



GEO-BLOCKING: THE MUSIC AND BOOKSELLING INDUSTRIES CALL FOR COPYRIGHT PROTECTED WORKS TO BE KEPT OUTSIDE THE REGULATION ON GEO-BLOCKING.

Brussels, 7 February 2017

The **European and International Booksellers Federation (EIBF)** and the **European Association of Independent Music Companies Association (IMPALA)** are pleased to present you with their comments on the proposal for the **Regulation on geo-blocking**.

Our views can be summarised as follows:

- **Copyright services should be kept outside of the scope of the Regulation (Recital 6, Recital 19, Article 1 & Article 4);**
- **The review clause should set the first evaluation at five years after the entry into force of the Regulation (Article 9).**

You will find attached our proposed amendments to the Commission's proposal.

Both our organisations support the balance achieved by the Commission's original proposal, which leaves "services providing access to and use of copyright protected works or other protected subject matter" outside of the scope of the Regulation. This will help safeguard cross-border activity and cultural diversity, as explained further below.

This view was shared by the Council in its position adopted on 28 November 2016, which further clarifies that this exclusion should apply to "services selling copyright protected works and other protected subject matter in an intangible form, such as e-books or online music".

More recently, the European Parliament's CULT committee adopted an opinion which also supports the exclusion of services providing access to and use of copyrighted works.

With regard to the **review clause (Article 9)**, we support a first evaluation **5 years** after the entry into force of the Regulation. As explained by MEP Comodini, CULT Rapporteur on the proposal: "*Cultural goods and services – such as e-books and music streaming services – have distinct business models and specific characteristics that require further and careful examination*". A five-year period would allow time for a close examination of the potential impact of including such services within the scope of the Regulation.

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We firmly believe that copyright services should be kept out of the Regulation, for several reasons:

Music

- Independent music companies rely on a network of local experts (licensees) to help break artists across borders; however, extending the Regulation proposal to copyright protected works would cut right across this practice, and would severely limit the opportunity of a more diverse repertoire. This is key as independents account for over 80% of new music releases.
- Including such services in the Regulation would curtail the freedom of services to adapt to local terms and offerings according to local market conditions, and put pressure on services to unify prices upwards.
- In turn, many consumers would be driven to piracy in a market that has fought very hard to compete against illegal services.
- Consumers who want to take advantage of the lack of geo-blocking would most likely switch to UK versions of existing music services, which would squeeze revenue going to other markets and would discourage licensees in other territories from licensing in non-national repertoires.
- In other words, we would see a hindrance to cross-border activity - the complete opposite of what the EU aims at. This would be a serious blow for cultural diversity.

Books

- The bookselling industry is an extremely low-margin activity: the average net profit after taxes of a bookseller is between 1% and 3%.
- The e-book market is nascent, uncertain, and not profitable for the time being.
- Yet, in spite of this lack of profitability, a growing number of booksellers have decided to be present on the e-book market, for strategic reasons and to keep those of their customers who have turned to e-books: between 70% and 87% of booksellers on the leading language markets (DE, FR, UK, SP) have an e-book offer.
- Medium-sized or major booksellers who invest money in cross-border e-book sales, make strategic decisions on the basis of carefully worked-out business plans.
- The market is the key: bookselling is a market-driven industry, where there is a market, there is an offer.
- Contractual freedom is essential for any business, including the bookselling industry: booksellers make their own investment decisions on the basis of potential profitability, based on facts, figures and above all market trends. Every business aims to grow and retailers across the continent are eager to build up business models to expand their activities to cross-border sales, at an appropriate time, and under the absolutely indispensable condition that this does not damage their economic sustainability.



EIBF and IMPALA are also members of Creativity Works, a coalition of like-minded organisations from the cultural and creative sectors which issued a statement commenting on the CULT opinion adopted on 24 January and urging Members of the European Parliament to **keep copyright out of the scope of the Regulation**.

We look forward to your reply and hope that the voice of thousands of music and bookselling companies across Europe will carry some weight in this debate.

Yours sincerely,

Helen Smith

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IMPALA - IMPALA represents around 4,000 independent music companies across Europe. 99% of music companies are micro, small or medium enterprises. Together they account for over 80% of all new releases, but also 80% of the sector's overall jobs and investment.

EIBF - The European & International Booksellers Federation represents the interests of the bookselling industry. Its Members are National Booksellers Associations in the European Union and beyond. Their Members, in turn, are all kinds of booksellers: brick and mortar, online retailers, independents and chains.

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