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High Commissioner for Human Rights (OHCHR)  
Mr. Zeid Ra'ad Al Hussein  
Office of the United Nations High Commissioner for Human Rights  
Palais des Nations  
CH-1211 Geneva 10,  
Switzerland

11.07.2016

Dear High Commissioner Zeid Ra'ad Al Hussein,

**Re: Complaint pertaining to the refusal to deliver digital cinema packages (DCPs) for DCI-compatible systems, in particular from the subsidiary companies of the US „majors“ film studios in Germany.**

The so-called US-major film studios continue to discriminate against cinemas with DCI-compatible equipment (DCI = Digital Cinema Initiatives), refusing to make available even those films which have been produced using money out of public coffers. In particular, the small cinemas are refusing to buy the expensive equipment stipulated by the US companies and their subsidiaries. This is not deemed necessary because there is a DCI-compatible German system solution available.

Most of the German film distributors accept this system, some have made arrangements with the US-majors. Some German distributors even deliver without any form of encryption key. In the era of 35mm films the delivery was made without difficulty, the quality of the copies and the technical equipment used in the cinemas was not an issue. Now, suddenly, the quality of projection and security aspects are being used as grounds to withhold delivery – although the films are frequently available for streaming in the internet. Even worse is the fact, that films which have been financed with German taxpayers' money are also withheld from distribution to German cinemas.

An affront against us all – or do you consider this form of discrimination to be legally and morally acceptable?

We believe this policy of the US film distributors such as Warner Bros. to be illegal, being a violation of articles 3, 25 and 59 of the German Basic Law as well as a contravention of article 26 of the International Covenant on Civil and Political Rights, which forbids discrimination. Furthermore we see here a violation of article 27 of the Universal Declaration of Human Rights (Freedom to participate in the cultural life of the community).

We do not dispute the right to safeguard property as stipulated in Protocol 1 of the European Convention on Human Rights as well as in article 17 of the Universal Declaration of Human Rights.

The UN expert, Prof. Dr. iur. et phil. Alfred de Zayas, recently called on States to respect their human rights obligations. “The human rights treaty regime entails binding obligations that States must observe”, the expert said recalling the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the European Convention on Human Rights, the European Social Charter, and the American Convention on Human Rights. “In case of conflict between trade agreements and

human rights treaties, it is the latter that prevail,” he stressed. “States must not enter into agreements that delay, circumvent, hinder or make impossible the fulfillment of human rights treaty obligations.”<sup>1</sup>

We would appreciate your opinion as to whether the current practice of discrimination by the German subsidiaries of the US-major studios is legally acceptable; should it not be so, we would also like to be informed about the measures you propose to initiate to end this discrimination.

Should you feel that this is not an issue for your office, would you please forward this matter to the appropriate office to be dealt with.

Deeper information about the subject are found in the added texts.

Yours very sincerely,

Werner Schramm

President  
Society for the Promotion of Film Culture

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<sup>1</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20174&LangID=E>  
EU / Trade agreements: UN rights expert warns against bypassing national parliaments