk and the likely implications for access to content and the price of access in Parts 6 and 7 respectively. In doing so, we also set out how different degrees of listed status would impact the value of sports rights in territories where they are not listed.

[26] We have included in this category sports which have very localised interest and so are typically only available in one territory

5 How would consumers respond to an extended ban on geo-blocking?

PART 5: SUMMARY

- To understand the potential impact of a ban on geo-blocking we need to consider how consumers are likely to react in the context of the asymmetric availability of sports content and the varying access costs between territories;
- Rational consumers will switch to the lowest cost provider to save money – while there will, of course, be some friction to switching, such as language barriers and a reluctance to switch to unfamiliar providers, these would likely be overcome by service providers relatively quickly;
- A transition of consumers away from services in high access cost territories, towards those in low access cost territories, would destroy the value of sports rights in high access cost territories.

Those supporting the removal of geo-blocking might argue that doing so would broaden access and increase consumer choice (potentially at lower price points), but this view considers only the current market conditions. For such a move to realise these benefits, the current individual market equilibria around product offer and pricing would need to apply in a broader European market. Of course, in reality, the change would trigger a response from sports rights owners and buyers resulting in a new market equilibrium which would not deliver the benefits expected by those supporting the ban on geo-blocking.

Nevertheless, to understand this point of view, in this part we examine how consumer behaviour is likely to adapt and the potential chain of events which could impact on rights values. In Part 6 we then go on to consider and quantify the impact on sports rights revenue if the market does not react (based on the framework we developed in the previous part).

5.1 The rational consumer response is to switch to lower cost suppliers

To understand how supporters believe the removal of geo-blocking might pan out for European sports properties, we must start by considering a rational consumer response to these changes. While some barriers to accessing services aimed at other European territories could remain, consumers would have a much broader range of services through which to access sport. Since the cost of accessing a given sport can vary considerably between territories, the dominant consumer response would be to switch subscriptions to lower cost services in other territories; whether by accessing pay content via a cheaper subscription or by accessing content which is on pay TV in their home territory via a FTA service in another country.

Consumers will switch to the cheapest provider – albeit with some friction

5.1.1 Lower costs to access sport in other territories would drive consumer switching

There are many nuances to the way in which individual consumers would respond to the removal of geo-blocking restrictions, but to simplify our considerations, we have assumed that consumers are purely driven by price. The pull-out box below provides some illustrations of how consumers could make savings by switching to access particular sports via foreign services. But since all sports would be affected, we do not need to consider whether the availability of specific sports properties via lower-cost services would be enough to encourage users to switch services; we assume that a service equivalent to their current package would be available elsewhere.

PULL-OUT BOX 1: ILLUSTRATION OF INCENTIVES FOR CONSUMERS

Sports are typically the main value driver for pay-TV platforms, and this is reflected by the access cost for a country's most sought-after sport competitions. However, if consumers can access lower-cost packages from other countries, where interest in that sport is lower, they could switch to the cheaper provider, and the domestic pay-TV provider would experience significant losses in revenue if it did not react.

The table below sets out examples of sports which consumers would be able to access more cheaply from other territories if there were a ban on geo-blocking – whether by moving to a lower cost pay-TV provider, or a free service.

Examples of incentives to switch consumption to other European services:

Sports property	Domestic market		Other		Savings per year (€)
	Provider	Price per month (€)	Provider	Price per month (€)	
Bundesliga	Sky Deutschland	29.99	Eleven Sports (Belgium)	9.99	240
La Liga	Movistar+*	19.99	Premier Sports (UK)	6.83	158
Swedish Hockey League	C More	32.80	Premier Sports (UK)	6.83	312
Premier League	Sky Sports	59.20	nc+ (Poland)	13.96	543
Premiership Rugby	BT Sport	44.70	DAZN (DACH)	11.99	393
Masters golf	Sky Sports	59.20	GO Sports (Malta)	30.99**	339

Note: *These are example packages for which the amount of coverage is broadly comparable. Exchange rates as of September/November 2019. *While the Movistar+ channel is offered by multiple providers, the price quoted here is specifically that of the Mediaset offering. **Home Pack plus GO Sports €5.99 add-on. Sports may be cheaper elsewhere. Average 2019 exchange rates used*

This table shows the total cost of receiving a sports package in each market, and may therefore include other services (such as non-sports channels) when these are bundled together.

We also assume that audiovisual channels and the sports that they carry are available via OTT services,[27] so that consumers can easily access these services from other territories. Where this may not be the case already, it is likely to be in the future as IP delivery is the direction in which the audiovisual market is developing. This means that consumers would switch their sports service provider to access sports in other territories if they can make a saving by doing so. The specific response would depend on the current availability of the sport in question; we explore this in more detail in the next part where we consider each of the three access types from our framework in turn (universal pay-TV access, a mix of FTA and pay-TV access, and no asymmetry of access).

Clearly the cost of accessing sport in a given market is normally more complicated than a single price. Consumers paying for sports content normally do so as part of a telecommunications bundle which can include their phone line, their broadband service and mobile phone. So, what we mean when we say that a consumer would switch for lower cost access is that they would switch where the incremental cost of accessing paid sport in their territory exceeds the cost of accessing it in another market.

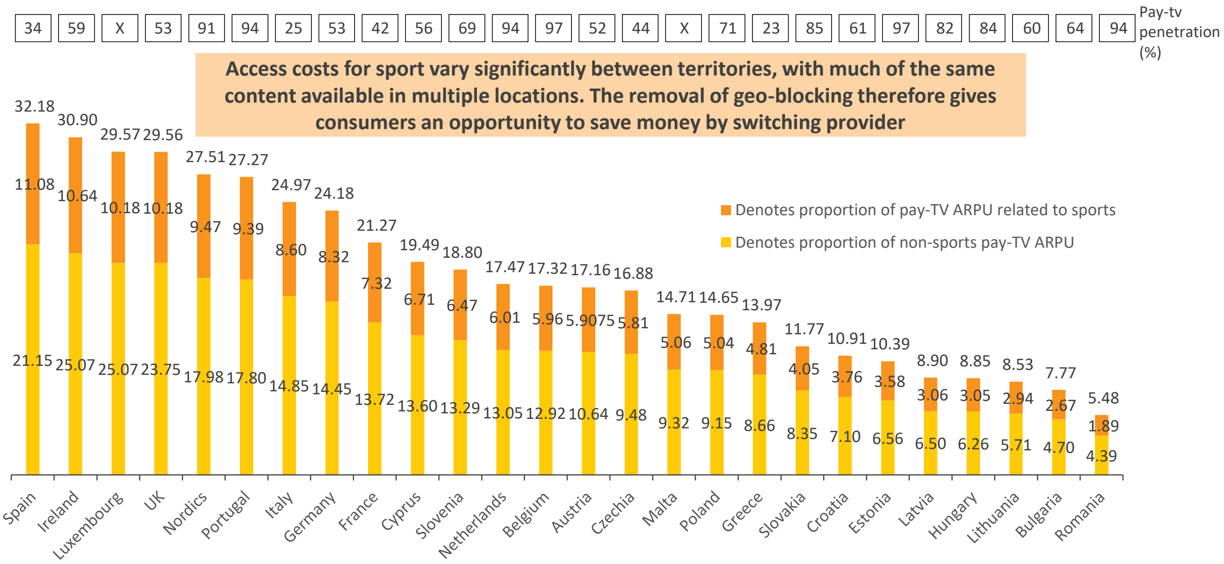
While a purely price-driven approach paints an extreme picture of how consumers might respond, it also presents the best-case scenario for supporters of a ban on geo-blocking – in terms of reducing access costs and increasing access (provided we assume that current access costs and availability are maintained – which, of course, is not realistic).

Figure 8 shows how the cost of sport on pay-TV services varies by market; we can clearly see that access costs vary significantly – reflecting the considerable differences in the values of a given sport, or collection of sports, across the EU. As such many consumers would potentially benefit by switching their subscriptions to the lowest cost market

[27] Whether as a standalone OTT service or via a companion service for a traditional broadcast pay-TV subscription.

(Romania). This high-level illustration ignores the impact of asymmetric availability of sport content on FTA television, which would be a further driver of consumer switching and increased access.

Figure 8: Relative cost of accessing paid sport by territory, EUR, and pay-TV penetration, %



Note: *Chart denotes the total ARPU for a pay-TV subscription in each market. The share of this allocated to sports is based on total Western Europe revenues derived from basic and premium sports packages. Numbers may not sum due to rounding. No pay-TV penetration figure available for Luxembourg and Malta*
Source: *OVUM, Dataxis, OBS, Malta Communications Authority, Oliver & Ohlbaum analysis*

Increased access would arise because consumers who do not currently take pay TV, because they are priced out, may choose to access sport at a lower price point (which may be free) in another territory. Therefore in the absence of a market response, this would increase access to sport on TV across Europe.

5.1.2 Frictions to switching will prevent some consumers from changing suppliers

While price is an important driver of switching, there are a range of factors which might prevent consumers from adopting services based in another territory, even if they are cheaper. Indeed, only 9 per cent of Europeans report that they have ever tried to access audiovisual content aimed at a country other than their own, and only 3 per cent have done so with sports content in mind – albeit, this may be because many know that it is not currently possible or perceive it to be difficult.[28]

Some of these frictions are historic technological-based issues which are less relevant in the digital age, while others relate to tastes and preferences in individual markets. The main historical barrier to accessing international content has been the geographical footprint of national pay-TV providers, and the need for physical infrastructure or hardware – for example a set-top-box from a pay-TV provider – which is only available in the territory from which the service originates. This issue is subsiding since broadcasters and TV platform services now typically offer their content, including sport, via an OTT service – whether as a companion product to a broader communications and pay-TV bundle, or as a standalone service.

Remaining factors which could prevent consumers from accessing a sports service based in another territory are set out below. These are relevant to both free and pay-TV services and relate more to consumers' tastes and mindset than to market characteristics.

[28] Eurobarometer, *Cross-border access to content online* (June 2019), p. 5.

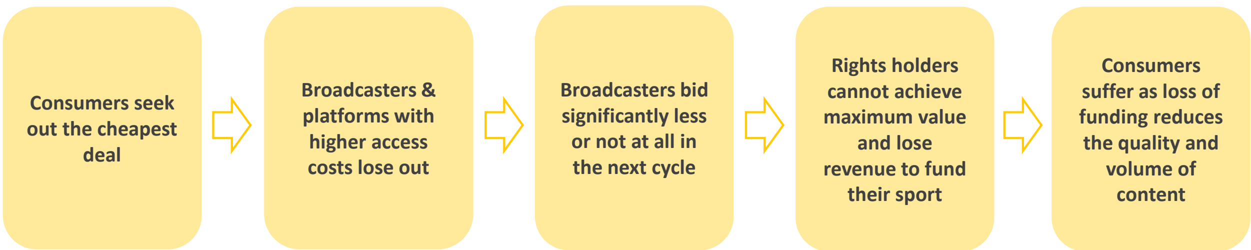
- **Language differences**: though less of an issue for sport than for TV or movie content, consumers have a natural preference for content broadcast in their own language. This could limit the international appeal of low-cost services in territories whose language is not widely spoken;
- **Perceived difficulties in set up:** some consumers, particularly those who are not 'tech savvy' might not attempt to access foreign services which they would be interested in because they believe it would be too difficult, either to acquire in the first place or to use alongside their existing TV services;
- **Unfamiliarity with foreign suppliers:** most consumers are aware of the main TV platform providers in their home countries and are therefore comfortable using them, but a lack of familiarity with foreign suppliers and the sense that they are far away, could mean some consumers feel uncomfortable purchasing from them.

