



2023/2019(INI)

24.10.2023

OPINION

of the Committee on Legal Affairs

for the Committee on the Internal Market and Consumer Protection

on implementation of the 2018 Geo-blocking Regulation in the digital single market
(2023/2019(INI))

Rapporteur for opinion: Karen Melchior

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SUGGESTIONS

The Committee on Legal Affairs calls on the Committee on the Internal Market and Consumer Protection, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

- having regard to the Commission report of 30 November 2020 on the first short-term review of the Geo-blocking Regulation (COM(2020)0766),
 - having regard to its resolution of 13 November 2018 on minimum standards for minorities in the EU¹,
 - having regard to the European Citizens' Initiative entitled 'Minority SafePack – one million signatures for diversity in Europe', and to the European Parliament resolution of 17 December 2020 thereon²,
 - having regard to Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC³ (the Geo-blocking Regulation),
- A. whereas the Geo-blocking Regulation does not address geo-blocking of digital media content; whereas the Regulation mandates a review to assess whether its scope should be expanded to electronic services whose main feature is the provision of access to and use of works or other subject matter protected by copyright and provided on the basis of exclusive territorial licences, including services for which the principle purpose is the provision of e-books, music or video games, access to broadcasts of sports events, and cinematographic services, whatever their mode of production, distribution, or transmission, as well as radio broadcasting⁴;
- B. whereas the audiovisual sector is of crucial importance for the EU at both economic and cultural level; whereas this sector is vital for safeguarding the EU's cultural and linguistic diversity and media pluralism;
- C. whereas the audiovisual sector is comprised of many highly innovative and creative independent production and distribution companies of diverse sizes, including micro-, small and medium-sized enterprises, that produce, distribute and showcase a wide variety of content; whereas in 2019, the EU audiovisual sector employed an estimate 490 000 people⁵;

¹ OJ C 363, 28.10.2020, p. 13.

² OJ C 445, 29.10.2021, p. 70.

³ OJ L 60I, 2.3.2018, p. 1.

⁴ The Geo-blocking Regulation does not apply to the activities referred to in Article 2(2) of Directive 2006/123/EC.

⁵ According to the May 2023 European Media Industry Outlook, employment in production represented 42 % of audiovisual employment, broadcasters accounted for 34 % (including on news services as well as infrastructure/technical work), cinemas 13 %, post-production 7 % and distribution 3 %. The 2011-2019 period

- D. whereas audiovisual services and services linked to copyright-protected content or works in an intangible form, such as music streaming services and e-books, were excluded from the scope of the Geo-blocking Regulation; whereas this exclusion is subject to a review by the Commission; whereas other services such as financial, transport, healthcare and social services were also excluded;
- E. whereas exclusive territorial licencing currently ensures the sustainable financing of films and audiovisual content and contributes to ensuring both content diversity and cultural pluralism, as well as a wide range of distribution business models;
- F. whereas the Commission's review shows that European consumers only have access to a small proportion of the total content made available online in the Union; whereas the number of consumers trying to access digital media content offered in other Member States is growing rapidly and a third of citizens have expressed interest in doing so; whereas barriers to access to digital media content cannot all be solved by the Portability Regulation⁶, due to the delineated scope of the latter;
- G. whereas, in recent years, the EU has facilitated access to audiovisual content across borders by addressing certain copyright-related obstacles to the distribution of content by enacting the Portability Regulation, which allows consumers to continue accessing their paid-for subscription service when travelling in the EU, as well as with the Online Television and Radio Programmes Directive⁷, which facilitates the cross-border accessibility of certain television programmes on broadcasters' online services, and which has not had an appropriate evaluation to date; whereas in a report on the application of the Portability Regulation issued in June 2022, the Commission's services identified and investigated compliance issues by some video-on-demand platforms; whereas no feedback on this key investigation has been provided to Parliament, leaving the sector without information on its remaining space to manoeuvre to increase cross-border access to more content online;
- H. whereas in its resolution of 17 February 2022 on tackling non-tariff and non-tax barriers in the single market⁸, Parliament recalled that, despite the Geo-blocking Regulation, certain obstacles persist, particularly in the provision of audiovisual services and content, and that these issues manifest as reduced consumer confidence in cross-border online shopping within the digital single market;
- I. whereas the Portability Regulation allows consumers who have purchased digital media content or subscribed to digital media content services in their own EU Member State to access their content and paid subscriptions when temporarily staying in another EU Member State; whereas currently, a permanent change of residence entails the re-negotiation of the provision of such services with the service provider that operates in

