



## Proposed Geo-blocking Regulation: Cross-sectoral letter on ongoing trilogue negotiations

We represent companies and associations of right holders active in Europe's audiovisual, film, music, and video-game sectors. Our members include: music authors, producers, publishers and online services; commercial broadcasters; film and TV producers; distributors and publishers of film and TV content; cinema operators, digital technology companies; video game developers and publishers; and sports rights owners. Together, the European copyright sectors generate 15.2 million jobs via direct and indirect employment and contribute approximately €914.6 billion to the EU economy<sup>1</sup>.

In view of the ongoing trilogue negotiations with the Parliament, we urge the Council and the Commission fully to exclude intangible digital content and audiovisual services from the scope of the Regulation and its mandated review. Negotiations should be based on what has been soundly evaluated in the Commission's public consultation and Impact Assessment. Without your support, Europe's creative industries, consumers and digital services may be irreparably harmed.

The Report on the Geo-blocking Regulation which was adopted by the European Parliament's Internal Market & Consumer Protection Committee (IMCO) on Tuesday 25 April proposes to:

- (i) extend the material scope of Article 4 to include intangible non-audiovisual digital content which is protected by copyright (e.g. music, e-books, videogames), and
- (ii) widen the review clause in Article 9 by providing an evaluation of the potential extension of the Regulation's scope to audiovisual services.

This would have profoundly harmful consequences for European consumers, European culture and digital services in Europe.

Extending the Regulation to the creative industries' online services would leave services that distribute creative content less able to tailor terms and offerings to consumers' needs and means, which vary across the Single Market based on a variety of different factors including cultural differences and purchasing power. The extension of the scope of the Regulation would severely disrupt the carefully balanced licensing system of digital content services which often operate on the basis of a combination of national, regional and pan-European licences with rates varying between territories.

Online distribution channels for creative works would likely narrow, and **consumers** that once benefited from prices adapted to their purchasing power could find themselves paying higher prices which may drive them away from legitimate digital content altogether.

The principle of territoriality underpins many of the business models used in the **creative industries**. By undermining it, IMCO's amendments would deprive the creative sectors of an important means of raising finance to produce and distribute content as well as derive value from the online exploitation of copyright works, while forcing businesses to offer services that are not adapted to consumers' needs and creating legal uncertainty for rights clearance processes. These uncertainties created by extending the scope of the Regulation would jeopardise our sectors' ability to create, finance, produce and

<sup>1</sup> European Union Intellectual Property Office (EUIPO) and European Patent Office (EPO) [Report on the contribution of IPR to European economy and employment](#) (2016).



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distribute creative content, and would harm the development and economic viability of new services. European citizens will inevitably suffer a drop in diversity and quality of the creative content offered to them.

Notwithstanding the massive harm that will be done to Europe’s creative sectors, extending the Regulation’s scope would constitute a clear disregard for the institutions’ better regulation principles:

- 1. Not subject to public consultation:** The public consultation on geo-blocking in 2015 expressly excluded audiovisual services and copyright protected works<sup>2</sup>.
- 2. Extremely limited impact assessment for non-AV copyright protected content:** The Commission’s evaluation of the impact of the proposal on intangible digital content such as music, e-books and video-games was “limited to the intersections of the sectorial scopes of the Services Directive and the e-commerce Directive”<sup>3</sup>. There was no assessment of the impact on digital service providers of extending the material scope of Article 4 to cover non-AV copyright protected repertoire. Furthermore, a study carried out for the IMCO Committee which aimed to examine the impact of extending the scope was based on inaccurate data and carried out without consulting the sectors concerned.
- 3. Impact on AV sector never assessed:** Audiovisual services are explicitly excluded from the scope of the Commission’s proposal, and the impact on the sector was therefore never considered as part of the public consultation or the Impact Assessment.

We urge you fully to exclude intangible digital content and audiovisual services from the scope of the Regulation, and to oppose attempts to extend its provisions to them in the future, thus protecting Europe’s creative industries, European consumers and digital services from irreparable harm.

Signed:

- Association of Commercial Television in Europe
- European Coordination of Independent Producers (CEPI)
- Deezer
- DIGITALEUROPE
- Europa Distribution
- Europa International
- International Federation of Film Distributors Associations (FIAD)
- International Association of Film Producers Associations (FIAPF)
- European Grouping of Societies of Authors and Composers (GESAC)
- International Confederation of Music Producers (ICMP)
- International Federation of the Phonographic Industry (IFPI)
- Independent Music Companies Association (IMPALA)
- Interactive Software Federation of Europe (ISFE)
- International Video Association
- Motion Picture Association
- Sports Rights Owners Coalition
- Spotify
- International Union of Cinemas (UNIC)

<sup>2</sup> [European Commission press release](#), 24 September 2015.

<sup>3</sup> Impact Assessment, page 5.