All of these considerations would subside as the use of foreign services became more mainstream and services evolve to increase their customer base, such as by providing customer service centres in other European territories. Even where some physical barriers remain – for example where services only offer content via OTT as part of a full communications bundle – some consumers would find it cheaper to take on a full package in a lower-cost market and only use the OTT element. So, over time, we would expect to see a tendency towards price differences being the main determinant of the services taken by consumers.

5.2 Consumer switching would destroy rights value in higher access cost markets

Consumer switching to lower-cost sports services could start a chain of events which could have serious implications for the funding of European sport. This would ultimately disrupt the finely balanced sports ecosystem as well as the economics of pay TV, with reductions in investment harming the quality of competitions as well as the ability of sport to invest and encourage participation at a grassroots level. **Figure 9** shows how events might pan out, in the absence of a market response. Essentially, under our simplified view, there would be a complete loss of viewers in all but the territory offering access to sport at the lowest price point.

Figure 9: The likely chain of events as consumers respond to the removal of geo-blocking



In most territories, consumer switching could lead to broadcasters and platform owners choosing not to bid for sports content in the next rights cycle, or they would table significantly reduced bids in response to the loss of exclusivity. Put simply, a ban on geo-blocking would mean that many broadcasters would be unable to monetise sports rights as effectively as they do today; for pay TV, sport would no longer play the same role in driving demand and creating value for platforms via their communications bundles. So the existing business models of pay-TV broadcasters and platforms could be completely undermined.

Broadcasters and platforms with the highest access costs will lose

Under this 'no market response' scenario, the lowest access cost provider would essentially become the single European provider. It would ultimately adjust its pricing policy to the equilibrium market price for Europe as a whole, rather than the territory in which they are based. We explore this when we consider likely market responses, in Part 7, but first, we quantify the potential impact in this ‘no market response’ scenario.

6 What would the hypothetical impact be on sport, in the absence of a market response?

PART 6: SUMMARY

- Those who support a ban on geo-blocking for sports content believe it would give consumers access to lower prices in other territories. We have considered how this may play out, but the scenario is purely hypothetical, because broadcasters would react – we consider the 'market response' scenario in Part 7;
- Broadcasters and platform owners with the highest access costs would lose subscribers, making them unlikely to bid in the next rights cycle, and destroying the value of those rights in current high access cost markets which are often those generating the highest rights income;
- In total, around €9.4 billion of funding to the European sports industry could be at risk; this represents around 69 per cent of total European sports rights revenues;
- Sports would be unable to reinvest as much in their product, reducing the quality as well as spending on grassroots sport – meaning that ultimately consumers lose out.

Having explored how consumers are likely to react in the event of a ban on geo-blocking, in this part we quantify the funding at risk to sports, using the framework we established in Part 4. To support the quantifications, we produced estimates of the value of sports rights across the EU28 markets – based on published numbers and sense testing with a sample of SROC members. To ensure our sample testing is representative we tested our estimates of high-value and low-value rights with rights holders across the categories included in our framework, and including a mix of both listed and non-listed events.

The analysis in this part is purely hypothetical because it ignores the likely response from broadcasters which would result in changes to the available access costs for sports content. Rights revenue at risk is estimated based only on the incumbent rights holders' responses at the time of the next rights auctions – and not the interaction of European rights buyers. In many markets the value of sports content will be destroyed by the loss of broadcasters' ability to purchase rights on a territorially exclusive basis. While some broadcasters may make reduced bids for non-exclusive rights in the next cycle, they could choose to not bid at all – this is the focus of our analysis, which quantifies the value of rights at risk.

Of course, the timing of rights cycles varies by sport and so the ability of broadcasters to react, even with a lead time ahead of any change in regulation, will also vary – our illustration shows what is at risk once buyers have had one rights cycle to respond.

6.1 The impact on 'universal pay-TV access' sports

The sports included in this category are high value properties, typically with multi-market appeal. Crucially, these sports do not have listed status in any territory and are carried universally by pay-TV broadcasters. This means that consumers have no opportunity to switch to a FTA provider if a ban on geo-blocking was introduced, but they could seek to save money (or gain access for the first time) by subscribing to a relatively low cost pay-TV provider in another territory.

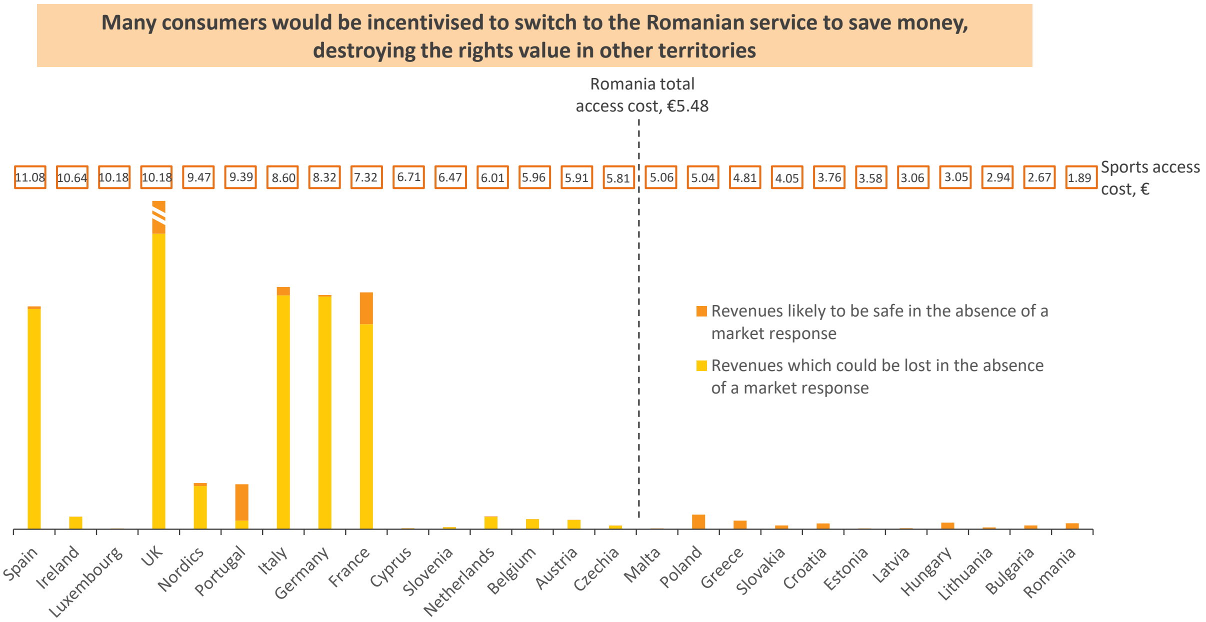
6.1.1 89 per cent of rights revenue could be lost for 'universally pay-TV access' sports

Sports in this category account for an estimated €7.7 billion of the total €13.6 billion annual European market for sports rights. Following the likely chain of events set out in the previous part, rights revenues would be at risk in all territories except the territory with the service offering consumers the lowest access cost to sports content. To estimate the amount at risk we considered three sub-categories of sports that are only available via pay TV, with different value distributions, as follows:

- **€6.5 billion:** High value properties available in all or most territories, with rights value skewing towards the domestic market;
- **€0.9 billion:** Properties available in all or most territories but where most of the rights value exists in a few territories;
- **€0.3 billion:** Properties available in only a few territories, with similar rights values in each.

Based on our estimated rights valuations for each group and the availability in each territory, along with the relative price points in different territories, we have estimated the potential impact on sports rights revenue. In each case, we assume that consumers switch to access sports in the lowest cost market where the access cost is cheaper than the incremental cost of sports content in their home market. This means that many consumers would switch to access sports content in Romania. **Figure 10** shows the combined value of rights for sports available only on pay-TV platforms, broken down by territory. If broadcasters were to avoid bidding for non-exclusive rights in the next rights cycle, all of the pay-TV value outside of Malta would be at risk – this totals €6.8 billion, or 89 per cent of the €7.7 billion in sports rights value relating to sports which are only available via pay-TV broadcasters.

Figure 10: Impact on rights revenues for sports with universal pay-TV access



Note: This chart is indicative only. Consumer responses have been considered at an individual sport level (as the cheapest access market is not always the same). As pay-TV ARPU is lowest in Romania, this is the trigger point at which consumers in Czechia and above will consider switching. However, as not all sports are available in all markets, this trigger point differs.
Source: Oliver & Ohlbaum analysis

Around 93 per cent of the €6.8 billion at risk relates to some of Europe's most popular sporting events, available in all territories, but with a significant skew in value towards the domestic market, including domestic football leagues in Germany, the UK, France, Italy, and Spain. In turn, the amount at risk constitutes 97 per cent of this group's total media revenues. Less universally popular sports, such as major Golf tournaments as well as more niche sports such as EuroLeague Basketball, WWE and the NFL, could also suffer a significant loss of revenue. These collectively account for the remaining 7 per cent of the revenue at risk in this category, which is the equivalent of around 40 per cent of their revenue from media rights.

The amount at risk is the worst-case scenario, as it assumes that broadcasters in all territories but Romania, along with Malta, Poland, Greece, Slovakia, Croatia, Estonia, Latvia, Hungary, Lithuania and Bulgaria (where the total access cost of pay TV in Romania is greater than the incremental cost of accessing sport, so it is not worth switching) would ultimately drop sport from their schedules and adapt their business models to a world where sport is not a key driver of their subscriber base. If they did seek to compete with low cost providers in other markets they would need to significantly reduce the amount paid for sports rights, so they could charge consumers less and compete with the remaining low cost services – this would still result in significantly depleted media rights revenue.

6.1.2 While access could increase, consumers would suffer as sports' quality would diminish

The media rights revenues which support the sports industry would also put the business models of pay-TV platforms at risk, since they use sports rights to attract and retain consumers. But, in the short term, consumers would largely pay less or would now have access where they were previously 'priced out'. As such, there would be three notable effects on consumers in this no-industry-response scenario:

- **Financial savings:** in this hypothetical scenario, many households could pay less by switching their pay-TV services to a rival service carrying sport in a foreign country. We must reiterate, however, that this would not happen in reality since the market would respond to changes in the regulation and this would impact on the prices available to consumers (as we explain in Part 7);
- **Increased access:** as well as a transfer of existing viewing to lower access cost territories, there would likely be an increase in the number of consumers watching sport as they are 'priced in' to the market, though we are unable to quantify this without further data on the price points at which current non-subscribers would be willing to start paying;
- **Reduced quality:** with such a significant hit to funding, sport would not be the same in the longer term. So, in exchange for paying less than they are willing to pay under current market conditions, fans could see a significant deterioration in the quality of the sport available.

