



**ProSiebenSat.1**  
Media SE

**ANNUAL GENERAL MEETING OF PROSIEBENSAT.1 MEDIA SE  
ON APRIL 30, 2024**

# **STATEMENTS AND PROPOSED RESOLUTIONS OF THE EXECUTIVE BOARD AND THE SUPERVISORY BOARD**

**ON THE REQUEST OF THE SHAREHOLDER MFE-  
MEDIAREUROPE N.V. FOR ADDITIONS TO THE AGENDA  
OF THE ANNUAL GENERAL MEETING**

CONVENIENCE TRANSLATION. FOR READING PURPOSES ONLY.

Following the announcement of the convening of the Annual General Meeting of ProSiebenSat.1 Media SE to be held on April 30, 2024, in the Federal Gazette (Bundesanzeiger), the shareholder MFE-MEDIAFOREUROPE N.V., Amsterdam, Netherlands (hereinafter also "**MFE**"), has requested pursuant to section 122 para. 2 of the German Stock Corporation Act (AktG) in conjunction with Art. 56 sentences 2 and 3 of the SE Regulation and section 50 para. 2 of the German SE Implementation Act (SEAG) that items be placed on the agenda of the Annual General Meeting and published.

Agenda items 11 through 14 were therefore added to the agenda of this Annual General Meeting. The additions to the agenda, including MFE's proposed resolutions and their reasoning, will be published in the Federal Gazette and are available on the Company's website at

<https://www.prosiebensat1.com/en/annual-general-meeting>

with reference being made thereto.

The Executive Board and the Supervisory Board hereby submit their statements on MFE's proposed resolutions under the supplemented agenda items 11 through 14 of the Annual General Meeting, and propose resolutions, as follows:

CONVENIENCE TRANSLATION. FOR READING PURPOSES ONLY.

## **STATEMENT OF THE EXECUTIVE BOARD AND THE SUPERVISORY BOARD ON AGENDA ITEM 11 REGARDING THE RESOLUTION ON THE PREPARATION OF A SPIN-OFF AND TRANSFER AGREEMENT PURSUANT TO SECTION 83 PARA. 1 OF THE GERMAN STOCK CORPORATION ACT (AKTIENGESETZ – AKTG) IN CONJUNCTION WITH ART. 52 OF THE REGULATION (EC) NO. 2157/2001 (SE REGULATION)**

The Executive Board and Supervisory Board propose and recommend voting against the proposed resolution of MFE-MEDIAFOREUROPE N.V. under agenda item 11.

### **Strategic portfolio streamlining as a benchmark**

As already communicated repeatedly, the Executive Board and the Supervisory Board support the separation of certain investments in the Commerce & Ventures and Dating & Video segments with the aim of refocusing on the Entertainment segment. However, it is crucial that such separation is carried out in a strategic and value-maximizing manner and with a clear focus on reducing of the Company's leverage and the leverage ratio of ProSiebenSat.1 Group. The Executive Board and the Supervisory Board are convinced that this can only be achieved through a sale of certain investments and not through a blanket separation of entire segments without taking into account the impact on debt and earnings or the viability of individual investments and divisions.

### **Negative strategic, economic, and financial effects of the spin-off**

Therefore, the Executive Board and the Supervisory Board do not consider the means of the spin-off under the German Transformation Act (Umwandlungsgesetz) proposed by MFE as such or the comprehensive extension of the spin-off to the entire group segments Commerce & Ventures and Dating & Video to be appropriate.

In addition to substantial legal hurdles, such a spin-off would be expected to have significant negative effects on the strategic, economic, and financial development of both ProSiebenSat.1 Media SE itself and the company that would take over the spun-off segments in the context of the spin-off. In particular, according to MFE's proposal, also those investments are to be spun-off which have strong strategically relevant synergies with the Entertainment segment and the viability of which would be in question without a connection to the Entertainment segment. The Executive Board and the Supervisory Board therefore recommend that shareholders reject the resolution proposed by MFE-MEDIAFOREUROPE N.V. under agenda item 11.

