



Antitrust: Commission fines Valve and five publishers of PC video games € 7.8 million for “geo-blocking” practices

Brussels, 20 January 2021

The European Commission has fined Valve, owner of the online PC gaming platform “Steam”, and the five publishers Bandai Namco, Capcom, Focus Home, Koch Media and ZeniMax € 7.8 million for breaching EU antitrust rules.

Valve and the publishers restricted cross-border sales of certain PC video games on the basis of the geographical location of users within the European Economic Area (‘EEA’), entering into, the so called “geo-blocking” practices. The fines for the publishers, totalling over €6 million, were reduced due to the companies' cooperation with the Commission. Valve chose not to cooperate with the Commission and was fined over €1.6 million.

Executive Vice-President Margrethe **Vestager**, in charge of competition policy, said: *“More than 50% of all Europeans play video games. The videogame industry in Europe is thriving and it is now worth over € 17 billion. Today's sanctions against the “geo-blocking” practices of Valve and five PC video game publishers serve as a reminder that under EU competition law, companies are prohibited from contractually restricting cross-border sales. Such practices deprive European consumers of the benefits of the EU Digital Single Market and of the opportunity to shop around for the most suitable offer in the EU”.*

Steam is one of the world's largest online PC video gaming platforms offering more than 35 000 games worldwide. It allows users, upon authentication, to directly download or stream PC video games. It also allows users who buy PC video games outside Steam, such as in brick-and-mortar shops (e.g. on DVDs) or digitally through downloads from third-party websites, to activate and play video games on Steam.

Valve provides to video game publishers the technical means to activate and play games on Steam, including those games bought outside Steam, through the so-called, “Steam activation keys”. Publishers include those keys in their PC video games for user authentication/activation. The PC video games are then sold by third party distributors across the EEA. Valve also offers to the publishers a territory control function, which enables the setting up of geographical restrictions upon activation. The combination of Steam activation keys with the territory control function enables the “geo-blocking” of PC video games based on the geographical location of the user.

The **video game publishers** granted Valve a non-exclusive licence to exploit specified PC video games on a worldwide basis, including the entirety of the EEA. In turn, the publishers obtained from Valve a licence for the use of Steam activation keys for distribution of those PC video games outside Steam. The publishers requested Valve to set up geographical restrictions and to provide geo-blocked Steam activation keys. The publishers provided those keys to their distributors for sale and distribution of the PC video games in the Member States concerned. As a result, users located outside a designated Member State were prevented from activating a given PC video game with Steam activation keys.

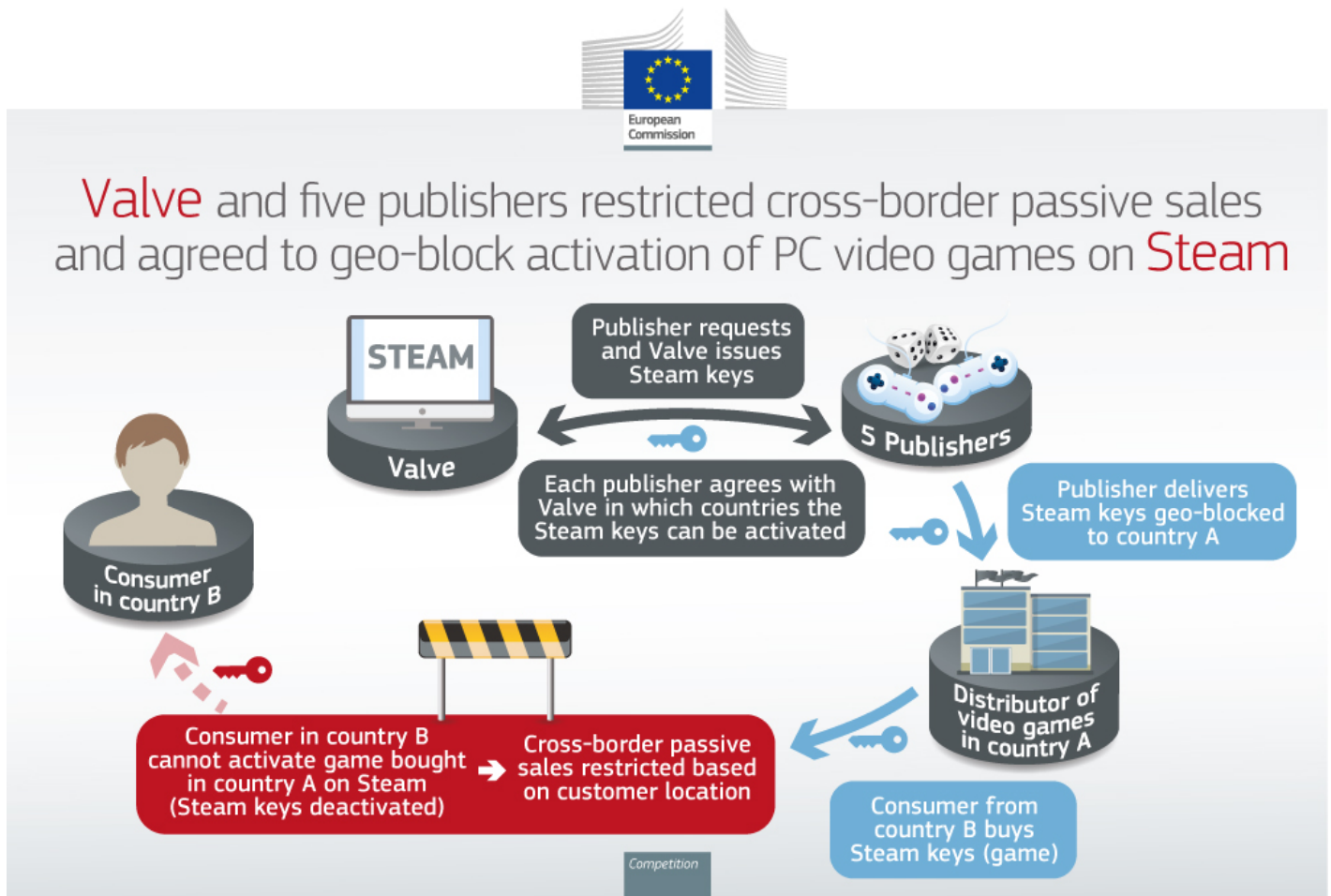
The Commission found that by bilaterally agreeing to geo-block certain PC video games from outside a specific territory, Valve and each publisher partitioned the EEA market in violation of EU antitrust rules. In particular, today's Decisions conclude that Valve and the publishers engaged in the following geo-blocking practices:

