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<b>TO</b>	Mr. Currie	<b>FAX NR</b>	
<b>COMP.</b>	Washington Delegation		
<b>FROM</b>	E. GUTH	<b>FAX NR</b>	299.02.04
<b>SUBJECT</b>	Letter from Ambassador Eizenstat	<b>PHONE NR</b>	299.22.17
<b>PAGES</b>	9 (this cover sheet included)		

**MESSAGE**

Please find herewith copy for information of the letter from Ambassador Stuart E. Eizenstat to Mr Joao de Deus Pinheiro and Ms Collette Flesch on the EU's Green Paper on Audio-visual Policy.

*d.o. Andrew Byrne*  
 E. Guth

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UNITED STATES MISSION  
TO THE  
EUROPEAN COMMUNITIES

August 19, 1994

Mr. Joao de Deus Pinheiro  
Member of the Commission  
The European Union  
Brussels

1/EG 2)Chrouc  
JL 0/21  
GL 132

Dear Mr. Commissioner:

On behalf of the U.S. Government, I have the honor to transmit the attached comments on the EU's Green Paper on Audio-Visual Policy. As noted in the text of our comments, the U.S. Government believes the Commission's paper places the appropriate emphasis on the need to develop a European program industry oriented toward the consumer and the marketplace, rather than one based on subsidies and protection.

Healthy audiovisual industries on both sides of the Atlantic are in the interest of all.

Allow me to express my special appreciation to the Commission for its initiative in presenting this important policy analysis for comment and reiterate our strong continued interest in dialogue on Audiovisual issues. I hope I will again have the opportunity to discuss these issues with you in the near future. I have also sent a copy of the text to Director General Plesch.

Very truly yours,

Stuart E. Eizenstat  
Ambassador

Attachment: As stated



UNITED STATES MISSION  
TO THE  
EUROPEAN COMMUNITIES

August 19, 1994

Ms. Collette Flesch  
Director General  
Director General-X  
Audiovisual Media, Information, Communication  
and Culture  
Brussels

Dear Director General Flesch:

On behalf of the U.S. Government, I have the honor to transmit the attached comments on the EU's Green Paper on Audio-Visual Policy. As noted in the text of our comments, the U.S. Government believes the Commission's paper places the appropriate emphasis on the need to develop a European program industry oriented toward the consumer and the marketplace, rather than one based on subsidies and protection.

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Very truly yours,

Stuart E. Eizenstat  
Ambassador

Attachment: As stated



UNITED STATES MISSION  
TO THE  
EUROPEAN COMMUNITIES

August 17, 1994

Comments of the United States of America on  
The European Union Green Paper on Audio-Visual Policy

Introduction

The United States Government welcomes the opportunity to offer its views on the European Commission's diagnosis of and options for the future of the European audio-visual industry. We believe the EU's Green Paper asks many of the right questions. The Green Paper focuses on the real challenges facing the European audio-visual sector, while steering away from the easy, but self-defeating, response of blaming internal problems on external competition. We believe the Green Paper's framework places the appropriate emphasis on the need to develop a European marketplace, rather than one based on subsidies and protection. The United States believes that a healthy European audio-visual industry is in the interest of the United States, as well as Europe. The U.S. experience has been that increased availability of quality films and programming, wherever they originate, expands the market and leads to improved infrastructure to the benefit of all participants. In contrast, measures that reduce the availability of quality programming drive consumers away from the sector, with a decidedly negative impact on all concerned.

The crucial issue for the Green Paper, and for the discussions that will flow from it, is the future and the best policy environment to secure a prosperous and productive European audio-visual industry in digital revolution that is to come. In this context, we offer the following comments on the EU's Green Paper on audio-visual policy.

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### Market Orientation

We welcome the Green Paper's emphasis on the need to develop a European program industry focused on the consumer and the marketplace, rather than one based on subsidies and protection. In the past 20 years, deregulation of television and changes in technology (e.g., VCRs) have liberated the consumer from the limited menu offered by producers of protected and subsidized television broadcasters. The spread of existing technologies (cable) and the introduction of new ones (fiber-optics, digital transmission) will increase consumers' power by multiplying choices and denying subsidized, non-competitive offerings a guaranteed market. To remain viable, the audio-visual industry in Europe (and in the world as a whole) will have to respond to consumers' demands expressed in the marketplace.

### Digitization, Convergence and the Future

The Green Paper pinpoints the importance of digital technologies for the audio-visual industry. The adoption of digital technologies is driving an inevitable, rapid and accelerating convergence of telecommunications, information and audio-visual industries. That convergence will offer not only better and faster ways of distributing conventional audio-visual products like films and television programs, but will also open the door to new products and services, new ways of distributing products and vast increases in the number of channels available. Digital networks -- "The Information Superhighways" -- are emerging rapidly in the U.S., and global expansion is not far behind.

The digital revolution and the networks it creates will be central to the future of the audio-visual industry. Some important consequences of this revolution for audio-visual companies are already becoming clear, including:

- increased choice for the consuming public;
- increased demand for new programming; and
- increased importance of large program libraries.