### **IN DETAIL:**

#### **No proceeds from planned disposals**

Only in the event of the sale of the relevant investments, which is supported by the Executive Board and the Supervisory Board, will the corresponding proceeds be available for a reduction of external debt and/or the further development of the core Entertainment business. This would not be the case in the event of the spin-off envisaged by MFE, because the investments would be spun-off to a company whose shares would then be transferred to the shareholders of ProSiebenSat.1. The Executive Board and the Supervisory Board are therefore of the opinion that a spin-off instead of a disposal by sale would actually hinder the necessary further development of the core business in the medium term and thus stand in the way of the group being positioned in line with the market and the competition.

#### **Significant dyssynergies**

In addition to the aforementioned effects, the Executive Board and the Supervisory Board are convinced that significant dyssynergies between ProSiebenSat.1 Media SE and several of the investments to be transferred in the mid double-digit million range would have to be expected after a spin-off. This applies in particular to business areas that could not exist independently of the group in their current form, e.g., parts of Markt guru and the still very profitable 'Media for Equity' and 'Media for Revenue' participations of SevenVentures. In addition, the spun-off investments would be expected to reduce their advertising budgets at ProSiebenSat.1 Media SE in the future, which would also lead to significant revenue and EBITDA losses. In contrast to a strategic sale of individual investments, these losses could not be offset by corresponding sales proceeds.

CONVENIENCE TRANSLATION. FOR READING PURPOSES ONLY.

### **Increase in group leverage ratio**

The spin-off proposed by MFE would involve a significant transfer of EBITDA from the investments without transferring a corresponding part of today's leverage ratio of the ProSiebenSat.1 Group. In connection with the expected dys synergies, this would likely lead to an increase of the leverage ratio of the remaining part of ProSiebenSat.1 from currently approx. 2.7x adjusted EBITDA (basis 2023) to up to 4.1x adjusted EBITDA (basis 2023) and thus to a level outside an adequate corridor for listed media companies which may have a negative impact on the stock price. As a result, the group would not only fall well short of the communicated leverage target of 2.5x - 3.0x in 2024 in the short term but would also exceed this threshold in the long term. This would run counter to the expectations of the capital market, which are focused on reducing rather than increasing ProSiebenSat.1's consolidated debt. In addition, the increased leverage ratio resulting from MFE's envisaged spin-off would likely have an impact on ProSiebenSat.1's ability to pay dividends.

Moreover, the Executive Board and the Supervisory Board do not consider a debt level of this magnitude to be sustainable. A value-maximizing disposal of the investments as intended by the Executive Board, would in contrast be linked to significant cash inflows which would decrease the leverage ratio of the group significantly under the threshold of 2.5x EBITDA and, therefore, give room for the strategic development of the core business and enable the ProSiebenSat.1 Group to pay dividends to its shareholders in the usual amount.

### **Adverse effects on the group's debt financing**

In addition, a spin-off could have a material adverse effect on the debt financing of ProSiebenSat.1 Media SE. The spin-off would result in the existing debt financing, or significant parts thereof, having to be renegotiated. This applies in particular in the event that part of the debt would be transferred to the acquiring legal entity. At the present time, it must at least be assumed that the terms of the debt financing would deteriorate significantly to the detriment of the Company.

### **No convincing equity story of the acquiring legal entity**

After the completion of the spin-off, the acquiring legal entity as an investment holding company would not have an attractive equity story for institutional investors in the capital market from the perspective of the Executive Board and the Supervisory Board, as this company would consist of a large number of very different business models and financial profiles which would not have a strategic focus outside the ProSiebenSat.1 Group. From a valuation perspective, it can be assumed that such a holding company would be valued on the capital market with a considerable conglomerate discount and thus not at the full value of the individual companies, which could be achieved through the disposal processes advocated by the Executive Board and the Supervisory Board. It cannot be in the interest of the shareholders of ProSiebenSat.1 to receive shares in such a company instead of pushing ahead with the sale of the investments and thus strengthening the ProSiebenSat.1 Group's core business by reducing debt and possibly making strategic acquisitions.

