# Joint Statement
# on Technology Neutral Rights Clearance
# for Retransmissions of TV and Radio Programmes

The above indicated 14 organizations and institutions support the approach of the EU Commission to transfer the regulatory principles of the Cable and Satellite Directive to new means of distribution. At the same time, they are calling on the European legislators to adopt legislative measures ensuring the rights clearance for retransmission of TV and radio programmes via collective rights management organizations – regardless of the technology or infrastructure used for the retransmission. The Draft Regulation of the Commission of 14 September 2016 falls still too short in this point and excludes retransmission services offered via the open internet from the scope of the Draft Regulation. There are, however, no justifiable grounds for this unequal treatment compared to the services covered by the Draft Regulation. The business models are identical: a third party retransmits linear radio or TV programmes integrally, i.e. simultaneously, unaltered and unabridged to the end customer and thereby builds up a business relationship with him. This requires fair conditions of competition for all market participants irrespective of whether the retransmission takes place via closed or open networks. All providers who show the same characteristics as cable network operators must benefit from the legal certainty that comes with the Cable and Satellite Directive and the simplified rights clearance system in order to be able to offer their services. This would ensure that the framework conditions for retransmission of TV and radio programmes in Europe can be sustainably improved in international competition.

## 10 good reasons to shape the rights clearance for retransmission in an infrastructure- and technology neutral way:

1. For cable retransmission, the rights clearance via collecting societies has performed for more than 20 years – not with losses, but for the benefit of the right holders and distributors. In this respect, it is consistent to transfer this concept to other forms of retransmission as far as the provider has an end costumer relationship, the retransmission is territorially limited by contract and, thereby, the number of users is determinable.

2. The rights acquisition problems for retransmission-services are the same – no matter whether for retransmission via closed or via open networks, and they correspond with former acquisition problems for retransmissions via traditional cable networks: Retransmission service providers are faced with an unmanageable number of unknown right holders. It is practically impossible to acquire the relevant rights individually and in time for a simultaneous retransmission. As a consequence, today only a few and very limited legal IP-based retransmission services, offered via the open internet, exist.

3. Only collective rights management for an infrastructure- and technological-neutral retransmission enables companies from EU Member States to offer a comprehensive and up-to-date product portfolio and withstand the international competitive pressure on audio-visual offers.

4. Keeping an eye on other countries outside the EU confirms that a collective rights management based on an infrastructure- and technology neutral rights clearance system leads to a variety of retransmission services that meet customer demand (example: Switzerland).

5. Authors and neighbouring rights owners benefit from collective rights management by collecting societies: the simplified rights clearance increases the potential for a diversified distribution of TV and radio programmes and increases the number of licensees as well as the revenue of authors and neighbouring rights owners.

6. Broadcasting organizations are not affected by a technology neutral rights clearance system via collecting societies. The broadcasters still execute their own and derived rights and decide about granting them.

7. The principle of territoriality is not affected by an infrastructure- and technology neutral rights clearance system for retransmission. Positions on questions regarding territoriality remain independent as well. It is merely a procedural simplification of the rights clearance for TV and radio programmes. Also the exclusive marketing by means of territorial orientation of the service (for example, by means of geo-targeting) and by means of granting territorially limited rights remain unaffected. Technological neutrality will not necessarily result in the unlimited, i.e. worldwide accessibility of TV and radio programmes via retransmission services.

8. The group of end costumers can also be technically controlled and restricted by retransmission services via open networks (for example by access authorization systems). This monitoring option is independent of the technology or infrastructure used to retransmit TV and radio programmes, whether via open networks or closed networks. This also includes technical means to protect the content from illegal redistribution. On-demand services on the internet show that this is technologically feasible.

9. The consumer expects that he or she can flexibly receive TV and radio programmes – no matter where and on which device. A rights clearance via collecting societies, as it has been practiced for cable retransmission for decades, is the best way for the digital single market to meet this consumer demand.

10. Illegal services, which are often distributed over the open internet, can be most effectively encountered by attractive legal offers corresponding to consumer needs. To this end, the European legislators have to create the appropriate framework conditions which ensure adequate remuneration of right holders on the one hand and safeguarding the interests of distributors on the other.