The impact on the quality of available sport is perhaps the most important; the positives of financial savings and increased access would be short-term, and ultimately the events which fans love would no longer exist in their current form. This, of course, is part of the reason that the market would react – which we explore in Part 7.

6.2 The impact on sports with a 'mix of FTA and pay-TV access'

The sports included in this category are typically international events, or those involving participants from multiple territories. The availability on FTA television, either in full or in part, means that if geo-blocking were banned, consumers in territories where some coverage is restricted to pay TV, may be able to access the content more cheaply (or for the first time) by switching to an overseas provider.

6.2.1 63 per cent of rights revenues could be lost if consumers can access the content on FTA

The impact on rights revenue of sports in this category depends on the distribution of rights value between territories but also the extent of FTA access. It is the asymmetry of FTA access between territories which creates the opportunity for consumers to switch providers, thus undermining the value of pay-TV rights in those territories where the sports in question are not available on FTA television. FTA access occurs for different reasons depending on the sport:

- Listed status is perhaps the most important reason, as it applies to some of the most popular events;

- Non-listed events with a mix of pay and FTA availability are often only available extensively on FTA television or via free OTT services in 'dark markets', where they have limited profile and are looking to grow their fan base.

As explained in Section 4.3, we identified several sub-groups within this broad category, with differences in the mix of availability of sports between markets, as well as their relative popularity and associated rights values. A ban on geo-blocking could have slightly different implications for each of these groups – which we explain in more detail in Appendix 1 – but there are two significant sub-groups worth considering, to provide examples of the implications for sports in this group.

- **Mostly pay-TV access:** sports which are carried mostly on pay TV but are available on FTA in some territories could see their pay-TV value completely destroyed. This applies provided that a significant proportion of a sport's fixtures are available on FTA television (whether in one territory or by collation across several) – which might be due to listed status or as a means of promotion. The UEFA Champions League is a good example of the potential implications due to this asymmetry of availability – in this case due to partial listed status in multiple territories. We explore this and UEFA national competitions in Pull-out Box 2;
- **Mostly FTA access:** sports which are mostly available on FTA television with pay carriage in one or few territories could also see their pay-TV value completely destroyed. Again, this is because all, or a significant, proportion of the event will be available on FTA television – whether due to listed status or as a means of promotion.

One might think that sports which are mostly available on FTA television are less reliant on pay-TV revenues and the impact would not be significant provided that FTA revenues are maintained, but this is not the case. Sports such as ECB Cricket generate most of their revenue as a pay property in the domestic market; FTA availability elsewhere is an important means of extending interest but pay TV accounts for almost all revenue. Similarly, UEFA Nations League and Euro Qualifiers are substantially free due to national team matches being listed across most territories, but the ability to sell non-listed fixtures to pay TV on a territorial basis (thanks to the centralisation of media rights sales) led to a doubling of revenues in the first rights cycle sold on a centralised basis. This value would be destroyed if consumers could access these matches in other territories, where they are listed and available on FTA television.

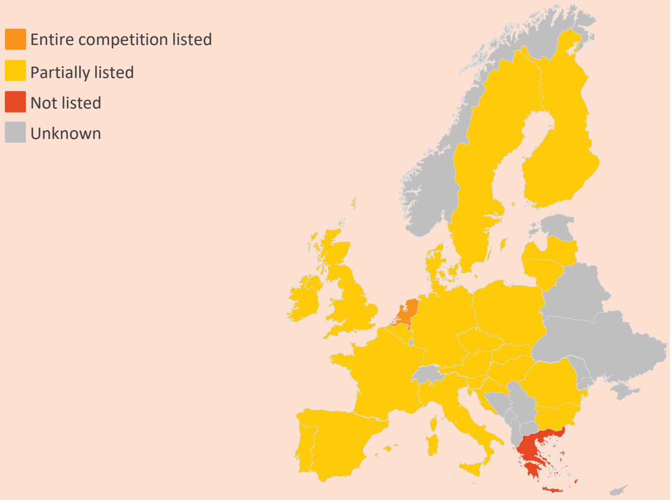
Of course, it could be complex for consumers to navigate the availability of FTA sport across multiple territories, but with the removal of geo-blocking, which currently prevents it, we assume that it would not take long for an aggregation service to emerge – much like aggregators of illegal streams which currently exist. That would mean consumers might be able to access a single OTT service carrying FTA content from a range of territories where particular sports or fixtures have listed status – as explained using the Champions League as an example in Pull-out Box 2.

Based on our assessment of the sports for which there is an asymmetry in free and pay availability, we estimate that the change in geo-blocking regulation would put €2.6 billion of revenue at risk. This amounts to an estimated 63 per cent of total rights revenue generated by these sports. This revenue could be lost through the same series of events set out in Figure 9. As audiences migrate from domestic paid services to access sports content via services in other territories, their demand for domestic pay-TV sport would reduce and thus broadcasters could choose not to bid for sports rights at the time of the next auction, or would bid considerably less than the current value.

PULL-OUT BOX 2: THE IMPACT ON THE VALUE OF UEFA NATIONAL AND CLUB COMPETITIONS

Both UEFA club and national competitions are subject to listed status in multiple territories. In the case of national competitions the final and / or matches of the national team are listed in many territories, meaning that in a scenario in which consumers are the first to respond to changes to geo-blocking regulation, it is likely that consumers would be able to access enough free content to watch the tournament in its entirety, or almost in its entirety. The diagram below illustrates where the UEFA Euros are listed, where most listings are restricted to national team matches and final rounds only – collectively they cover almost all of the competition.

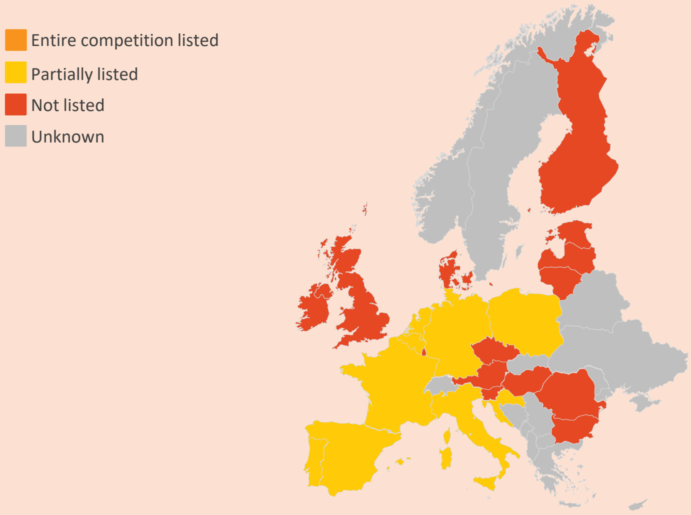
Listed status of the UEFA European Championships (Euros)



Source: OBS, Oliver & Ohlbaum analysis

While fewer elements of the UEFA club competitions (Champions and Europa Leagues) are listed, there are several substantial listings, such as matches involving Spanish and Belgian teams. Additionally, many European broadcasters have traditionally made substantial elements of these competitions available for free (such as the final, and one match per match week), and therefore even when the event is not listed, consumers have enjoyed significant FTA access. Although the impact on pay revenues may not be as great as for UEFA national competitions, there would be a substantial impact on pay revenues for the Champions and Europa Leagues, as consumers combine access to FTA broadcasts across multiple territories.

Listed status of the UEFA Champions and Europa Leagues



Source: OBS, Oliver & Ohlbaum analysis

6.2.2 Again, while access could increase, quality would diminish

The same impacts would apply for these sports as we discussed for sports currently carried on pay TV only, in Section 6.1.2; some consumers would benefit from financial savings and an increase in access, but at the cost of reduction in the quality of sport. Of course, any financial savings would not be incremental to those seen in Section 6.1.2, because these impacts are not independent of each other and if consumers were to move their pay-TV subscription to a lower cost service, they would likely do this regardless of some increased free access. Albeit, some might choose to drop pay-TV services altogether given the availability of some sports on FTA, meaning our estimated financial savings could be slightly pessimistic for consumers.

6.3 The impact on sports with 'no asymmetry of access'

Sports with no asymmetry of access between markets are those which are either wholly available on FTA television or wholly available on pay TV (in the territories in which they are available). This means that no existing consumers would have an incentive to move their consumption to a non-domestic provider and there would therefore be no implications for the value of the associated media rights for these sports.

It is important to note, however, that there are very few sports in this category. The Olympics is the only sport competition we have classified in this category which generates significant revenue from media rights; it is (almost) universally available on FTA television, with national providers offering suitable emphasis of coverage for their consumers. Other properties in this category are much less popular, typically available in one or few territories. In total, we estimate that the sports rights value which would not be exposed to the significant detrimental impact of a ban on geo-blocking is currently worth around €1.8 billion.

6.4 This hypothetical 'no market response' scenario would be extremely damaging for sport

It is clear that the loss of funding from media rights revenue would have a significant impact on the look and feel of all sports events and competitions which sell rights. As we saw in Part 3, media rights account for up to 80 per cent of a European sports body's income. We estimate that total revenue at risk would be €9.4 billion, which is around 69 per cent of total European sports rights income. The implications of the loss of revenue would vary by individual sport, depending on their geographical focus as well as the nature of the events themselves, but a broad range of potential implications include:

- **Loss of revenue for sports teams:** each sport represents a finely tuned ecosystem, with existing expectations around annual incomes, competition prize money, and resulting incentives. With significantly reduced media rights revenues, the existing balance would be disrupted, clubs could find themselves unable to pay their athletes and, based on current cost structures, many clubs could simply become unviable;
- **Reduced investment in grassroots sports:** for all but the most popular sports, investment in grassroots initiatives is already a significant challenge. Sports associations and individual teams would suffer a decline in revenues, with a knock-on impact on the grassroots sports which receive their support. For all involved, the first priority will be to adapt their existing business models to survive, which means cutting costs. Since grassroots investment offers primarily long-term benefits, there is a serious risk that this would be cut;
- **Reduction in prize money for competitions and events:** with reduced funding in the sport, less can be paid out to reward success. While financial rewards are rarely the stated aim of aspiring athletes, with significantly reduced rewards at the top, salaries will necessarily be much lower, which could harm interest in sport from both fans and participants.

Put together, these factors could trigger a downward spiral in European sport, of reduced rewards for success and reduced investment at grassroots level, supporting a decline in interest in both participating and watching, which would lead to further reductions in the revenues which sport can generate. Ultimately, we might expect to see a decline in sports participation across Europe, a decline in national interest in sport, and resulting damage to many of the cultural benefits which come from sports' ability to bring people together.

