

Disney/Fox: Disney Proposes Divesting A&E Channels to Address European Commission Concerns

Deal Update

Disney has proposed divesting the A&E Networks' channels in Europe to allay competition enforcers' concerns with its planned acquisition of 21st Century Fox, according to a source familiar with the matter.

Under the divestiture proposal, Disney would retain the rights to use the trademarks and logos of the channels, according to the source.

Disney submitted the offer on October 12 as part of the European Commission's Phase I review of the transaction, in an effort to stave off an extended Phase II investigation that would extend into 2019.

The commission sent out the proposal for market testing to a number of European downstream providers of television services on October 16, with responses due October 23.

But at least one TV retailer has told the EC that the remedy as proposed would not solve its concerns that a combined Disney/Fox would wield too much power post merger in negotiations for the wholesale supply of TV channels, the source said.

Television overlap. Although European television markets vary on a nation by nation basis, a combined Disney/Fox will control important channels in a number of national markets, sources said.

In Germany, for example, Fox licenses FOX, National Geographic Channel, Nat Geo People, and Nat Geo Wild, the market's third most popular pay-TV channel.

Disney controls important channels in the German market, and licenses Disney Channel Germany on free TV, and Disney XD, Disney Junior and Disney Cinemagic on pay-TV.

In addition, Disney has a 50 percent stake in the "must-have" German children's channel Super RTL and an indirect 50 percent stake in the two A&E channels offered in Germany, A&E Germany and History.

The proposed combination of the firms' portfolios has led several TV retailers to express concern that the merger would heighten Disney's leverage in negotiations for the wholesale supply of TV channels, sources said.

Although the A&E divestment would mean Disney's post-merger portfolio is less strong, the German A&E and History channels Disney is offering to divest to allay EC competition concerns are of relatively marginal competitive importance in that country.

A [July 2018 study](#) of the German pay-TV market by the German Private Media association VAUNET ranks the A&E History and A&E channels 18th and 28th respectively in terms of market shares of all pay-TV channels, with each accounting for less than half a percent market share.

EC and Fox spokespeople declined to comment on the review. Disney didn't respond to requests for comment.

JV structure. The Disney proposal to divest the A&E Networks channels in Europe could be complicated by the networks' complex corporate structure.

The U.S. media company A&E Television Networks, LLC is a 50/50 joint venture between Disney-ABC Television Group and Hearst Communications. Its international division operates through various wholly-owned subsidiaries and joint ventures in Europe.

A&E Networks (UK) Ltd, itself a 50/50 joint venture with BSkyB History Ltd which is now ultimately owned by Comcast, supplies channels to UK, Nordic, Dutch, Romanian and Polish audiences, including History, A&E, Lifetime, Crime and Investigation, Blaze and H2.

Two A&E channels, A&E Germany and History (in German), are enjoyed by German-speaking audiences in Germany, Austria, Luxemburg, South Tyrol (in Italy) and Liechtenstein via the German entity The History Channel (Germany) GmbH & Co. KG.