experienced an increase in production in the EU following the rise of streaming platforms. TV employment increased by more than 25 % over the same period.

⁶ Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market (OJ L 168, 30.6.2017, p. 1).

⁷ Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC (OJ L 130, 17.5.2019, p. 82).

⁸ OJ C 342, 6.9.2022, p. 212.

the new country of residence, despite the consumer having lawfully acquired the right of access and use in their Member State of origin, due to geo-blocking;

- J. whereas the single market comprises an area without internal borders, based, inter alia, on the free movement of persons and services; whereas, to this end, it is necessary to ensure that citizens who have purchased digital media content in their Member State of residence can also access and use that content when they are temporarily present in another Member State, for example when on holiday, when traveling for private or professional reasons or when studying abroad;
- K. whereas citizens living in border regions or belonging to linguistic minorities are often prevented from accessing the vast majority of content in their native languages, due to geo-blocking; whereas efforts to improve the situation by public broadcasters and through the Online Television and Radio Programmes Directive only permit limited access to current affairs programmes, meaning access to and enjoyment of the vast majority of cultural content by linguistic minorities and citizens living in border regions remains heavily limited;
- L. whereas in its resolution of 13 November 2018 on minimum standards for minorities in the EU, Parliament called on the Commission and the Member States to take into account national and ethnic minorities when licensing media services and encouraged the Commission to create the necessary legal and regulatory conditions to ensure the freedom to provide access to, transmit and receive audiovisual content in regions where minorities live; whereas the ‘Minority SafePack’ European Citizens’ Initiative proposed an amendment ensuring freedom of service and freedom of reception of audiovisual content in those regions where minorities live and called for these issues to be addressed through the development of a unitary European copyright regime that will lead to the abolition of licencing barriers within the Union; whereas in its resolution of 17 December 2020, Parliament expressed its support for the ‘Minority SafePack’ European Citizens’ Initiative and welcomed the Commission’s plan to engage in a dialogue with stakeholders on audiovisual content as part of its media and audiovisual action plan, on the basis of the Commission’s detailed stock-taking on the Geo-blocking Regulation, and stressed the need to ensure that minority language concerns are taken into consideration in future regulations;
- M. whereas Directive 2006/123/EC excludes from its scope ‘audiovisual services, including cinematographic services, whatever their mode of production, distribution and transmission’⁹, in compliance with Article 167 of the Treaty on the Functioning of the European Union;
- N. whereas the Commission organised a stakeholder dialogue with minority and consumer protection groups and with the audiovisual sector to discuss concrete ways to foster the circulation of and improve consumers’ access to audiovisual content across the EU; whereas this dialogue showed how diverse the sector is, but no agreement was reached; whereas during the dialogue, all trade organisations from the audiovisual sector underlined the importance of territorial licencing;