There would also be knock-on effects for the audiovisual sector and beyond, with the whole pay-TV value chain disrupted by the removal of sport as a driver of subscriptions. This could create significant upheaval in every market as broadcasters, platform owners, distributors and producers seek to adapt to a sudden shift in the economics of their sector. The disruption to their business models could lead to:

- **Reduced employment:** in both sports production and pay TV, as productions are no longer tailored for national markets and national pay-TV providers downsize as consumers drop their services and access sports content elsewhere;
- **Losses to secondary infrastructure:** the production of sports content at a national level helps to support local producers, who provide production infrastructure which is often used for other media production as well. This loss of infrastructure could therefore have an impact on the availability of production resources, and associated prices, elsewhere in the local audiovisual markets;
- **Tax losses for Member States:** with damage to national producers and broadcasters, most Member States would likely lose out on corporate tax. There would also be a loss of sales tax on consumers purchasing access to sport, since they would instead access sports content in lower cost territories;
- **Reduced incentives to innovate:** with sports content concentrated on one or a few services, the current wealth of national broadcasters which are constantly developing their online players and approaches to distributing content online, would no longer be incentivised to innovate. Furthermore, a 'one size fits all' service means that domestic consumers would not benefit from innovations in distribution which are tailored for their country;
- **Damage to cultural diversity:** with sport offered by a pan-European service, there is a significant risk that consumers in many territories (and particularly smaller ones) would lose access to coverage with local presenters and in their national language – as well as to coverage focusing on areas, athletes, or teams of national interest. This could be particularly damaging for sports which have significant appeal across multiple territories. It is also likely that English would become the dominant language for pan-European coverage, harming cultural diversity in Europe.

Finally, the implications of a disruption to the audiovisual sector could also have secondary effects for the sports sector. As we have seen, the nature of interest in and access to some sports leaves them more insulated than others from the impact of a ban on geo-blocking – but this may only be the case in the short term.

Take, for example, the Danish Superliga domestic football league; despite being extremely popular domestically, it generates little interest and media rights income internationally and consumers could therefore not access it elsewhere. However, the rights income it earns relies on the viability of NENT's sport platforms (TV3, Sport1 and Sport2), which in turn relies on the platform value which NENT can generate by offering its sports customers access to the UEFA Champions League and the EPL (both FTA and pay). In the event that the rights holders of these bigger properties offer pan-European rights to these events, NENT may not be able to offer them. Without these events, the sports package would be less popular to subscribers and the sports channel could become unviable – ultimately destroying the value of domestic sports such as the Danish Superliga.

7 What is the likely industry response to extending the ban on geo-blocking?

PART 7: SUMMARY

- All rights licences would essentially be pan-European, so broadcasters currently offering low access costs to consumers (and typically paying relatively little for rights) would face competition for pan-European licences from international players;
- Broadcasters would respond to a ban on geo-blocking to protect their best interests; those in territories where consumers value particular sports highly would out bid smaller competitors at the time of the next rights auction;
- The specific impact would vary by sport but, broadly speaking, pan-European licences for sport would be concentrated in the hands of broadcasters in high value and relatively high access cost territories, with smaller broadcasters no longer able to offer local audiences (tailored) sports content;
- The result would be a fragmented market for access to sport, with all European consumers affected, and no longer able to access the current breadth of sport content in one place. Furthermore, since broadcasters would continue to seek to optimise revenues in their home markets, average access costs to top tier international sports would increase for many consumers in smaller – typically lower access cost – markets. Up to 103 million consumers across 11 territories could be exposed to higher prices;
- European sport could see a loss of funding of around €2.0 billion, or 15 per cent of rights revenue, with smaller sports and those with similar popularity across multiple markets disproportionately affected, and losing up to 26 per cent of their rights revenue.

As we have seen in Part 6, the hypothetical 'no market response' scenario to the removal of geo-blocking, where consumers can access sport at current European price points, would have dire consequences for the industry. In reality, the market would respond and adapt to a new equilibrium, as broadcasters competing to purchase rights are exposed to international competition. The key driver of the response would, of course, be the fact that a new pan-European licensing regime would naturally favour dominant rights buyers, and harm competition at a national level. This is particularly true in smaller territories, where even the largest broadcasters would likely be unable to compete with international players for pan-European rights.

In this part, we set out what the market response would likely look like and why, and thus explain the likely implications of a ban on geo-blocking for consumer access to sport, while estimating the overall loss of rights income. This assessment is based on our 'access typology' which we set out in Section 4.3 – focusing on the two types of sports which are at risk: those with 'universal pay-TV access' and those with a 'mix of FTA and pay-TV access'.

All stages of the sports value chain would potentially be disrupted by a ban on geo-blocking, extending from sports associations, through leagues, teams and athletes all the way down to support staff and suppliers. And as we have discussed, the impact would also be felt beyond sport, throughout the audiovisual industry: it would disrupt the business models of broadcasters and platform owners, and could have further knock-on effects for TV producers and distributors.[29] Perhaps most importantly, the 'market response' scenario would cause significant harm to

[29] We covered the potential impact on the audiovisual sector of the removal of restriction on geo-blocking extensively in: 'The impact of cross-border access to audiovisual content on EU consumers', available at https://www.oxera.com/wp-content/uploads/media/oxera_library/downloads/2016-05-13-Cross-border-report-(final).pdf

consumers, through increased prices, or reduced access, as well due to the reduced quality of sport generally (driven by the loss of funding).

7.1 As broadcasters react, demand for pan-European rights would determine value

While sports rights owners may wish to protect their funding by setting rights prices at a level which makes content unaffordable to low access cost services whose pricing would destroy their businesses, they do not set the price. Rights prices are typically determined via a competitive bidding process between broadcasters, which currently takes place on a territory-by-territory basis. This process would remain following a ban on geo-blocking, but the rights for sale would be on a pan-European basis since geo-blocking could no longer be used to tailor rights to national markets. National players would therefore be competing not only with other domestic broadcasters, but with all potential buyers. So, it is the value of pan-European rights to the largest player which would determine the price paid for a given sport's media rights.[30]

As we have seen under the 'no market response' scenario, broadcasters and platform owners in higher access costs markets would be incentivised to pay less or decline to bid in future sports rights cycles, since they would be unable to compete for consumers with services offering access to the same sports more cheaply in other territories. It is this loss of rights value to broadcasters – except those offering the lowest access costs, which also typically pay the lowest amount for sports rights – which would damage the industry and disrupt national broadcasters and platform owners.

A pan-EU licence leads to consumer pricing towards the top end of current access costs

When we consider the market response, the result is that any single rights buyer must pay the value of the rights for a pan-European licence – that being set by market forces at a pan-European level. So the dominant European buyers for a given property would respond by simply out-bidding existing rights holders in the low access cost territories, thus preventing them from offering content at a low access cost on a pan-European basis. These dominant buyers would typically be established domestic broadcasters and the price paid by them would reflect the current (high) value in their domestic markets, and they would make their content available at current (relatively high) consumer prices. Existing buyers in smaller territories with lower existing rights values would not be able to compete.

The above represents an oversimplification of how the audiovisual and sports rights landscape would likely develop, but it does describe the logical end point, which results in a highly fragmented landscape for sport, with access costs for many of the top tier sports properties weighted towards the existing relatively high access cost territories. The broadcasters / platform owners would be acting to protect the platform value they currently generate from significant sports properties in their domestic markets. Given there would be a lead time ahead of the new regulation coming into effect, the industry would be able to plan ahead, so a new 'steady state' could be reached within one rights cycle – subject to the differing commercial cycles of individual sports.

Of course, potential impact varies by individual sport and the situation is complicated by the availability of FTA and pay TV as well as listed events – but the impact on consumers will be unambiguously negative. We unpack the impact on consumers and some of the nuances for different sports throughout the remainder of this part.

[30] Arguably the likely price they would pay is a little more than the value to the second highest bidder, though in our quantification we assume that the current value to the dominant service is unchanged (this might also reflect the increased value associated with potential international subscribers).

7.2 All European consumers would suffer due to the fragmentation of sports rights

Without geo-blocking, sports rights would be acquired by the broadcasters who can generate the most value from them. For those sports whose value skews significantly towards the domestic market, which includes many of the top tier rights, this means the rights would be acquired by domestic broadcasters – who could use their buyer power to insist on exclusivity. From a consumer perspective this means that no one could access the current breadth of sports coverage currently enjoyed under the existing system of rights selling with territorial exclusivity. Consumers in any given market would not have access to significant sports from overseas, via their domestic provider, and could only access sports of disproportionately domestic importance via their domestic broadcasters.

The result is a highly fragmented landscape for sports content, with consumers required to purchase multiple subscriptions from multiple territories, if they wish to enjoy the same breadth of coverage they see today. The more likely outcome is that consumers would simply miss out, instead focusing on the sports which remain available in their home market, and thus Europeans would miss out on the cultural benefits that come from the current system, which supports access to a broad range of sports content in all territories.

Furthermore, consumers in smaller and typically lower access cost territories would suffer disproportionately. Like all European consumers, they would find that they are no longer able to access the breadth of sports content they currently enjoy without taking multiple subscription services. But to continue to access top tier sports properties from other territories (many of which are widely followed in smaller markets), the incremental subscription would cost more than they currently pay in their home market. So even if they only followed one top tier international sport, and were happy to drop their existing domestic service, they would be exposed to an increase in prices.

In analysing the likely outcome, which is set out in the next two sections, we established that consumers in 11 territories would be exposed to higher access costs for sport. This means that they would have to pay more than currently to access any significant non-domestic sport. This equates to around 103 million people who would have both more limited and more expensive options than today; of these 76 million currently live in homes with pay TV and around 21 million reside in households where there is a pay-TV subscription and one of the reasons for the subscription is to access sports content. It is these 21 million, in the smallest European countries, which would be the most exposed to the increased cost of access – as well as the impact of the fragmentation of rights.

In the next sections we consider the financial implications for sport, which would generate further consumer harm, through reduced investment in grassroots sport, a declining quality of viewing spectacle, and in some cases, the loss of coverage altogether.

7.3 There are two potential industry responses for ‘universal pay-TV access sports’

For sports which are only available on pay TV, the pan-European licence necessitated by a ban on geo-blocking could play out in one of two ways depending on the characteristics of the sports in question. These are: an exclusive pan-European licence or non-exclusive pan-European licensing. Which occurs depends on whether two or more buyers of a given property could co-exist without cannibalising each other’s subscribers. **Figure 11** illustrates the likely chain of events involving these two paths, whereby the services purchasing pan-European licences ultimately set access costs to optimise their revenue.

Figure 11: Potential chain of events for pay pan-EU licence

*Note: *Usually the competition's domestic market or high access cost markets*
***There may be multiple buyers in one markets. Domestic no-single-buyer rules would still apply*
Bidders will not be incentivised to bid beyond their current level for domestic rights (to reflect the increased scope) since no there will typically be no significant rival with the pan-EU scale required to exploit them

We examine each of these options below, and estimate the likely impact on consumers and the loss of funding for European sport. Crucially, consumers would suffer increased access costs for sport in many territories and thus reduced access to sport, as well as sports suffering significant damage due to the loss of funding.