Impacts of particular significance for European companies are likely to include:

- new capabilities to serve both Europe-wide and national markets;

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- new opportunities for niche programming, especially, for example, in smaller language markets;
- new demand for cultural materials exploiting the rich European heritage;
- new possibilities to produce and distribute programming in multiple languages simultaneously; and
- new channels for distribution in foreign (e.g., U.S) markets without the high additional costs of present distribution methods.

#### Rules for the Future

If the convergence of these industries is to provide the jobs, economic growth and cultural medium that both Europe and the United States would like to see, we must work to develop effective, non-discriminatory and pragmatic regimes for trade, investment, intellectual property and regulation.

#### Trade

The technological revolutions taking place will do much to stimulate demand for audio-visual exports throughout the world. The greatly increased choice available to consumers using the new technologies will require diversity of programming to achieve its potential, and the rich and varied cultural and linguistic traditions of Europe offer an important source of material for an export-oriented production industry. As the Green Paper notes, audio-visual exports will be important to Europe not just as a market opportunity, but also as a vector for European culture, languages and traditions.

To realize their export potential, Europe's audio-visual companies will need to improve their export capabilities and their competitiveness on international markets. Equally important, an export-oriented European audio-visual industry can only develop successfully under international trade rules that are open, incorporating the principles of most-favored-nation and national treatment. An essential factor for achieving international competitiveness for European companies will be an open and competitive market at home. In responding to foreign competition at home, audio-visual companies have an opportunity to stimulate creativity, learn and adapt new technologies and identify global market trends. Firms protected at home will always find it easier to focus

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their energies on local opportunities created by quotas, subsidies and other barriers to foreign competition rather than make products that appeal to the marketplace at home and abroad.

### Investment

The Green Paper recognizes the importance of investment in both new programming and in the program libraries that constitute a vital capital asset of the most successful audio-visual companies. Large investments are needed to produce competitive films and programming, and these investments are high-risk. To develop a competitive, privately-financed production industry, Europe will have to make investment in audio-visual production more attractive both to domestic and to foreign investors. Foreign investors -- including U.S. investors -- can make a particularly effective contribution.

Successful international audio-visual companies bring know-how and expertise in creative, technical and financial aspects of the business with their investments. These investors can expand employment and strengthen the European industry not only directly through their presence, but through the diffusion of their knowledge. Their experience in financing programming and their record of success could do much to stimulate investment in the sector by European investors who have in the past been reluctant to invest in the audio-visual industry. They will also help to attract new financing from sources outside Europe. Concerns that foreign (U.S.) firms could displace the growth of a local industry are ill-founded.

The presence of successful foreign firms in Europe will not supplant or suppress, but rather stimulate the development of indigenous audio-visual products generated by new technologies and improved product offerings will offer ample room for successful audio-visual companies to expand their foreign investments without displacing production at home or crowding out foreign firms in their own markets.

The key to attracting foreign investment will be Europe's willingness to provide a conducive investment climate, in particular, its willingness to provide the kind of national treatment embodied in the treaty of Rome that has brought extensive foreign investment and fostered the growth of competitive European firms in other sectors. Rules that restrict foreign ownership or deny national treatment to the local production of foreign-owned firms would be particularly counterproductive for the development of the European audio-visual industry.

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### Intellectual Property Rights

Intellectual property rights are at the heart of the audio-visual industry, and the Green Paper takes note of the challenges intellectual property rights issues present for developing a competitive industry in Europe. Differences in IPR regimes have been an important factor in the different paths the U.S. and European audio-visual industries have taken in their development. New technologies and distribution systems for the industry will also present challenges to existing intellectual property regimes.

In both Europe and the United States there is growing recognition that the basic principles of copyright protection need to be extended to cover new ways of doing business, new media, and new technologies. Strong, non-discriminatory, copyright protection is essential to support competitive audio-visual industries and to provide effective mechanisms to realize the benefits of technological advancements. In addition, the ability of individual rights owners to transfer rights freely is essential to ensure efficient distribution of audio-visual products and maximize the opportunities created by the new technologies. Respecting the rights of all right owners without discrimination will also help ensure that the emerging global information infrastructure remains open to contributors from all nations.

As national and international mechanisms to improve IP systems evolve, it is essential that they develop in parallel, or at least in compatible forms in Europe, the United States and other important markets. If incompatible systems involving conditional national treatment and/or mirror reciprocity are adopted in different markets, audio-visual industries in all countries will be handicapped in pursuing the opportunities offered by their convergence with telecommunications and information industries.

### Regulation

Regulatory problems receive little attention in the Green Paper, but they are important to developing strong and growing markets for audio-visual products in Europe. A liberal and flexible regulatory approach in the complex of audio-visual, telecommunications and information industries will encourage investment, new products, new technologies and new ways of doing business. Rigid, protective regulatory policies will stifle innovation and

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slow investment and growth. (e.g., rules limiting the establishment of new cinema audiences overall where they are in effect, protecting existing cinema owners, but depressing demand for new production from the audio-visual industry. Restrictive regulations on Cable and pay television, mandatory release windows for films on television, and excessively restrictive rules on advertising have similarly stifled the growth of these industries, with a consequent loss of their potential demand for audio-visual products.)

It is important that regulators develop flexible approaches that accommodate changing market conditions and new technologies, especially as the convergence of audio-visual, information and telecommunications industries creates a dynamic market of changing products and technologies.

