



Society of Audiovisual Authors  
Société des Auteurs Audiovisuels

## Public consultation on the future of VAT

### SAA Contribution May 2011

The Society of Audiovisual Authors (SAA) is the association of European collective management societies representing audiovisual authors' rights. Through its 25 members in 18 countries, SAA represents over 120,000 film and television European screenwriters and directors.

SAA's main objectives are:

- To defend and strengthen the economic and moral rights of audiovisual authors (screenwriters and directors);
- To secure fair remuneration for audiovisual authors for every use of their works;
- To develop, promote and facilitate the management of rights by member societies.

SAA welcomes the public consultation on the future of VAT, based on the Green Paper on the same subject published on the 1<sup>st</sup> December 2010. This response focuses on the questions surrounding VAT rates (questions 19 and 20) while touching on subjects such as international services and the place of taxation, which also have an impact on the supply of cultural services both inside Europe's borders and beyond.

#### Questions from the Green Paper:

*Q19. Do you think that the current rates structure creates major obstacles for the smooth functioning of the single market (distortion of competition), unequal treatment of comparable products, notably online services by comparison with products or services providing similar content or leads to major compliance costs for businesses? If yes, in what situations?*

*Q20. Would you prefer to have no reduced rates (or a very short list), which might enable Member States to apply a lower standard VAT rate? Or would you support a compulsory and uniformly applied reduced VAT rates list in the EU notably in order to address specific policy objectives as laid out in particular in 'Europe 2020'?*

As the accompanying European Commission working document identifies:

*"Currently Member States may apply a reduced VAT rate to certain cultural products or services but have to apply the standard VAT rate to competing online services, such as books/e-books or film downloads/cinema tickets, even if they are based on the same cultural content and have the same social purposes. The 'Digital Agenda for Europe' stipulates that the challenges of convergence between the online and the physical environment should be addressed in all reviews of public*

*policy, including tax matters, to stimulate the widespread development and utilisation of the Internet and related goods and services”*

There is clearly unequal treatment of similar products between the online and offline worlds - something that the Digital Agenda aims to eliminate. To expand on the cinema example quoted above, the same film can be charged one VAT rate for its broadcast on TV or in a cinema, but be charged another rate for DVD sales, Video on Demand (VOD) usage and catch-up TV. This is obviously a hangover effect of dated VAT legislation that needs adapting to the modern commercial climate.

It is essential to allow Member States to apply a reduced VAT rate for all cultural goods and services, independently of their delivery mode and in particular in the online environment.

The current situation has resulted in significant disparities in the application of VAT rates on these goods and services. There are now Member States, such as Luxemburg, who apply reduced (or even significantly reduced) rates to such goods and services, while others respect the letter of the law (or Directive in this case) and apply a normal rate. This has created a distortion of the internal market for cultural goods and services online, something which will continue until 2015 (when the place of taxation changes to be that of the recipient of the service). This gives non-European companies who have established themselves in Luxemburg for this express reason (such as iTunes) an unfair advantage over competitors in other Member States and surely harms the development of Europe’s digital economy.

A similar situation could become apparent with the development of services based outside of the European Union where VAT rates for online services are particularly low (such as the United States). Europe’s Member States must be able to compete on a level playing field in these areas and a European initiative to guarantee reduced rates on cultural goods and services would seem the simplest and most efficient way of achieving this without precluding international coordination to establish the charging of VAT where a service is consumed as a long term goal.

It is essential that there is no move to impose a standard VAT rate on cultural goods and services. A reduced rate for VAT on these goods and services forms the foundation of a European knowledge economy based on innovation and creativity. The “smart growth” desired as part of the EU2020 Strategy will be unattainable without such measures.

An appropriate cultural tax system adapted to the modern reality of cultural access and consumption should:

- **Facilitate and encourage European citizens’ access to culture and education**

As stated by the accompanying working document to the VAT Green Paper:

*Some cultural goods and services benefit from a reduced VAT rate at the discretion of Member States. These are goods and services which from a political and social point of view have special characteristics, notably the support of cultural diversity. It is in Europe’s interest - and in line with Europe 2020 - to promote cultural content and access to cultural content which will raise the average education level. Tax instruments have a clear impact on these policies’ objectives.*

- **Facilitate and encourage the development of the cultural and creative industries**

The European Commission Green Paper<sup>1</sup> and European Parliament report<sup>2</sup> on “Unlocking the Potential of the Cultural and Creative Industries” both underline the significant contribution of the sectors that make up Europe’s cultural and creative industries (CCIs)- 5 million jobs and 2.6% of GDP in 2003. The TERA consultants report<sup>3</sup> published in March 2010 estimated 14 million jobs and 6.9% of European GDP in 2008. With the exploding demand for creative content that is, in part, driving technological development and innovation (one of the many spill-over effects coming from CCIs), it is clear that the CCIs must form a key part of a Europe’s sustainably grown future.

- **Promote Europe’s cultural diversity**

Europe’s cultural diversity as seen from within Europe’s different Member States as well as from the rest of the world is no better demonstrated than by the broad range of cultural expression that Europe produces. Supporting the actors involved in this creative and cultural development through adapted tax systems should be a priority.

To conclude, and in short, a reduced and harmonised VAT rate for all cultural goods and services should be seen as a keystone in the Commission’s efforts to achieve its 2020 Strategy.

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<sup>1</sup> European Commission Green Paper - “Unlocking the Potential of the Cultural and Creative Industries” published 27 April 2010. Full text at [http://ec.europa.eu/culture/our-policy-development/doc/GreenPaper\\_creative\\_industries\\_en.pdf](http://ec.europa.eu/culture/our-policy-development/doc/GreenPaper_creative_industries_en.pdf)

<sup>2</sup> European Parliament report - “Unlocking the Potential of the Cultural and Creative Industries” adopted 12 May 2011. Full text at <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P7-TA-2011-0240+0+DOC+XML+V0//EN>

<sup>3</sup> TERA Consultants study on “The Impacts of Digital Piracy on the EU’s Creative Industries” published in March 2010. Full text at [http://www.tera.fr/assets/publications/PDF/2010-Mars-Etude\\_Piratage\\_TERA\\_full\\_report-En.pdf](http://www.tera.fr/assets/publications/PDF/2010-Mars-Etude_Piratage_TERA_full_report-En.pdf)