7.3.1 Exclusive pan-EU licensing is likely for sports where domestic value dominates

Many sports which are only available via pay TV have rights values which are strongly skewed towards their domestic market. This includes some of the most popular and valuable sports, such as the domestic football leagues. These properties offer significant platform value to domestic broadcasters – well beyond that for any international buyers – so the most likely route to an exclusive pan-European licence would be for these domestic rights buyers to use their buyer power to demand exclusivity.

An alternative might be for an existing pan-EU operator to enter negotiations, though there is little evidence that any of the global SVoD services are interested in premium sports, nor that they could compete with domestic buyers for the top properties, given the platform value domestic buyers can extract.

An exclusive pan-European service would increase access costs for many consumers

We saw the likely chain of events in Figure 11; exactly how an exclusive pan-EU licence might impact on the market, and the resulting price point for consumers, depends on which service acquires the rights.

- **Domestic buyer retains rights:** would likely retain rights for as many sports as they are able and leave access costs close to the current level. They would focus on continuing to serve customers in their existing markets, while picking up any additional subscribers who are willing to pay the existing price point. They might ultimately have ambitions to serve a wider customer base and price their service with that wider market in mind (see next bullet);
- **Pan-EU service takes rights:** a single service could acquire pan-EU licences for a range of sports – to create a pan-EU service comparable to those currently offered by most European pay-TV providers – and targeted

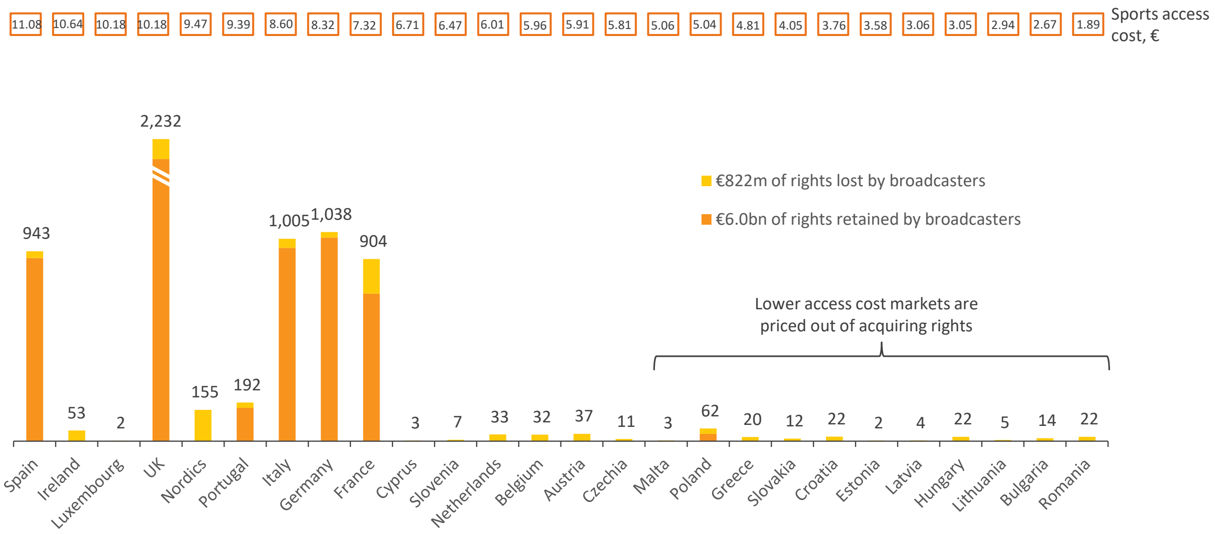
at the European market as a whole. This would likely be priced towards the top end of the current access cost range. This is because of the most popular sports, such as the top five domestic football leagues, are in relatively high access cost markets with a large volume of pay consumers with a high willingness to pay. As such, many consumers in these territories would be willing to pay close to their current access cost for a pan-EU service.

Under both of the above scenarios, access to sports content would be at a price point above the current level for many relatively low access cost territories. This would lead to increased costs for consumers and reduced access.

Exclusive pan-EU licensing could reduce funding of affected sports by 12 per cent

Just as we did in the 'no market response' scenario, we have estimated the potential impact on the sports rights revenue generated by exclusive pan-European licensing of sports with a high value and a significant skew towards the domestic markets. We estimate that these sports currently generate combined rights income of €6.8 billion, out of the €7.7 billion associated with sports available only on pay TV. **Figure 12** shows the value of rights retained by broadcasters in each territory and the value of rights broadcasters would likely lose as they are outbid by international competitors. While some rights revenues would be protected by an exclusive pan-European licence, an estimated €822 million would be lost as rights owners would be unable to monetise their rights in international markets.

Figure 12: Pay-TV only sports – Impact on rights revenues of an exclusive pan-EU licensing regime



Source: Oliver & Ohlbaum analysis

It is possible that an exclusive pan-European rights buyer would be willing to bid slightly more than the current domestic value of a particular property to reflect the broader scope of the rights, but we have not considered this in our analysis above. That is because the price a given buyer is willing to bid depends on the degree of competition they face – in this case the strength of the next highest domestic bidder. Since most European broadcasters do not have any existing activity in other territories, the appetite for exploiting pan-European rights fully is likely to be limited, at least in the short term.

7.3.2 Non-exclusive pan-EU licensing is likely, where broadcasters will accept it

For sports carried exclusively on pay TV, but where the value to the domestic buyer does not dominate, there may be an opportunity to sell pan-European rights on a non-exclusive basis. This includes golf events such the European Tour, the British Open, and the Ryder Cup, as well as less valuable properties such as EuroLeague Basketball, WWE and NFL. Broadcasters may accept non-exclusive pan-European licences for properties such as these, provided that the other buyers are in territories where access costs to consumers are sufficiently similar, so that consumers would not be incentivised to switch providers.

This means that rather than losing rights revenue in all but the domestic market, rights holders could retain income from two or more territories where broadcasters would continue to value the rights at the current level.

Non-exclusive pan-European licensing would increase access costs for many consumers

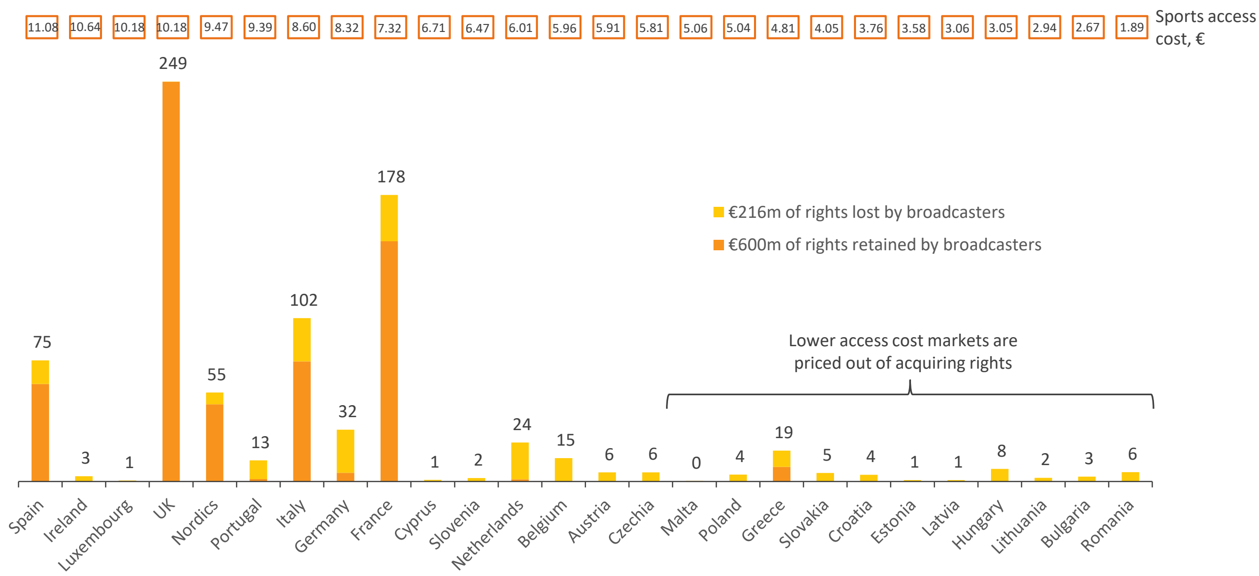
As per the chain of events set out in Figure 11, we expect that each of the broadcasters bidding on a non-exclusive pan-EU licence would be willing to bid for the relevant rights at the same level as they do currently. This is because the value they can extract from their domestic market would be unaffected, and there is unlikely to be sufficient pressure from rival bidders to incentivise broadcasters to pay more in recognition of the broader scope of the rights – and the opportunity to attract international subscribers from some other territories.

As with the exclusive pan-EU licensing approach, rights buyers would likely price their services at current levels and continue to focus on their domestic market, where the sports in question are most popular and can be most effectively monetised. This means that consumers in relatively low access cost territories would have to pay more, or be denied access, as access would only be available within a range of relatively high access cost markets. This approach would still result in a loss of media rights funding for sport from the smaller territories, which would have a knock-on effect for the quality of the sport and investment at grassroots level.

Non-exclusive pan-EU licensing could reduce funding of affected sports by 26 per cent

There are relatively few sports for which a non-exclusive pan-EU licensing regime would be acceptable to buyers. We estimate that the current value of the media rights to these sports is €816 million, out of the €7.7 billion associated with sports which are universally available via pay TV. **Figure 13** shows that non-exclusive pan-European licensing would protect some of the rights revenues for these sports, but an estimated €216 million would be lost as rights holders would be unable to monetise their rights in all EU territories.

Figure 13: Pay-TV only sports – Impact on rights revenues of a non-exclusive pan-EU licensing regime



Source: Oliver & Ohlbaum analysis

Once again, one might argue that broadcasters bidding on rights would be willing to pay more than they do currently given the potential to monetise the content overseas as well as domestically. However, we believe this is unlikely with this group of sports, where there is no exclusivity and where buyers currently only serve their domestic market.

7.4 The impact on sports with a 'mix of FTA and pay-TV access'

The potential outcome, following a market response, to a ban on geo-blocking is more complex for sports which are currently available via a mix of FTA and pay-TV access. Once again, any licence, whether purchased by a FTA or pay-TV provider will be a pan-European licence, and this could be bought either on an exclusive or non-exclusive basis, with the likely outcome depending on the relative bargaining power of different buyers – which derives from the value they can extract from the sport (primarily in their domestic market).

7.4.1 The approach to licensing depends on the relative value to pay and FTA providers

The potential chain of events we saw in Figure 11 again applies, but the likely outcomes would vary depending on the relative value of pay and FTA rights to the current rights holders:

- **Where rights income from pay TV exceeds that from FTA:** existing FTA buyers will not be able to compete for pan-European rights, and so all FTA rights income would be lost. Pay-TV rights could be sold on an exclusive or non-exclusive basis, subject to the current rights value and access cost distribution, as discussed in section 7.3;
- **Where rights income from FTA exceeds that from pay TV:** existing FTA buyers will continue to bid for rights at the current level and will be open to non-exclusive arrangements since consumers would not be incentivised to switch their viewing behaviour. However, the availability of these sports on FTA television would destroy the pay-TV value in other territories.