### **Further negative effects on the acquiring legal entity**

It can also be assumed that the market capitalization of the company, to which the spin-off of the relevant shareholdings would be made, would be in the small to mid-cap segment. This would result in lower investor demand, as investors would not be able to actively trade the share. Due to the factors mentioned above, it can also be assumed that the new company would not qualify for relevant indices, which would continue to limit the liquidity of the shares.

In addition, experience has shown that the willingness of leading (international) banks to take up research coverage of shares in the small to mid-cap segment is limited. Lower research coverage dominated by local banks further reduces the capital market focus on the new company's shares.

It should also be noted that a majority of the current shareholders are not invested in ProSiebenSat.1 Media SE due to the equity story of the spin-off holdings. A stock exchange listing of the spun-off assets would, therefore, likely lead to technical sell-offs (so-called "flow back") due to investor-specific portfolio adjustments, which, based on experience with comparable transactions, can have a significant impact on the share price. The Executive Board and the Supervisory Board also assume that capital market participants will initially not view shareholders with a significant stake in the new company, such as MFE in particular, as long-term investors and would expect sell-offs in the medium term (so-called "overhang"), which may lead to a further valuation discount. These technical factors

CONVENIENCE TRANSLATION. FOR READING PURPOSES ONLY.

will presumably have a considerable negative impact on the attractiveness and valuation of the shares on the capital market.

The combination of an unclear profile and negative technical factors influencing the share will make it significantly more difficult for the company to which the spin-off of the relevant shareholdings would be made to raise new equity on the capital market. Access to debt capital at attractive conditions also appears to be limited.

### **Rights of the co-shareholder General Atlantic**

The spin-off would essentially affect ProSiebenSat.1 Media SE's investments in ParshipMeet Group and NCG – NuCom Group SE. Regarding both investments, the co-shareholder General Atlantic has significant rights under existing shareholder agreements. These rights would significantly impede or prevent the implementation of the spin-off. If the spin-off can nevertheless be implemented, these rights of the co-shareholder General Atlantic may result in the necessity to sell the shareholdings in ParshipMeet Group and NCG - NuCom Group SE again.

### **CONCLUSION:**

In light of the foregoing, the Executive Board and the Supervisory Board have concluded that they do not recommend such a spin-off and instead focus clearly on the value-maximizing sale of the relevant investments over the next 12-18 months, subject to the market conditions.

CONVENIENCE TRANSLATION. FOR READING PURPOSES ONLY.

**STATEMENT OF THE EXECUTIVE BOARD AND THE SUPERVISORY BOARD ON AGENDA ITEM 12 REGARDING THE RESOLUTION ON THE CANCELLATION OF THE AUTHORIZED CAPITAL WITH AUTHORIZATION TO EXCLUDE PREEMPTIVE RIGHTS (AUTHORIZED CAPITAL 2021) AND CORRESPONDING AMENDMENT OF THE ARTICLES OF ASSOCIATION IN SECTION 4 AND CREATION OF A NEW AUTHORIZED CAPITAL WITH AUTHORIZATION TO EXCLUDE PREEMPTIVE RIGHTS (AUTHORIZED CAPITAL 2024)**

The Executive Board and Supervisory Board propose and recommend voting against the resolutions proposed by MFE-MEDIAFOREUROPE N.V. under agenda item 12.

MFE proposes to cancel the current Authorized Capital 2021 and to replace it with a new, significantly restricted Authorized Capital 2024. Certain options for a capital increase with exclusion of preemptive rights that are currently included in the Authorized Capital 2021 and are generally customary in the market are to be deleted. This would deprive the Company of the ability to raise new equity quickly and flexibly and also limit the Company's ability to act in the event of potential acquisitions.

The Executive Board and the Supervisory Board are firmly convinced that this is not in the interest of the Company and its shareholders.