⁹ Article 2(2)(g) of Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

- O. whereas piracy of audiovisual content, including live content, harms the audiovisual sector, including the cultural, creative and sport sectors; whereas Parliament has consistently called for a specific legislative proposal building on the Digital Services Act¹⁰ and other EU legislation to address piracy; whereas the Commission has issued a recommendation to counter online piracy; whereas, however, recommendations have a non-binding nature and, therefore, produce meagre results;
- P. whereas persistent barriers to accessing digital media content, such as price, fragmentation, geo-blocking and the unavailability of dubbing or subtitles can lead people to make use of illegal distribution methods to access content; whereas improving legal access to digital content would enhance citizen trust in digital services and ensure greater legal certainty for users and rights holders alike;
- Q. whereas the audiovisual sector's lack of action to address the long-standing issues for linguistic minorities underlines the need for a strong tailored response;
- R. whereas Article 3 of Regulation (EU) 2021/818 establishing the Creative Europe Programme (2021 to 2027)¹¹ states that one of the programme's objectives is to 'safeguard, develop and promote European cultural and linguistic diversity and heritage'; whereas the MEDIA strand of the programme seeks to improve access to dubbing and subtitling in order to increase the distribution of European cultural programmes throughout the Union;
- S. whereas while television remains Europeans' preferred service for films and series, its role is shrinking, in particular among younger consumers, in favour of on-demand content; whereas the shrinking role of television and radio should prompt the EU to consider how it can support the creative industries faced with these changes, including potential changes to their business models, in order to ensure both the economic viability of the audiovisual sector and consumers' access to content, as well as in view of enhancing citizen trust in digital services and ensuring legal certainty; whereas the legal solutions to facilitate pan-European licensing of copyrighted content offered by the Online Television and Radio Programmes Directive are restricted to broadcasting and therefore cannot address the entire scope of content licensing and access issues in the digital environment;
- T. whereas the Commission's 2020 short-term review of the 2018 Geo-blocking Regulation highlights that expanding the Geo-blocking Regulation could trigger growth in pan-EU exclusive licencing and thus reduce unjustified geo-blocking, notably to sports events online; whereas however, the Commission review states that changes to the scope of the Regulation would need further assessment, so the review maintains the excluded status of audiovisual services;
- U. whereas geo-blocking in the book sector does not constitute a concern for the vast

¹⁰ Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (OJ L 277, 27.10.2022, p. 1).

¹¹ Regulation (EU) 2021/818 of the European Parliament and of the Council of 20 May 2021 establishing the Creative Europe Programme (2021 to 2027) and repealing Regulation (EU) No 1295/2013 (OJ L 189, 28.5.2021, p. 34).

majority of consumers;

1. Stresses the crucial importance of all copyright-protected online content services for the EU, at both economic and cultural level, and considers that these services contribute to safeguarding the EU's cultural and linguistic diversity and media pluralism;
2. Recognises that territorial licencing will likely remain the primary model for content distribution and licencing in the short and medium term, but underlines that exceptions to this model can be justified in certain cases to improve cross-border access to and availability of audiovisual content in the EU for linguistic minorities, highlights that this entails audiovisual content licences being geographically expanded to include the nationally defined territory of the recognised linguistic minority of the neighbouring country where the same language is spoken, without calling into question the territoriality principle in general;
3. Calls on the Commission, in line with the Better Regulation guidelines, to rapidly create the legal and regulatory conditions to guarantee the freedom to provide digital media content services and to ensure the dissemination and reception of digital media content from regions where minorities live, so that they can watch and listen to content in their mother tongue without geo-blocking of this content if it is broadcast or provided from another country;
4. Highlights the benefits of the Portability Regulation, in particular for citizens residing temporarily in another Member State; calls for further assessment of the concrete implementation and effectiveness of the Portability Regulation in the light of the fast evolving consumption habits and market trends in the sector;
5. Recognises that barriers to access still exist for EU citizens who decide to take advantage of freedom of movement and permanently move to another Member State; calls on the Commission to investigate ways of granting citizens access to the public media platforms of the Member State whose citizenship they hold, regardless of where they reside, starting with further dialogue with relevant stakeholders and all interested parties, including representatives of consumers, citizens and young people;
6. Calls on the Commission to initiate research on the discoverability of European works online in order to reflect on the role and transparency of recommender algorithms in the cultural sector and to propose courses of action, notably in terms of standardisation, metadata provision, interoperability and tools to facilitate public access;
7. Calls on the Commission to guarantee citizens' long-term access to the digital media content they themselves have purchased, regardless of where that content was purchased; recalls that, currently, the system of exclusive territorial licencing ensures the sustainable financing of films and audiovisual content, and is crucial to ensuring both content diversity and a wide range of distribution business models;
8. Recalls the importance of supporting policies to encourage European co-productions, reflecting the richness and diversity of European culture, and recalls the importance of strengthening the international distribution of works;
9. Calls on the Commission to work closely with telecoms operators to ensure an

appropriate and accessible digital infrastructure enabling citizens to access public media platforms with the appropriate quality and speed; considers the importance of respecting the principles of privacy and data security in all measures relating to ensuring access to, and the right to use, public media platforms to be an essential factor, and urges the Commission to ensure that those principles are respected;