The former case may be complicated by a scenario where one or more FTA broadcasters pay a significant amount for rights to a sport which generates most of its income from pay TV in other markets. This is because the FTA rights buyer may be willing to share non-exclusive rights with a pay provider in another market – and this FTA availability would, of course, undermine the pay value in all pay markets. However, there are very few sports where this is the case; F1 (which is available on FTA television in Germany) is the primary example.

While some FTA sports will remain free, the net impact will be increased access costs for many consumers

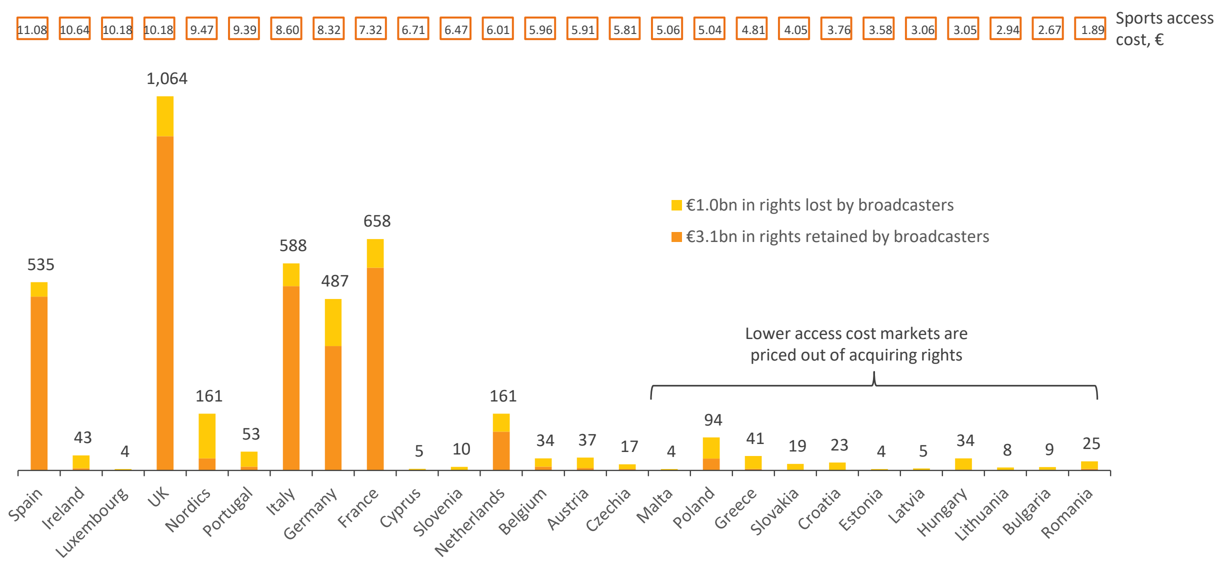
The impact on the access cost to consumers and thus their decision to access content will vary by sport and depends on whether pay-TV or FTA carriage remains. Where existing FTA providers of a given sport are priced out of bidding for rights, consumers in that territory will have to switch to pay-TV provision elsewhere if they wish to continue watching. This would either be at the relatively high price point of a single exclusive pan-European licence holder, or at one of the relatively high prices set by a group of non-exclusive rights holders who offer the sport at similar access costs. This group makes up the majority of the €4.1 billion of rights associated with this wider group and includes such sports as Formula 1.

Where FTA buyers retain the rights under a pan-European licensing regime, there will be some consumers who benefit from increased access due to the pan-European availability via a FTA provider. The sport will no longer be available via a pay-TV provider in their territory but they can instead access it for free via a foreign service. This could see all current consumers switching their consumption habits, as well as some new viewers who were previously priced out of accessing it in their home market. However, this scenario applies to only a small number of sports, which are mostly listed events such as Roland Garros and the Tour de France.

Funding for affected sports could decline by 24 percent

In our analysis, we considered the implications for sports where access is currently via a mix of FTA and pay TV, on a sport by sport basis, taking into account each property's current availability, rights income, and associated access costs for consumers. We estimate that these sports currently have rights values totalling an estimated €4.1 billion. **Figure 14** shows that, as for pay-TV only sports, some of the rights income at risk could be protected by the broadcasters' response and a new pan-European licensing regime, but an estimated €1.0 billion would be lost due to rights holders' inability to monetise both FTA and pay-TV providers simultaneously.

Figure 14: Mixed access sports – Impact on rights revenues of a pan-EU licensing regime



Source: Oliver & Ohlbaum analysis

It is possible that where pay-TV buyers no longer purchase the rights due to the availability on FTA television in another territory, a domestic FTA buyer could be interested in acquiring the rights instead. Since this potential eventuality relates to such a small number of sports and a tiny proportion of total European sports rights, as stated above, we have not quantified this potential impact.

Although these impacts are significant, this analysis ignores some important complications, including the legal requirement that UEFA sells its events on a territory-by-territory basis (for listing of UEFA club events see Pull-Out Box 2 in Part 6), and the fact that listed events must be sold to FTA broadcasters – we consider listed events in the next section.

7.4.2 For listed events the situation is particularly complicated

The concept of listed events is not consistent with a pan-European licensing regime, which assumes a single European demand for sports content. By their very nature, the listed events system is designed to promote access to sports content in particular territories where it is most important and holds significant national interest. It therefore acknowledges that demand for sports content varies between territories.

As we saw in the explanation above, a pan-European licensing regime may result in one or a few pay-TV buyers acquiring the rights. This does not leave space for FTA access where FTA broadcasters do not have the finances to challenge pay-TV providers during the bidding process. This would necessarily remove the relevant events from FTA television – contrary to the listing rules.

If the listing rules are enforced, and only FTA providers may bid, then there are few options available to rights holders under the current regime. Rather than selling rights to the highest bidder, events with listed status in some territories would have to:

- Sell rights to the events / fixtures to the highest FTA bidder in the territories in which they are listed;
- Sell rights to any fixtures not listed in any territory to the highest pan-European bidder;
- Attempt to sell non-exclusive access to the listed events / fixtures to other territories.

This would essentially destroy the value of these listed rights to pay-TV providers in any territory. Rights holders may be able to sell some additional non-exclusive coverage to FTA broadcasters, who would still be able to monetise the content in their domestic markets, but any incremental value here would not make up for the loss in pay.

Given the incompatibility of the listed events system and pan-European licensing, the system would most likely need to be reconsidered. Broadcasters, particularly FTA broadcasters (many of which are publicly funded), typically have a national footprint; in most cases they would not have the desire to make use of overseas rights and, in the case of public broadcasters, this would be outside of their remit. In such instances, it may be that broadcasters are simply unable to bid, which could undermine the listing system, since it could no longer ensure listed events are made available to the greatest number of people.

7.5 103 million EU consumers could lose out and smaller sports could lose up to 26 per cent of total funding

All European sports consumers would suffer due to a fragmentation of the sports rights market, which means they would require services from multiple territories to retain the breadth of access they enjoy today. The reality, of course, is that most would simply lose access to non-domestic sport. Consumers from smaller territories would suffer disproportionately because access to many of the top European sports would be more expensive than currently. We estimate that 103 million people would be exposed to higher prices for top tier European sports, of which 21 million currently live in households with pay TV, where one of the reasons for taking the subscription is to get access to sport. Again, many of these would simply be priced out of accessing sport beyond their home markets.

We estimate that on average, 15 per cent of total European sports rights income might be lost if there were a ban on geo-blocking – this amounts to €2.0 billion of the €13.6 billion total – but the impact could be up to 26 per cent of rights revenues for smaller sports and those with similar consumer appeal in more than one territory. Perhaps most worryingly, this loss of both access and funding would come disproportionately from smaller territories which typically offer consumers relatively low access costs, and from smaller sports, whose viability may depend on rights income.

Alongside the significant loss to consumers who would lose access to sport or be charged more, there are several areas in which the loss of revenue would harm sport. We discussed these in Section 6.4, and they include:

- Loss of revenues for sports teams;
- Reduced investment in grassroots sports;
- Reduction in prize money.

We also identified some significant secondary issues which are not captured in our quantification, including: reduced employment, losses to secondary infrastructure, tax losses for member states, reduced incentives to innovate, and damage to cultural diversity. All of these issues would also apply when the market responds to the change. Further important considerations include:

- **Damage to competition in domestic markets:** the fact that a territorial licensing regime supports competition in domestic broadcast markets by enabling a broader range of broadcasters to compete for rights – given their single territory focus and resulting lower cost;
- **Disruption to the pay-TV sector:** as we discussed in Section 6.4, a ban on geo-blocking would change the economics of the pay-TV sector. Under the 'market response' scenario, these issues would occur disproportionately in smaller territories, which are least able to compete for pan-European sports rights. Pay-TV providers which rely on sports rights to attract subscribers could face an existential crisis;
- **Damage to funding of sports not directly affected by a ban on geo-blocking:** damage to the economics of pay TV could also have an impact on domestic sports in smaller territories, which may not otherwise be affected by pan-European licensing. Where local pay-TV platforms become uneconomic, they would also be unable to purchase rights for domestic sports, which would therefore lose their funding from rights sales;
- **A reduction in the pool of sports broadcast:** as we saw in Section 4.1.3, pay TV is crucial to creating demand for sports coverage beyond the top tier properties, at both a sport level and competition level within sports. The pay-TV business model is based on territorial exclusivity, and so without this demand for coverage, outside of the top tier, sports properties could disappear;
- **Potential market entry from US services:** while we do not consider the global SVoD services to be likely buyers of pan-European sports rights in the near future, it is possible that such US-based bidders would enter the market and compete for rights with the largest European broadcasters. This could ultimately leave European sport reliant on funding from the US.

Overall, the existing exclusive territorial licensing means a larger proportion of people are able to afford to access sport, whilst ensuring sports have adequate funding to deliver the high-quality content which audiences enjoy.

8 Would the proposed changes meet the Commission's objectives?

Throughout the report we have set out the potential impact a ban on geo-blocking would have on the sports industry, the audiovisual sector, and on consumers. In this part, we draw together these points in the context of the European Commission's objectives.

8.1 The EC should consider some important market characteristics

The European Commission aims to remove barriers to cross-border access, giving all EU citizens the choice of which goods and services to purchase. Ultimately, this feeds into the ambitions of the DSMS to remove barriers which prevent Europe from competing in the global digital economy.