**IN DETAIL:**

**Elimination of the possibility of a cash capital increase with simplified exclusion of preemptive rights**

Compared to the existing Authorized Capital 2021, MFE's proposal would, on the one hand, mean that a so-called cash capital increase with simplified exclusion of preemptive rights within the meaning of section 186 para. 3 sentence 4 of the German Stock Corporation Act (Aktiengesetz – AktG) and thus a short-term and uncomplicated raising of capital, which under certain circumstances can be a useful supplement to the Company's existing debt financing, would no longer be possible.

The possibility of excluding preemptive rights provided for by law and contained in the Authorized Capital 2021 enables the Executive Board and the Supervisory Board to take advantage of favorable market conditions quickly, flexibly, and cost-effectively in order to cover existing capital requirements and to achieve the highest possible inflow of funds and thus the greatest possible strengthening of the Company's equity by setting a price close to the market. In contrast, these advantages could not be achieved to the same extent with a capital increase with preemptive rights:

Firstly, the two-week subscription period required when granting preemptive rights does not allow for a comparably short-term reaction to current market conditions.

Secondly, the volatility of the capital markets means that an issue price close to the market can generally only be set if the Company is not tied to it for a longer period. However, if a preemptive right was granted, the final subscription price would have to be announced at least three days before the end of the subscription period. Due to the risk of price changes over several days, a corresponding safety discount on the current market price would therefore be regularly required for a successful placement; this would generally lead to conditions that are not close to the market and therefore a lower inflow of funds for the Company than in the case of a capital increase carried out with the exclusion of preemptive rights.

In addition, the granting of preemptive rights means that it would be highly uncertain whether the new shares can be placed in full; whether a subsequent issue of the unplaced shares to third parties (so-called back-stop) would be successful in this case would be highly questionable and, in any case, involves additional expenses and loss of time. A simplified exclusion of preemptive rights, on the other hand, makes the search for suitable investors much easier because the scope of the capital increase to be taken over by the third-party investors is fixed from the outset, unlike in the case of a back-stop.

The interests of the shareholders are also protected in the case of a simplified exclusion of preemptive rights in that the issue price of the new shares may not be significantly lower than the stock market price and the cash capital increase with simplified exclusion of preemptive rights is limited to a total of 10% of the share capital. The simplified exclusion of preemptive rights with a limited volume, as provided for in the Company's current Authorized Capital 2021, is also generally accepted among investors and is common practice among German listed companies.

CONVENIENCE TRANSLATION. FOR READING PURPOSES ONLY.

### **Elimination of the possibility of a non-cash capital increase from authorized capital**

On the other hand, MFE's proposal to replace the Authorized Capital 2021 would mean that a non-cash capital increase from authorized capital without preemptive rights would no longer be possible. Without this option, the Company would not be able to respond in the interests of its shareholders quickly, flexibly and in a liquidity-preserving manner to potential acquisition opportunities in the Entertainment related sector. This possibility of excluding preemptive rights in the case of authorized capital is also generally accepted among investors and is common practice among German listed companies.

This also includes the possibility to acquire companies or interests in companies or other assets in return for shares in order to be able to offer the owners of attractive acquisition targets or as part of supplementary acquisition projects for the purpose of inorganic growth an interest in the Company, to protect the Company's liquidity and to meet any tax requirements of the seller. This possibility only exists if shareholders' preemptive rights can be excluded. The theoretical possibility of a non-cash capital increase with the exclusion of preemptive rights resolved by the meeting of shareholders is not recognized as a suitable means in practice due to the associated time delay and the uncertainty of the outcome of such meeting of shareholders. The alternative of a cash capital increase with preemptive rights does not enable the granting of shares and requires the time-consuming and cost-intensive preparation and approval of a prospectus.

The Executive Board and the Supervisory Board are therefore firmly convinced that the cancellation of the Authorized Capital 2021 proposed by MFE, combined with its replacement by a new, significantly restricted Authorized Capital 2024, is not in the interest of the Company and its shareholders.

In the view of the Executive Board and the Supervisory Board, it would rather be, on the one hand, in the exclusive interest of MFE to prevent a percentage dilution of MFE's shareholding in the Company through capital measures and transactions that make sense for the Company and its shareholders. On the other hand, it would deprive the Company of the opportunity to gain new anchor investors via a capital increase who support the business strategy of ProSiebenSat.1.

