

Public consultation on Geo-Blocking and Other Geographically-Based Restrictions When Shopping and Accessing Information in the EU

Audiovisual Sector Coalition Statement - 23 December 2015



In response to the European Commission's public consultation on "Geo-Blocking and Other Geographically-Based Restrictions When Shopping and Accessing Information in the EU", the undersigned organisations of film directors, broadcasters, film/TV producers, sports rights owners, publishers, distributors, and cinema exhibitors active in the European audiovisual landscape welcome the opportunity to reiterate their support for the overarching priorities of fostering economic growth and job creation set out by the European Commission.

Following the announcement of legislative proposals to end unjustified geo-blocking, we also note that this public consultation specifically mentions in several instances that it "does not cover geo-blocking related to copyright and content licensing practices". We therefore take good note of the fact that copyright and licensing practices are out of the scope of potential future initiatives on unjustified geo-blocking and we welcome the Commission's recognition of the inappropriateness of addressing copyright in this context.

¹ [European Commission press release](#). In addition, the [inception impact assessment](#) on "Proposals to address unjustified geo-blocking and other discrimination based on consumers' place of residence or nationality" states that "the initiatives discussed in this IIA only address those practices not based on copyright or licensing agreements (including in sports)".

In the separate area of copyright, we note that the European Commission has undertaken in the Communication on a Digital Single Market Strategy for Europe² to ensure that its initiatives will “*respect the value of rights in the audiovisual sector*”. At the same time, the European Commission has announced plans to “*make legislative proposals in the first half of 2016 to end unjustified geo-blocking*”. More recently, in its Communication “Towards a modern, more European copyright framework³”, the European Commission stated that “*the financing of new European productions in the audiovisual sector is, to a large extent, based on territorial licensing combined with territorial exclusivity granted to individual distributors or service providers*”.

Indeed, the commercial freedom to organize the financing and future distribution of each film and TV programme on a territorial basis is indispensable to the financing of films and other forms of audiovisual content, to ensure their best possible promotion and distribution throughout the Digital Single Market and thereby (hopefully) secure the necessary recoupment of investments and revenue to help fund the creation of new works and the ability for local distributors to continue investing in film releases in the future. The European Parliament⁴, the European Audiovisual Observatory⁵ and the Charles River’s Associates study⁶ commissioned by the European Commission have all confirmed that **licensing on a territory-by-territory basis is essential to raising financing for films and audio-visual productions, which require massive upfront investments.**

In conclusion, a ban on geo-blocking practices that support the financing and distribution of film and audiovisual content would run contrary to the stated objective of the Digital Single Market to create jobs and growth. It would also undermine investment in the development, creation, production, marketing and distribution of films and audiovisual content and, inherently, our ability to tailor our offers of film and audiovisual content to the wide diversity of consumer preferences and varying purchasing powers across Europe.

² COM(2015)0192 final

³ COM(2015) 626 final

⁴ [European Parliament resolution of 9 July 2015 on harmonisation of certain aspects of copyright and related rights](#), paragraph 13 : *Points out that the financing, production and co-production of films and television content depend to a great extent on exclusive territorial licences granted to local distributors on a range of platforms reflecting the cultural specificities of the various markets in Europe; that being so, emphasises that the ability, under the principle of freedom of contract, to select the extent of territorial coverage and the type of distribution platform encourages investment in films and television content and promotes cultural diversity; calls on the Commission to ensure that any initiative to modernise copyright is preceded by a wide-ranging study of its likely impact on the production, financing and distribution of films and television content, and also on cultural diversity;*

⁵ [European Audiovisual Observatory Study on territoriality and its impact on the financing of audiovisual works](#)

⁶ [Economic Analysis of the Territoriality of the Making Available Right in the EU](#)

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