The European Commission is exploring the possibility of a ban on geo-blocking for audiovisual content, with such a ban already in place for other sectors, following its introduction in December 2018. The ideal outcome of this is the creation of absolute cross-border access to audiovisual services, with consumers able to choose from the full European offering at a range of price points. The Commission therefore needs to understand the likely impact on consumer access and choice; in doing so, it is important to consider:

1. That the quality of sports events and the associated products and experiences available to consumers, along with the level of grassroots investment, relate directly to the level of funding sport receives – this is not the same for other products available under the European Single Market initiative;
2. That there would be significant knock-on effects for European sport and the wider audiovisual sector, if it is no longer commercially viable for TV platforms and broadcasters to invest in sports content in the majority of territories where broadcasters would not be able to afford the market price for a pan-European licence;
3. That the market will pre-empt regulatory change as broadcasters respond, where possible, to protect their business models – and this could have detrimental consequences for consumers since access costs would typically increase, reducing the availability of content (or increasing the price) for many European consumers.

These are important factors to consider, and hence this report has focused on mapping out what they would mean for the sector and for European consumers.

8.2 The most likely outcome runs directly contrary to the Commission's objectives

We have seen that, in a hypothetical scenario where broadcasters do not respond, the vast majority of sports would suffer a significant loss of funding which would damage the entire sports ecosystem, all the way down to grassroots level – which might be amongst the first areas to suffer. Media rights account for up to 80 per cent of a sports body's revenues, and an estimated €9.4 billion would be at risk.

Of course, in reality, the market would respond, resulting in a significant fragmentation of access to European sport as dominant European broadcasters demand exclusive rights to the sports which are most valuable in their territories. All European consumers would lose out, and those in smaller territories would be disproportionately harmed. While the market response would protect some of the value of sport, it would still result in a significant impact on funding, which could total around €2.0 billion, or 15 per cent of total sports rights income –

disproportionately harming smaller sports and those with similar appeal across multiple markets; these could cost around 26 per cent of their rights income.

The changes would harm sport at all levels, whilst failing to deliver increased access or reduced access costs for many. The most likely outcome would result in:

Significant disruption to the audiovisual value chain, focused in the relatively small territories

A ban on geo-blocking would mean that all sports rights licensing would essentially be done on a pan-European basis. The current system of territory-by-territory licensing is important because it enables broadcasters in individual territories to only purchase rights which help them build their national audience. Without this market segmentation several issues could emerge:

- National broadcasters, particularly in smaller territories, would be unable to compete for pan-European rights with larger international or multi-national broadcasters – and would no longer offer top tier international sport;
- There would be an associated impact on competition between broadcasters in national markets, where territory-by-territory licensing currently ensures that rights are 'within reach' of as many national broadcasters as possible;
- While smaller national broadcasters may lose access to major international properties first, if this undermines the economics of their sports channels, they will also be unable to invest in rights to popular domestic sports – which might otherwise have been shielded from the impact of a ban on geo-blocking;
- The economics of pay TV typically relies on sport as a premium asset to drive subscriptions – and bring 'platform value' by supporting the sale of other telecommunications products. Where sport is removed, platform owners will have to redefine their business models.

Broadly speaking, the most valuable rights, which relate to Europe's most popular sports, will be focused with domestic broadcasters, or those in relatively large and high access cost territories. These services may benefit from a slight increase in subscribers, where they are able to attract new international customers but broadcasters in smaller territories will be unable to compete and will experience the most significant disruption.

Increased access costs or loss of access to sports content for all European consumers

Any European consumers wanting to retain access to the breadth of sports content they currently enjoy would need to do so via services in multiple territories. The cost of that would, of course, price out most consumers, who would instead focus on top tier sports from their home markets.

Those in smaller territories, wanting to access top tier sports from other markets would be exposed to increased prices. This would apply for up to 103 million European citizens, an estimated 21 million of whom currently live in households for whom one of the main reasons they subscribe to pay TV is to access sports content; they would either have to pay more or lose access. The cost of accessing top tier international sport would not only be higher than the current access costs for these subscribers, but it would be incremental to their existing package, if they chose to retain coverage from their domestic provider.

So rather than increasing access at a decreased cost, a ban on geo-blocking would have the opposite effect: all consumers would suffer from reduced access or increased costs. This indicates that the current market function is relatively effective in supporting a healthy sports ecosystem as well as pay-TV sectors across each individual European territory.

Damage to the funding and quality of sport available to consumers

Since sports rights value would become concentrated with relatively few broadcasters, we have seen that European sports bodies could lose around €2.0 billion in funding, which represents around 15 per cent of the total €13.6 billion annual market for European sports rights. The loss of funding would be most significant for smaller sports and those with similar levels of interest across multiple territories – these could lose 26 per cent of their rights income. A fall in the level of funding entering sport would, of course, have a knock-on effect at every level:

- Grassroots investment is typically correlated with rights income, and could be amongst the first costs to be cut as sports necessarily focus on protecting their short-term interests;
- Business models of sports teams would be disrupted by the reduction in media revenues and prize money. Ultimately less investment means a lower quality spectacle for consumers to enjoy.

A loss in investment and a resulting decline in the quality of sport available to consumers could trigger a downward spiral for European sport, with a reduction in both spectating and participation leading to fewer consumers engaging in sport and a decline in the value of sport to those broadcasters still offering it.

8.3 Additional unintended consequences include an increase in piracy

Piracy is a major concern for the audiovisual industry but especially for sports, as a premium product with a high live value. The industry has had a long-standing battle against piracy from illegal set-top-boxes, but the internet and an associated increase in simplicity of accessing pirated content has increased both its availability and uptake amongst consumers. Online streaming and specialist apps have expanded the potential sources from which to pirate content and has led to a whole new set of challenges, centring on the enforcement of IP rights via take down of illegal streams. As shown in Figure 4 in Part 3, younger people are significantly more likely to access pirated content online than are older people (19 versus 6 per cent), making this a growing problem for the future.

In football, several major events have taken steps to combat piracy. For example, during the 2018/19 season:

- The English Premier League took down 210,000 illegal live streams and over 360,000 clips;
- UEFA detected a total of 164,000 illegal live streams, of which 25,000 were on Facebook, and 167,000 clips on Facebook. In total, it detected 438,000 illegal live streams and clips on YouTube;
- La Liga detected more than 1 million illegal videos related to its content on social media networks;
- Deutsche Fussball Liga discovered an average of 4,000 end-to-end infringements of a match per matchday, with over 5,500 live infringements and 1,200 clips per matchday.

Elsewhere, La Liga and the Belgian League have collaborated to remove pirate streams of the Belgian league, and the Deutsche Fussball Liga has taken a multi-faceted approach to combatting piracy including technical counter measures (manual and automatic) and legal action.[31] Beyond football, boxing has one of the biggest problems with piracy due to its high value, infrequent events, which tend to be broadcast via pay-per-view; the 2019 fight between Anthony Joshua and Andy Ruiz Jr was the most pirated boxing event ever.[32]

[31] Brandon Costa, 'In battling piracy of live soccer streaming, technology is "both friend and foe", *sportsvideo.org* (4 March 2019); UK Intellectual Property Office, *IP Crime and Enforcement Report 2018-19*, p. 104; 'LaLiga exporta sus herramientas contra la piratería para cerrar páginas de streaming e IPTV', *adslzone.net* (26 July 2019); Simon Trudelle, 'Sports leagues must act now to tackle piracy', *v-net.tv* (21 February 2019)

[32] Jonathan Easton, 'Anthony Joshua fight "most pirated boxing event ever"', *digitaltveurope.com* (7 June 2019)

It is important to note that existing issues with piracy are driven not by a lack of availability of sport in any given territory, but rather by the desire of consumers to avoid the cost of access. Territorial licensing allows national broadcasters to offer sports content to consumers where there is a demand, and so the removal of geo-blocking would not help to reduce piracy via increased access. As we have seen, the removal of geo-blocking for sports streams will actually increase access costs for many and thus reduce access. This is likely to make the situation with piracy much worse, since consumers who can afford to access content legally under the current territorial licensing regime will find themselves priced out and motivated to source content elsewhere. Whereas piracy is currently primarily an issue domestically, it would become a broader issue with consumers outside of events' home markets.

8.4 We recommend that the existing exclusive territorial system for rights sales is preserved

Our analysis of the market for sports rights clearly demonstrates that the current system of selling rights territorially and maintaining exclusivity remains the best way for sports rights holders to sell their rights, while allowing for tailored and diverse content at affordable prices for consumers. Demand for different sports rights is largely territorial due to the footprint of national broadcasters and platforms, as well as the tastes and preferences of consumers – selling rights on a territorial basis is a response to this. Indeed, it is this system of territorial exclusivity – enabling tailored offerings for individual markets – which ensures consumers have access to the rich diversity of sport across Europe that they enjoy today. Without this, consumer access to a rich variety of sports content will be significantly curtailed.

The Commission should retain the exclusion of audiovisual services from the Geo-blocking Regulation, as its inclusion would likely have a seriously damaging impact on the level of consumer access across Europe, and on the quality of a product which is directly predicated on the level of funding sport is able to generate.

Appendix 1: Methodology

This methodology note sets out our approach to the analysis underpinning the quantification of the potential impact of a ban on geo-blocking of sports content. This involved:

- **Total market sizing:** to estimate the value of sports rights in each European territory. This provided the basis from which we could estimate the impact on specific rights of a ban on geo-blocking;
- **The loss of revenue in a 'no market response' scenario:** to determine the sports rights revenue which would be at risk in the hypothetical scenario where consumers can switch to the current lowest cost service provider in Europe;
- **The loss of availability and revenue in a 'market response' scenario:** to determine the likely loss of consumer access and associated loss of revenue in the likely event that the market responds to a ban on geo-blocking.

Total market sizing

O&O developed estimates for the total size of the sports rights market in each EU28 territory using sources such as Sportcal, SportBusiness, and other publicly available information. We have taken this approach before when sizing the European audiovisual market for the European Commission, and in several assignments which have required an understanding of the size of the European market for sports rights. The approach requires estimation because rights values are not typically reported for all but the largest rights deals; however, these large deals do account for the majority of the market (those of the EPL, German Bundesliga, La Liga, Serie A and Ligue 1 are amongst the biggest).

We started by producing a long list of sports broadcast on television or via OTT service in Europe. We then identified reported rights revenues on a sport-by-sport and market-by-market basis. We focused first on the nine largest markets, for which the most publicly available information on rights values exists. They also account for approximately 90 per cent of total sports right spending. [33]

The largest nine markets

Our estimates are based on reported numbers where available and also consider factors such as: TV market revenue, and the revenue and content spend by rights buyers. We compared our estimates for the largest nine markets, which account for the vast majority of rights spend, with other industry estimates from sources such as SportBusiness. Within these markets, the values of the most popular properties are best known, and smaller properties rely on a greater degree of estimation; we uplifted our estimates to capture the smaller/unreported sports, based on existing industry estimates.

The remaining markets

We estimated the size of the sports rights market in the remaining territories by considering any available data points, along with market intelligence on typical broadcasters spend on content, and on sports rights. This process initially focused on the largest sports, using their estimated values in the largest nine markets as a benchmark. We then applied an uplift to our initial estimate for these markets, to reflect the smaller sports properties; this was

[33] These markets were: France, Germany, Italy, Netherlands, Poland, Portugal, Spain and the UK, plus a pan-Nordic market consisting of Denmark, Finland and Sweden.

based on the average uplift required for the largest nine markets – derived from the comparison of our own estimates and SportBusiness. In doing so we reached a total annual market size estimate of €13.6 billion.

