



Brussels, 27 March 2017

RE: Comments from Creativity Works! on the proposed Geo-blocking Regulation

Dear President Verhofstadt, First Vice-President in't Veld and Vice-President Lokkegaard,

We are writing to you to express our sincere concern about the direction of the ongoing decision-making process in the European Parliament on the proposed Geo-blocking Regulation. We as Creativity Works!, a leading European coalition of the cultural and creative sectors, would like to bring to your attention the negative consequences of **(i) introducing non-audiovisual copyright-protected content such as video games, e-books and music into the material scope of the proposed Regulation and (ii) the introduction of audiovisual services into the review clause**. Not only will these steps displace well-functioning market mechanisms, but they will also reduce the cultural diversity of content offer in Europe and therefore threaten consumer choice. Our diverse membership includes video game developers, broadcasters, writers, screenwriters, book publishers and retailers, cinema operators, sports organisers, picture agencies, music and film/TV producers, publishers and distributors.

When preparing the proposed Regulation, the European Commission explicitly excluded copyright-protected content and AV services from the public consultation and from its Impact Assessment. This was done for good reasons. The Council, in its Common Position, has rightfully validated this approach. IMCO Rapporteur, MEP Roza Thun's draft report now suggests to take a conflicting approach by proposing to include copyright-protected content and AV services into the scope of the proposed Regulation and the review clause, respectively. This not only goes against the Better Regulation principles which the European Institutions pledged to uphold, but will also have profound negative consequences for Europe's cultural and creative diversity, and puts into question an entire eco-system that employs 11 million people. The oversimplification of complex market mechanisms, and the desire to reach a swift solution, will not yield a positive outcome.

In theory, while banning the use of unjustified geo-blocking in some sectors sounds promising, we would like to recall the far-reaching implications:

- 1. Reduction in consumer choice:** Estimates show that the audiovisual content available to European audiences today, which relies on territorial exclusivity for its funding, production and distribution, would **be harmed and reduced by as much as 48%**¹. Let's look also at **music**. If a label is releasing a new album by a band, it will be promoted differently in each territory. For example, they might want to give fans the opportunity to stream the complete album one week before its release, in order to form an opinion, even before the purchase decision. This stream might be "hosted" in the UK by The Guardian, in France by Liberation and in Germany by RollingStone.de. These partners help the label and the artists achieve much more efficient promotion and marketing campaigns. And these media partnerships rely on geo-blocking to give them a certain level of exclusivity, without which they might not cooperate with the label and the artists. Ending geo-blocking would put an end to an important and meaningful marketing tool for labels and artists.

¹ ["The impact of cross-border access to audiovisual content on EU consumers,"](#) Oxera, May 2016.

2. Increase of prices: Turning to **video games**. A European video game studio develops a game and retails it for €60 in digital format only. However, in Poland, where consumers have a lower average wages, a €60 equivalent price would be too expensive for the consumer. As a result, Polish consumers benefit from a favourable price adapted to their purchasing power. Economic circumstances, in particular, vary greatly between Member States because of different tax policies, monthly minimum wages (less than €300 in some EU Member States) as confirmed by the latest figures published by Eurostat in February 2017².

However, should MEP Thun's draft report move forward as currently proposed, the same consumers in Poland would be forced to pay higher prices, which may drive them away from digital products altogether or drive them towards piracy, harming growth of the domestic market.

3. Threat to cultural diversity: The inclusion of both non-audiovisual copyright-protected content into the scope and audiovisual services into the review clause risks undermining the EU's long history of measures to promote cultural diversity. A pertinent example are **e-books**, a field where territoriality is linked to linguistic areas³. Initially, European booksellers began to sell e-books as an alternative to offers from major Internet platforms. However, consumer demand for this nascent market is low, especially outside common linguistic areas. The annual Nielsen Book survey "Books and Consumers" revealed that sales of printed books rose by 7% in 2016, while e-book sales declined by 4% in the UK, the strongest and most well-structured European e-book market. What does this mean for other European markets? If booksellers are forced to offer e-books across borders, they will be required to invest in expensive technology upgrades and cybersecurity (i.e. to process payments cross-border). With low e-book demand, many European booksellers would not be able to make the required investments. Doing so would mean hanging a permanent "closed" sign on their doors. Fewer retailers' means less cultural offers as major Internet platforms on the e-book market are likely to focus on bestselling titles, rather than local authors that enrich our European culture. Moreover, it is essential for the prohibition of geo-blocking not to become a way to circumvent the legislation on fixed book prices currently in force in several Member States, which aims at maintaining a healthy and diverse distribution network.

We thank you for considering our important concerns. In order to uphold Europe's vibrant cultural diversity and identity, we respectfully call on Members of the European Parliament to:

- (i) Reject the inclusion of non-audiovisual copyright-protected content, such as e-books, music and video-games, in the material scope of the Regulation (Article 4); and,**
- (ii) Reject the introduction of audiovisual services into the review clause Regulation (Article 9).**

We very much hope this sensitive legislative file and its impact on Europe's creative and cultural sectors will be discussed by your political group before the upcoming Plenary in Strasbourg.

Should you have any questions or comments, we remain at your disposal.

² ["National minimum wages in the EU - Monthly minimum wages below €500 in east and well above €1000 in northwest"](#) Eurostat, 10 February 2017.

³ In principle there are no legal restrictions to distribution, since publishers acquire rights to works for a specific language in all territories.

Sincerely yours,

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About Creativity Works!

Like-minded organisations, federations and associations from the European cultural and creative sectors have formed a coalition: *Creativity Works!*. Its objective is to foster an open and informed dialogue with EU policy-makers about the economic and cultural contribution made by creators and the cultural and creative sectors in the digital age. Members are brought together by a sincere belief in creativity, creative content, cultural diversity and freedom of expression.

Members include: Association of Commercial Televisions in Europe (ACT); Center of the Picture Industry (CEPIC); EUROKINEMA; European Coordination of Independent Producers (CEPI); European and International Booksellers' Federation (EIBF); European Writers' Council (EWC); Federation of European Publishers (FEP); Federation of Screenwriters in Europe (FSE); Independent Music Companies Association (IMPALA); Interactive Software Federation of Europe (ISFE); International Federation of Film Producers' Associations (FIAPF); International Federation of Film Distributors' Associations (FIAD International Union of Cinemas (UNIC); International Video Federation (IVF); Motion Picture Association (MPA); International Confederation of Music Publishers (ICMP); Verband Privater Rundfunk und Telemedien e.V. (VPRT); MEDIAPRO; Bundesliga; the Premier League and La Liga.

Find out more about the coalition at www.creativityworks.eu

You can follow us on twitter at [@CreativityW](https://twitter.com/CreativityW)

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