



EFADs Statement on the Geo-blocking Regulation

The inclusion of audiovisual services in the Geo-blocking Regulation would mean European audiences have fewer new European works to enjoy

20 March 2017

Ahead of the Legal Affairs (JURI) committee vote on 23 March and the Internal Market and Consumer Protection (IMCO) committee vote in April on the proposal for a **Regulation on addressing geo-blocking and other forms of discrimination**, the European Film Agency Directors (EFADs) would like to raise concerns with amendments proposed by Members of the European Parliament.

The EFADs brings together the Directors of European Film Agencies in 31 countries in Europe (EU, Iceland, Norway and Switzerland). We represent government or government associated public bodies, responsible for national funding for the audiovisual sector and advising or regulating on all aspects of audiovisual policies. In total, the EFADs' members and their governments fund around three billion Euros every year through subsidies and tax reliefs to foster the creation, production, promotion, distribution, and exhibition of European audiovisual and cinematographic works.

Whilst we share the ambition to encourage more circulation of, and a wider access to, European audiovisual works, we firmly believe that the removal of geo-blocking will have the opposite effects and harm the financing and efficient distribution of European works in our countries. Evidence suggests that the consequences of this will be **diminished investment, a reduction in the value of rights, weaker competition, fewer European audiovisual works and co-productions, and less access, all to the detriment of European audiences and cultural diversity.**

We therefore call on MEPs to reject the amendments proposed in these two committees that:

- include audiovisual online services in the scope of the regulation (Article 1)
- include these services in the review clause (Article 9)

The Geo-blocking Regulation will not lead to more circulation and access to European works

The EFADs already play an active role in promoting cultural diversity and facilitating cultural exchange which are the backbone of the European Union and especially important in these times of significant social and political change. We are committed to these objectives, and members have been engaged in national initiatives to foster access and the promotion of works, and to develop online distribution to the benefit of a wide range of audiences across the EU.

It is fundamental that at the European and national levels the best conditions exist for financing, marketing and distributing European audiovisual works. On this basis, **it is crucial that territorial exclusivity is not undermined.** This fundamental principle encourages investment in production and the circulation of our works territory by territory based on local distribution which is more efficient for attracting local audiences.

The inclusion of audiovisual online services in the Geo-blocking Regulation will **harm the financing of European works by making territorial exclusivity impossible to enforce.** For example, for a TV series such as The Young Pope, the incentive for broadcasters such as Sky UK and Canal+ to invest

during the production phase as co-producers and C More Entertainment to buy the rights for Sweden after production would have been greatly reduced if exclusivity was not guaranteed. The possibility that their national audience can already access the series online from another country when they broadcast it - due to different release windows - would increase the risk of investment.

The same uncertainty would be faced by cinemas showing European feature films and other actors of the value chain, ultimately **reducing the incentive to invest and the value of rights**. Evidence suggests that this would lead to the following consequences:

- 1. A deterioration of cultural diversity in Europe and less choice for European audiences:** With no incentive to invest, there will be fewer diverse and quality audiovisual works being produced and circulated. Co-productions which are funded by private and public partners from different countries and which are an economic and cultural pillar of the European audiovisual sector would be particularly affected. This will jeopardize European cultural diversity, the sustainability of the European audiovisual sector, and reduce choice for European audiences with some facing higher prices in certain territories.¹ The Oxera study estimates that full elimination of geo-blocking for audiovisual content would result in a net consumer loss of € 9.3 billion per year.²
- 2. Weaker circulation and distribution to local European audiences:** There will be fewer national distributors and broadcasters tailoring the marketing and promotion to the specific national context to build the audience. Many European works particularly in less widely spoken languages will be accessible online but without subtitles, editorialisation or marketing. Furthermore, fewer European films will be shown in theatres which provide the film with the exposure needed to have successful television and VoD windows.³
- 3. A concentration of power in the hands of dominant players:** The ability to provide cross-border services will benefit only large actors who can afford to buy and offer high value audiovisual works on a pan-European basis. As English is the most widely understood language throughout the European Union, focusing on this content would be the obvious business decision which could marginalise smaller markets and less widely-spoken languages.

The EFADs would encourage legislators to focus instead on **fighting piracy, developing legal offers in the different Member States, and ensuring the promotion of European works and data transparency on their performance on VoD services**. Priorities could also include **building, with local distributors, the audience and appetite for a variety of European works and supporting film education and media literacy initiatives to build the future audience**. The EFADs would be pleased to work with the European institutions to develop solutions and share best practices.

¹ Charles River Associates (March 2014), "Economic Analysis of the Territoriality of the Making Available Right in the EU," p. 2, 118.

² Oxera (2016), "The impact of cross-border access to audiovisual content on EU consumers"

³ Grece, Christian. (2016), "How do films circulate on VoD services and in cinemas in the European Union? A Comparative Analysis", European Audiovisual Observatory