The validation process

Due to commercial sensitivities, SROC members were unable to share actual right revenues with us, by market. Instead, SROC members fed into the process by sense testing a sample of our estimates, focusing on the largest properties while covering a range of sports with different availability characteristics. In some cases, this involved receiving actual revenue data at total level for the EU28, which we then allocated across markets based on metrics such as GDP per capita, overall interest in a particular sport, or interest in similar properties. We ultimately asked SROC members to sense check our valuations of smaller properties to provide some assurance over the validity of both out total market size estimates and the distribution of revenues between sports and territories.

Grouping of rights values by means of access

Before estimating the impact on revenues of a ban on geo-blocking, we grouped sports properties according to the type of availability in each market, as the consumer and market responses differ depending on whether a sport is only available via pay, free, or a combination of both. To do this we researched the method of access for around 70 sports properties using publicly available sources including Sportcal and SROC's 'Where to Watch' tool.[34] For the small number of sports available in multiple markets, for which we were unable to determine the access methods, we assume they are available on pay TV / platforms. There are a small number of properties we believe to be of local interest only, and therefore changes to the regulation would not impact consumer behaviour.

Estimating lost revenues in a 'no market response' scenario

This scenario assumes that consumers will move to a cheaper method of accessing sport if it is available and, as a result of this consumer churn, broadcasters and platforms in existing higher access cost markets will no longer bid for the rights to that sport. To support our estimates, we used the following assumptions:

- For the small number of sports which have multi-territory interest, but where we have been unable to determine the specific markets in which they are available, we assume that the sport is available on pay platforms in all EU28 markets – in reality, the availability and level of coverage varies and so our estimate represents a worst-case scenario;
- The access cost is proportional to pay-TV ARPU;
- A third of pay-TV ARPU can be attributed to sports channels, based on the Western European share of pay-TV subscription revenues attributed to sports packages by Dataxis;[35]
- If a sport is available for free in a market, all consumers in markets where it is only available via a pay service will switch, while those who already have free access will stay in their own market;
- Our estimate reflects the revenue at risk after each sports property has completed its current rights cycle.

The potential loss of rights revenue to rights holders is a knock-on effect of consumer churn, i.e. buyers will find that it is no longer viable for them to bid for those rights – or, at least, to bid at the current level. Additionally, we use the assumption that the availability of a sport for free or for less elsewhere, is a sufficient trigger for broadcasters / platforms not to bid again for rights – this is therefore a worst-case scenario, as not all sports carry the same weighting in terms of attracting subscribers. For example, domestic football and UEFA club competitions are

[34] https://www.sroc.info/#where-to-watch
[35] Dataxis, 'Pay-TV Sports Rights Strategies in Europe' (22 November 2018)

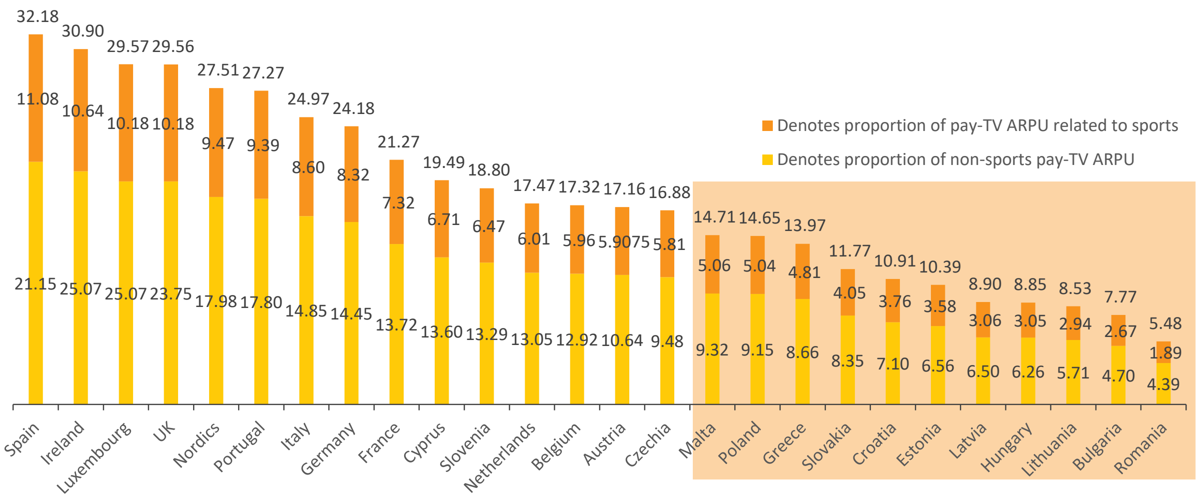
considered essential scheduling, while smaller properties may be considered filler content which is not expected to be the main draw for subscribers.

In conducing the analysis, we considered them in three groups, which reflect the mix of access methods across territories.

Only available via pay platforms

This category includes sports such as the biggest domestic football leagues, and accounts for around 56 per cent of total European sports rights revenues. If a sport is available via a pay channel or platform in a market, consumers from other markets will switch if the total access cost in that market is less than the sports element of the access cost in their own market. For example, as shown in **Figure 15** below, if an all-pay sport is available in Romania – the market with the lowest access cost – consumers in Malta, Poland, Greece, Slovakia, Croatia, Estonia, Latvia, Hungary, Lithuania and Bulgaria would not switch to a Romanian provider because the total Romanian access cost is greater than their own sports-only access cost. The current pay-TV rights values in those markets would therefore be preserved.

Figure 15: Total sports rights revenue for pay-TV only sports, and associated access costs, by market, € per month



Note: Chart denotes the total ARPU for a pay-TV subscription in each market. The share of this allocated to sports is based on total Western Europe revenues derived from basic and premium sports packages. Numbers may not sum due to rounding. No pay-TV penetration figure available for Luxembourg and Malta
Source: OVUM, Dataxis, OBS, Malta Communications Authority, Oliver & Ohlbaum analysis

Available via a mix of free and pay access methods

This category includes sports for which there is some free and some pay access across territories; this includes those which are wholly free or wholly pay in each territory, along with those with a mix of access methods within territories. If a sport is wholly available for free in a market, we assume that all consumers in markets where it is wholly pay, will move markets to enjoy free access. If, however the sport is already available for free, consumers will not move. For sports which are available via mix of free and pay services within a market, we assume that consumers will still watch the available free offering in their own market, and will aggregate other free offerings from elsewhere, meaning that the pay element of the rights value will be lost.

Available for free everywhere, or only available in one market

For properties with universal free access, such as the Olympics, we assume that consumers will not move to another market, and the full rights value will be retained. While not all of the Olympics is available for free in all territories, we assume that the FTA offer is close enough to meeting the needs of consumers in each territory, so that there would be no incentive for them to look elsewhere.

For sports with very localised interest, which are only sold into one market, whether currently available on free or pay television, we assume that rights values will not be affected by changes to geo-blocking legislation. There may be a small positive consumer benefit to prohibiting geo-blocking as consumers from elsewhere could now access these niche and / or localised sports, but we are unable to quantify this value, and in any case it is likely to be very small.

Estimating lost revenues in a 'market response' scenario

The scenario outlined above would not happen in practice, since broadcasters would pre-empt the consumer response and take action to protect their business models. The market response would simply reflect the relative value that broadcasters can extract from sports rights. Those broadcasters to which rights are most valuable would pay the most and whether this results in exclusive licensing (to a particular territory) or non-exclusive licensing depends on whether a given sport's value falls disproportionately in its domestic market, or a group of territories with similar access costs. There are three groups of events to consider:

Sports with a strong domestic market

Where a strong domestic market exists, rights value is almost entirely constituted by the domestic element (such as the EPL, Bundesliga, etc.). Broadcasters would move to protect the value they generate from this by demanding pan-EU exclusivity – or at least that rights are not sold into any territories where broadcasters are likely to offer consumers lower access costs. For such properties, this means that all international rights revenue would be lost. We quantified this by first assessing which sports fit fit into this category, based on their current rights distribution and appeal. This includes, for example, the top five domestic football leagues (around 90 per cent of these leagues' total rights revenues were from the domestic market). We then identified the value of rights in other territories using our database of rights values which we established at the start of the project.

Since our assumption that domestic rights values would be protected could be seen as optimistic, we do not reflect the fact that the loss of access to international sport rights for many pay-TV platforms would itself reduce the attractiveness of the pay-TV offer to consumers. This would harm consumers' willingness to pay for a sports package, which could in turn reduce the amount that pay-TV providers are willing and able to bid for the rights to domestic sports.

Conversely, we do not consider that broadcasters might be willing to pay more than currently because they could exploit the acquired rights internationally. This is because:

- Most broadcasters do not have an international footprint and any existing inclination to serve international consumers;
- More importantly however, is the fact that they would have no incentive to pay more – since there would be limited competition for rights from other broadcasters (it would come from other domestic broadcasters only);

- Finally, since a ban on geo-blocking would result in a more fragmented sports rights market, broadcasters would not anticipate a great deal of international demand – i.e., the vast majority of consumers would not be willing / able to take multiple international subscriptions to maintain access to sport.

Sports without a strong domestic market but with value skewed towards a small number of markets

Sports in this category do not have one stand-out territory in terms of consumer interest or their associated rights value. Examples include, golf tournaments, which are particularly popular in the UK and Nordics, and motorsports which are popular in Spain and Italy. For these sports, where access costs are similar in interested territories, rights buyers may be willing to acquire rights on a non-exclusive basis – since consumers would not be incentivised to switch to overseas providers. This means that rights owners can sell rights into both of their biggest markets – in exchange for not selling the rights into territories with lower access costs.

In our analysis, we considered the availability of access, and current skew of rights value and access costs at an individual sport level. We therefore determine which territories contain broadcasters which could continue to extract value from the relevant sports rights when licensed on a non-exclusive basis. Having done so we calculated the estimated proportions of total rights revenues which would be protected by the non-exclusive sale of rights – and the remaining value of rights in territories where broadcasters could not afford to purchase the licence at the same price point, and thus the revenue would be lost.

It is important to note that there are some sports which are available in multiple markets, and are also only available via pay services, no revenues would be at risk in either a 'market response' or a 'no market response' scenario. This is because the sports access cost in any market in which they are available is never greater than the total pay-TV access cost in any of the markets, so it is not worthwhile switching. This category includes, for example, some rugby properties and some mid-level domestic football leagues.

Listed events

As part of our estimates in the 'market response' scenario we assume that rights holders would, if necessary, stop offering free-to-air rights if required to protect higher pay-TV rights values elsewhere. However, this is not always possible, as is the case with listed events. We assume that rights holders will continue to sell these rights to free providers, and they would not be able to prevent the loss of other pay revenues.

Appendix 2: Bibliography

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