Furthermore, if the separation of the resolution proposal as proposed by MFE into a complete cancellation of the existing Authorized Capital 2021 (which requires simple majority) on the one hand and the creation of the Authorized Capital 2024 (which requires a qualified majority of 75%) on the other hand result in the Annual General Meeting resolving to cancel the Authorized Capital 2021 but not to create the Authorized Capital 2024, the Company would no longer even have the (limited) possibilities of the Authorized Capital 2024.

CONVENIENCE TRANSLATION. FOR READING PURPOSES ONLY.

## STATEMENT OF THE SUPERVISORY BOARD ON AGENDA ITEM 13 REGARDING THE RESOLUTION ON THE DISMISSAL OF A MEMBER OF THE SUPERVISORY BOARD

The Supervisory Board proposes and recommends voting against the resolutions proposed by MFE-MEDIAFOREUROPE N.V. under agenda item 13.

In the opinion of the Supervisory Board, the Chairman of the Audit Committee, Prof. Dr. Rolf Nonnenmacher, is far more suitable than the candidate proposed by MFE in his place, Mr. Simone Scettri.

Rolf Nonnenmacher has proven expertise, particularly in the field of auditing, with many years of experience in the media sector and the Company's business areas. Mr. Scettri, on the other hand, has no experience in auditing financial statements in Germany, in the media sector or in the other business areas of the Company.

In addition, there is an obvious risk of a conflict of interest in connection with Mr. Scettri's many years of work for Ernst & Young and Ernst & Young's auditing activities for Jochen Schweizer mydays.

### Qualifications of the persons

In the interest of the Company and all shareholders, the composition of the Supervisory Board must first and foremost ensure that the expertise of the Supervisory Board members covers all relevant business areas and that the personal qualifications of the Supervisory Board members are convincing.

The Supervisory Board is convinced that the Supervisory Board must have outstanding expertise in German auditing as well as in the area of German provisions on corporate governance and compliance, particularly among the members of the Audit Committee and especially in the person of its Chairman.

With its supplementary motion, MFE is pursuing the goal of having Prof. Dr. Rolf Nonnenmacher, who is not only a member of the Supervisory Board but also Chairman of the Audit Committee of our Company, replaced by Mr. Simone Scettri, an Italian auditor.

Rolf Nonnenmacher is one of the most renowned German auditors and a proven expert in the fields of accounting, internal control and risk management systems and auditing. As former Chairman of the Government Commission on the German Corporate Governance Code and as long-standing chairman of audit committees of DAX-listed companies, he has outstanding knowledge and experience in all tasks of an audit committee and enjoys the highest reputation in professional circles.

Rolf Nonnenmacher was also confirmed as a member of the Supervisory Board at the 2022 Annual General Meeting with 97.92% of the votes cast and thus also supported by MFE. He was also granted formal discharge for the 2022 financial year with 95.73% of the votes cast.

According to the information provided by MFE, Mr. Scettri has neither expertise in the German audit of financial statements nor in the area of German provisions on corporate governance and compliance. In contrast to Rolf Nonnenmacher, Mr. Scettri also has no experience in the media sector or in the Company's business areas.

### Possible conflict of interest with Simone Scettri

According to the curriculum vitae submitted, Simone Scettri held management positions at Ernst & Young in Italy for a period of almost 20 years until 2022. Ernst & Young Germany ("EY") was the group auditor of the ProSiebenSat.1 Group as well as the auditor of Jochen Schweizer mydays from the 2019 until 2023. During this period, EY did not raise any objections to the violations of the German Payment Services Supervision Act (Zahlungsdiensteaufsichtsgesetz – ZAG) at Jochen Schweizer mydays. ProSiebenSat.1 Media SE will have to examine whether to file a claim against EY. This harbors the obvious risk of a conflict of interest for Simone Scettri.