10. Calls on the Commission to propose legislation obliging commercial providers of digital media content operating in multiple Member States to allow Union citizens to purchase access to the catalogue of the Member State of their choice;
11. Calls on the Commission to propose legislation that ensures that the content in which digital media service providers invest is fully protected; calls on the Commission to ensure that the implementation of the Recommendation on combating online piracy of sports events and other live content is thoroughly and adequately assessed; urges the Commission to pursue legislation addressing online piracy of live content should the effects of the Recommendation be inadequate to protect the affected sectors;
12. Calls on the Commission, in the meantime, to implement measures obliging commercial providers of digital media content operating in multiple Member States to provide data to the Audiovisual European Observatory and the rights holders on the work they have online and on their audience to better identify the availability of works by legal means;
13. Calls on the Commission, under the MEDIA strand of the Creative Europe programme, to finance more projects for dubbing and subtitling audiovisual works, and to investigate making a variety of European productions available throughout the Union;
14. Recalls that the Geo-blocking Regulation allows consumers access to online content services in other Member States if the service provider holds the rights for their territories;
15. Calls on the Commission to improve the monitoring of the Member States' implementation of the Geo-blocking Regulation;
16. Recognises the importance of the music and audiovisual sectors for the Union's economy, and highlights the involvement of an extensive number of micro-, small and medium-sized enterprises in audiovisual and music production; stresses that, when considering future legislation concerning these sectors, the Commission should ensure that all proposals safeguard their economic viability, foster cultural diversity in content production and promote investment in new content;
17. Considers that, when preparing legislation concerning the distribution of audiovisual content, music and e-books, the Commission should carefully consider the impact on availability and price of content.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	24.10.2023
Result of final vote	+: 11 -: 10 0: 3
Members present for the final vote	Pascal Arimont, Geoffroy Didier, Ibán García Del Blanco, Pierre Karleskind, Gilles Lebreton, Maria-Manuel Leitão-Marques, Sabrina Pignedoli, Jiří Pospíšil, Franco Roberti, Raffaele Stancanelli, Adrián Vázquez Lázara, Axel Voss, Marion Walsmann
Substitutes present for the final vote	Alessandra Basso, Caterina Chinnici, Heidi Hautala, Antonius Manders, Catharina Rinzema, Kosma Złotowski
Substitutes under Rule 209(7) present for the final vote	Clara Aguilera, Andrus Ansip, Estrella Durá Ferrandis, Katrin Langensiepen, Anne-Sophie Pelletier

VOTE FINAL PAR APPEL NOMINAL EN COMMISSION SAISIE POUR AVIS

11	+
ECR	Raffaele Stancanelli, Kosma Złotowski
NI	Sabrina Pignedoli
PPE	Pascal Arimont, Caterina Chinnici, Antonius Manders, Jiří Pospíšil, Axel Voss, Marion Walsmann
Renew	Andrus Ansip, Catharina Rinzema

10	-
ID	Gilles Lebreton
PPE	Geoffroy Didier
S&D	Clara Aguilera, Estrella Durá Ferrandis, Ibán García Del Blanco, Maria-Manuel Leitão-Marques, Franco Roberti
The Left	Anne-Sophie Pelletier
Verts/ALE	Heidi Hautala, Katrin Langensiepen

3	0
ID	Alessandra Basso
Renew	Pierre Karleskind, Adrián Vázquez Lázara

Légende des signes utilisés:

+ : pour

- : contre

0 : abstention