- Bilateral agreements and/or concerted practices between Valve and each of the five PC video game publisher implemented by means of geo-blocked Steam activation keys which prevented the activation of certain of these publishers' PC video games outside Czechia, Poland, Hungary, Romania, Slovakia, Estonia, Latvia and Lithuania, in response to unsolicited consumer requests (so-called “passive sales”). These lasted between one and five years and were implemented, depending on the cases, between September 2010 and October 2015.
- Geo-blocking practices in the form of licensing and distribution agreements concluded bilaterally between four out of the five PC video game publishers (i.e. Bandai, Focus Home,

Koch Media and ZeniMax) and some of their respective PC video games distributors in the EEA (other than Valve), containing clauses which restricted cross-border (passive) sales of the affected PC video games within the EEA, including the above-mentioned Central and Eastern European countries. These lasted generally longer, i.e. between three and 11 years and were implemented, depending on each bilateral relationship, between March 2007 and November 2018.

The geo-blocking practices concerned around 100 PC video games of different genres, including sports, simulation and action games. They prevented consumers from activating and playing PC video games sold by the publishers' distributors either on physical media, such as DVDs, or through downloads. These business practices therefore denied European consumers the benefits of the EU's Digital Single Market to shop around between Member States to find the most suitable offer.

The Commission has concluded that the illegal practices of Valve and the five publishers partitioned the EEA market in violation of EU antitrust rules.



Fines

The fines were set on the basis of the [Commission's 2006 Guidelines on fines](#) (see [press release](#) and [MEMO](#)).

The five publishers cooperated with the Commission by providing evidence of added value to the investigation, and by expressly acknowledging the facts and the infringements of EU antitrust rules.

The Commission therefore granted reductions to the fines depending on the extent of this cooperation ranging from 10% (for Bandai, Focus Home, Koch Media and ZeniMax) and 15% (for Capcom).

The breakdown of the fines imposed on the publishers is as follows:

Videogame publisher	Reduction for cooperation	Fine (€)
Bandai Namco	10 %	340 000 EUR

Capcom	15 %	396 000 EUR
Focus Home	10 %	2 888 000 EUR
Koch Media	10 %	977 000 EUR
ZeniMax	10 %	1 664 000 EUR

Valve chose not to cooperate with the Commission. The Commission has therefore adopted a prohibition Decision against Valve under the ordinary antitrust procedure and has imposed a total fine of € 1 624 000 on Valve.

Background to the investigation

The Commission opened formal antitrust proceedings into the bilateral agreements concluded between Valve Corporation and the five PC video game publishers on [2 February 2017](#).

On [5 April 2019](#) the Commission sent Statement of Objections to Valve and the five videogame publishers on "geo-blocking" of PC video games.

This investigation is a stand-alone procedure, independent of but following up on some of the issues identified in the Commission's [competition sector inquiry](#) on e-commerce.

The investigations into geo-blocking of PC video games complement [Regulation 2018/302 on unjustified geo-blocking](#), which is applicable throughout the EU since 3 December 2018.

Procedural Background

[Article 101](#) of the Treaty on the Functioning of the European Union (TFEU) and Article 53 of the Agreement on the European Economic Area prohibit agreements between companies that prevent, restrict or distort competition within the EU's Single Market.

Fines imposed on companies found in breach of EU antitrust rules are paid into the general EU budget. This money is not earmarked for particular expenses, but Member States' contributions to the EU budget for the following year are reduced accordingly. The fines therefore help to finance the EU and reduce the burden for taxpayers.

More information on this case will be available under the case numbers AT.40413; 40414; 40420; 40422; 40424 in the [public case register](#) on the Commission's [competition](#) website, once confidentiality issues have been dealt with.

Action for damages

Any person or company affected by anti-competitive behaviour as described in this case may bring the matter before the courts of the Member States and seek damages. The case law of the Court and Council Regulation 1/2003 both confirm that in cases before national courts, a Commission decision constitutes binding proof that the behaviour took place and was illegal. Even though the Commission has fined the cartel participants concerned, damages may be awarded without being reduced on account of the Commission fine.

The [Antitrust Damages Directive](#), which Member States had to transpose into their legal systems by 27 December 2016, makes it [easier for victims of anti-competitive practices to obtain damages](#). More information on antitrust damages actions, including a practical guide on how to quantify antitrust harm, is available [here](#).

Whistleblower tool

The Commission has set up by a tool to make it easier for individuals to alert it about anti-competitive behaviour while maintaining their anonymity. The tool protects whistleblowers' anonymity through a specifically-designed encrypted messaging system that allows two way communications. The tool is accessible via this [link](#).

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