RE: Creativity Works! urges Member States to follow the EU’s geo-blocking review carefully and oppose a re-opening of the Geo-blocking Regulation

Dear Minister,

As a leading coalition of the cultural and creative sectors in Europe, we are writing to bring to your attention an on-going threat to our sectors and seek your support in the context of the review of the EU Geo-blocking Regulation. While the Regulation has been in application since December 2018 only, the European Commission’s preparatory work for a possible proposal for a review has already started.

As you may be aware, the European Commission has asked a consortium of consultants to assess the impact of a possible extension of the Regulation’s scope to non-audio-visual copyright content and/or to audiovisual services. The Commission will produce an evaluation report by 23rd March 2020. The timing of the review is exceptionally tight considering that the Regulation only became applicable in December 2018.

Today, European citizens can enjoy more creative works and services online than ever before, no matter where they live in the EU (see Annex below). Our sectors have been devising new ways to entertain audiences for years, building on the possibilities provided by new technologies for creative expression and enjoyment of cultural works and services.

Copyright-protected content and services are excluded from the scope of the Geo-Blocking Regulation. Article 1(3) entirely excludes audiovisual services from the scope of the Regulation. Article 4(1)b excludes non audio-visual copyright content, such as e-books, music and video-games from the scope of the prohibition of different conditions of access. This was done for good reasons.

The ability to adapt terms and offers to local market conditions, language preferences and cultural tastes contributes to Europe’s great diversity of content offerings in the creative sectors. Extending the scope of the Geo-Blocking Regulation to include (audiovisual and non-audiovisual) copyright protected content would severely damage the multiple and varied distribution models. It would reduce this diversity and put pressure on services to unify cultural works and language versions offered, as well as to harmonise prices upwards to the level of those Member States which enjoy the largest

purchasing power. In many cases, it will put an unjustifiable economic and legal burden on European companies. This would not be in the interests of either Europe’s consumers – or the creative sectors and would mean less cultural diversity in both content produced and services offered – and ultimately less consumer choice.

The commercial freedom to agree territorial exclusivity is the backbone of our sectors and thus a key driver of investment in the development, production, marketing and distribution of copyright content across Europe. A potential extension of the scope to include copyright content and services, whether the services have the requisite rights for the consumer’s territory or not, would put into question the future of financing, promotion and distribution of copyright works throughout the Digital Single Market.

The review of the Geo-blocking Regulation cannot be seen in isolation from the Broadcasting Directive, which was adopted in April this year and will be transposed into national law (by 7th June 2021), as well as the Portability Regulation, which applies since April 2018 and for which an initial review will be carried out by April 2021. We believe that more time is needed to assess the impact of these new EU legislative provisions before a possible re-opening of the Geo-blocking Regulation can usefully be discussed.

In addition, EU citizens are satisfied with the choice of content offered in their own country. The vast majority of internet users surveyed (83%) did not try to access any type of copyright content intended for users in another EU country in the past year, according to a recent Eurobarometer survey on cross-border access to content online published by the European Commission in May 2019. The same survey shows that less than a very low number of respondents tried to access any of the following content across EU borders: books (3%), sports (3%), games (4%), music (8%) or audiovisual (9%).

A strong majority of Member States fully agreed that copyright content services should categorically remain outside the scope of the Geo-Blocking Regulation – for valid reasons. We are hopeful that Member States will have the future of Europe’s creative and cultural sectors at heart and in mind during the discussions on the geo-blocking review and warn against the extremely damaging impact on our sectors and Europe’s cultural diversity should the Regulation’s scope be extended.

We count on your vigilance and continued support in this regard and kindly urge you to insist on a genuinely open and thorough evaluation process in which Member States are regularly updated on methodology, findings and progress.

We would be honoured if you were to accept to meet a high-level delegation of Creativity Works! at your convenience and remain available for any further information.

Sincerely Yours,

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4 http://ec.europa.eu/commission/publicopinion/index.cfm/survey/getsurveydetail/instruments/flash/surveyby/2223; see Flash Eurobarometer 477b Report Cross-border access to content online, p. 5
5 Ibid. p. 6
About Creative Works!

Europeans have access to over 55 million licensed songs, accessible across all EU borders; over 3,000 Video-on-Demand Services (VOD); and over 2 million e-book titles, as well as countless images that have made the internet the vibrant and engaging place we enjoy today. Video games deliver experiences that enrich the daily lives of more than 54% of all Europeans. More than 11 million people with a wide range of skills and talents work in the copyright-based creative industries in Europe.

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.

As a leading European coalition of the cultural and creative sectors, our diverse membership includes video games developers, broadcasters, writers and screenwriters, book publishers and retailers, cinema operators, sports organisers, picture agencies, music and films/TV producers, publishers and distributors:

Association of Commercial Televisions in Europe (ACT); Bundesliga; European Audiovisual Production (CEPI); Center of the Picture Industry (CEPIC); European Writers’ Council (EWC); Federation of European Publishers (FEP); Federation of Screenwriters in Europe (FSE); International Federation of Film Producers’ Associations (FIAPF); International Confederation of Music Publishers (ICMP); Independent Music Companies Association (IMPALA); Interactive Software Federation of Europe (ISFE); International Video Federation (IVF); MEDIAPRO Motion Picture Association (MPA); Premier League; European and International Booksellers Federation (EIBF), VAUNET – Verband Privater Medien, International Federation of Film Distributors’ Association (FIAD); La Liga; International Union of Cinemas (UNIC);

Find out more about the coalition at [www.creativityworks.eu](http://www.creativityworks.eu)

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