### Internal investigation at Jochen Schweizer mydays

Immediately after possible violations at Jochen Schweizer mydays became known, Rolf Nonnenmacher has ensured that the Supervisory Board immediately initiated a corresponding investigation by a renowned international law firm. The purpose of the investigation was to fully and independently clarify the facts relating to the aforementioned ZAG issue at Jochen Schweizer mydays. After completing this investigation, the commissioned law firm found no

CONVENIENCE TRANSLATION. FOR READING PURPOSES ONLY.

evidence that the Supervisory Board of ProSiebenSat.1 Media SE or any of its members had received information about the ZAG issue.

### **Composition of the Supervisory Board and shareholder structure**

In addition to the qualifications of the Supervisory Board members, we continue to consider the importance of ensuring that the composition of the Supervisory Board also appropriately reflects the Company's shareholder structure. A simultaneous success of the supplementary motion and the also submitted counterproposals regarding the Supervisory Board elections under agenda item 8 would have the result that the majority of the members of the Supervisory Board would then have close ties to the two largest shareholders of the Company or would have been proposed by them, although both shareholders together do not own the majority of the Company's share capital. For details, please refer to our statement on the election proposals from both shareholders.

CONVENIENCE TRANSLATION. FOR READING PURPOSES ONLY.

## **STATEMENT OF THE EXECUTIVE BOARD AND THE SUPERVISORY BOARD ON AGENDA ITEM 14 REGARDING THE RESOLUTION ON THE AMENDMENT OF SECTION 9 PARA. 1 OF THE ARTICLES OF INCORPORATION (TRANSACTIONS REQUIRING APPROVAL)**

The Executive Board and the Supervisory Board propose and recommend voting against the resolution proposed by MFE-MEDIAFOREUROPE N.V. under agenda item 14.

MFE proposes that certain specific transactions for which the Executive Board requires the approval of the Supervisory Board be stipulated in the Articles of Incorporation.

The definition of a catalog of transactions requiring approval is at the core of the Supervisory Board's monitoring task and is ensured by corresponding provisions in the rules of procedure for the Executive Board of ProSiebenSat.1 Media SE. A definition of transactions requiring approval in the Articles of Incorporation, as proposed by MFE, is therefore neither necessary to ensure the monitoring of the Supervisory Board in the case of material corporate decisions, nor is it expedient, as the Supervisory Board would then no longer be able to adjust the aforementioned approval requirements to changed circumstances or conditions in the future without prior referral to the Annual General Meeting.

The Executive Board and the Supervisory Board are of the opinion that the involvement of the Supervisory Board in material corporate decisions is already ensured today and as is customary in listed companies via the rules of procedure for the Executive Board of ProSiebenSat.1 Media SE. The rules of procedure are issued by the Supervisory Board of ProSiebenSat.1 Media SE and can only be amended by the Supervisory Board. The determination of transactions for the execution of which the Executive Board requires the consent of the Supervisory Board is one of the core competencies of the Supervisory Board, which would be encroached upon by the proposed amendment to the Articles of Incorporation. The current version of the rules of procedure already contains provisions at, according to which the Executive Board requires the prior approval of the Supervisory Board, inter alia, for the adoption of the group's annual budget, for the acquisition and sale of equity investments at a purchase price of more than EUR 50 million in each case, and for borrowing more than EUR 50 million in each case or more than EUR 100 million in a financial year. In the opinion of the Executive Board and the Supervisory Board, it is therefore not necessary to transfer these provisions to the Company's Articles of Incorporation in order to involve the Supervisory Board in significant corporate decisions. At the same time, transferring these approval requirements to the Articles of Incorporation would prevent the Supervisory Board from adapting the aforementioned approval requirements to changed circumstances or conditions in the future without consulting the Annual General Meeting.

The Executive Board and the Supervisory Board also point out that the current provision in section 9 para. 1 of the Articles of Incorporation already contains certain particularly important transactions requiring approval, but at the same time ensures the core competence of the Supervisory Board to determine the transactions requiring approval through corresponding opening clauses. In the view of the Executive Board and the Supervisory Board, there is therefore no need for the amendment to the Articles of Incorporation proposed by MFE.

