













# Procedure file

| Basic information  |   |
|--|---|
| <p>COD - Ordinary legislative procedure (ex-codecision procedure) Regulation <a href="#">2016/0152(COD)</a></p> <p>Geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market</p> <p>Amending Directive 2009/22/EC <a href="#">2003/0099(COD)</a><br/>           Amending Regulation (EC) No 2006/2004 <a href="#">2003/0162(COD)</a><br/>           Amending Regulation (EU) 2017/2394 <a href="#">2016/0148(COD)</a></p> <p>Subject</p> <p>2 Internal market, single market<br/>           3.30.25 International information networks and society, internet<br/>           3.45.05 Business policy, e-commerce, after-sales service, commercial distribution<br/>           3.50.15 Intellectual property, copyright<br/>           4.60.06 Consumers' economic and legal interests</p> <p>Legislative priorities<br/> <a href="#">Joint Declaration 2017</a></p> | <p>Procedure completed</p> <p>17/05/2018 Decision to enter into interinstitutional negotiations confirmed by plenary (Rule 69c)</p> |

| Key players         |   |  |            |
|---------------------|---|--|------------|
| European Parliament | Committee responsible   | Rapporteur   | Appointed  |
|                     | <p> <a href="#">Internal Market and Consumer Protection</a><br/>(Associated committee)</p> | <p> <a href="#">THUN UND HOHENSTEIN Róza Gräfin von</a></p> <p>Shadow rapporteur</p> <p> <a href="#">ROZIÈRE Virginie</a></p> <p> <a href="#">VAN BOSSUYT Anneleen</a></p> <p> <a href="#">CHARANZOVÁ Dita</a></p> <p> <a href="#">DE JONG Dennis</a></p> <p> <a href="#">REDA Julia</a></p> <p> <a href="#">ZULLO Marco</a></p> <p> <a href="#">PRETZELL Marcus</a></p> | 17/06/2016 |
|                     | Committee for opinion   | Rapporteur for opinion   | Appointed  |
|                     | <p> <a href="#">Industry, Research and Energy</a></p>                                      | <p> <a href="#">KAILI Eva</a></p>  | 06/07/2016 |
|                     | <p> <a href="#">Culture and Education</a></p>  |  | 07/07/2016 |



COMODINI CACHIA

Therese

JURI [Legal Affairs](#)  
(Associated committee)

12/09/2016



GERINGER DE

OEDENBERG Lidia Joanna

Council of the European Union

Council configuration

Meeting

Date

[General Affairs](#)

3599

27/02/2018

[Competitiveness \(Internal Market, Industry, Research and Space\)](#)

3580

30/11/2017

[Competitiveness \(Internal Market, Industry, Research and Space\)](#)

3503

28/11/2016

European Commission

Commission DG



Commissioner

[Communications Networks, Content and Technology](#)

JOUROVÁ Věra

European Economic and Social Committee

## Key events

|            |   |   |         |
|------------|---|---|---------|
| 25/05/2016 | Legislative proposal published  | <a href="#">COM(2016)0289</a>   | Summary |
| 09/06/2016 | Committee referral announced in Parliament, 1st reading/single reading                      |   |         |
| 19/01/2017 | Referral to associated committees announced in Parliament                                   |   |         |
| 25/04/2017 | Vote in committee, 1st reading/single reading   |   |         |
| 25/04/2017 | Committee decision to open interinstitutional negotiations with report adopted in committee |   |         |
| 27/04/2017 | Committee report tabled for plenary, 1st reading/single reading                             | <a href="#">A8-0172/2017</a>  | Summary |
| 04/12/2017 | Approval in committee of the text agreed at 1st reading interinstitutional negotiations     |   |         |
| 05/02/2018 | Debate in Parliament  |  |         |
| 06/02/2018 | Results of vote in Parliament   |  |         |
| 06/02/2018 | Decision by Parliament, 1st reading/single reading  | <a href="#">T8-0023/2018</a>  | Summary |
| 27/02/2018 | Act adopted by Council after Parliament's 1st reading                                       |   |         |
| 28/02/2018 | Final act signed  |   |         |
| 28/02/2018 | End of procedure in Parliament  |   |         |
| 02/03/2018 | Final act published in Official Journal   |   |         |

## Technical information

|                     |  |
|---------------------|--|
| Procedure reference | 2016/0152(COD)   |
| Procedure type      | COD - Ordinary legislative procedure (ex-codecision procedure) |

|  |   |
|--|---|
| Procedure subtype                            | Legislation   |
| Legislative instrument                       | Regulation  |
|  | Amending Directive 2009/22/EC <a href="#">2003/0099(COD)</a><br>Amending Regulation (EC) No 2006/2004 <a href="#">2003/0162(COD)</a><br>Amending Regulation (EU) 2017/2394 <a href="#">2016/0148(COD)</a> |
| Legal basis                                  | Treaty on the Functioning of the EU TFEU 114  |
| Modified legal basis                         | Rules of Procedure EP 150   |
| Mandatory consultation of other institutions | <a href="#">European Economic and Social Committee</a>  |
| Stage reached in procedure                   | Procedure completed   |
| Committee dossier                            | IMCO/8/06772  |

## Documentation gateway

|   |              |                               |            |    |         |
|---|--------------|-------------------------------|------------|----|---------|
| Legislative proposal  |              | <a href="#">COM(2016)0289</a> | 25/05/2016 | EC | Summary |
| Document attached to the procedure                              |              | <a href="#">SWD(2016)0173</a> | 26/05/2016 | EC |         |
| Document attached to the procedure                              |              | <a href="#">SWD(2016)0174</a> | 26/05/2016 | EC |         |
| Reasoned opinion  | AT_BUNDESRAT | <a href="#">PE587.479</a>     | 25/08/2016 | NP |         |
| Committee draft report  |              | <a href="#">PE595.745</a>     | 19/12/2016 | EP |         |
| Committee opinion   | <b>CULT</b>  | <a href="#">PE592.366</a>     | 27/01/2017 | EP |         |
| Committee opinion   | <b>ITRE</b>  | <a href="#">PE592.238</a>     | 10/02/2017 | EP |         |
| Amendments tabled in committee                                  |              | <a href="#">PE599.724</a>     | 16/02/2017 | EP |         |
| Amendments tabled in committee                                  |              | <a href="#">PE599.759</a>     | 16/02/2017 | EP |         |
| Committee opinion   | <b>JURI</b>  | <a href="#">PE597.525</a>     | 04/04/2017 | EP |         |
| Committee report tabled for plenary, 1st reading/single reading |              | <a href="#">A8-0172/2017</a>  | 27/04/2017 | EP | Summary |
| Text adopted by Parliament, 1st reading/single reading          |              | <a href="#">T8-0023/2018</a>  | 06/02/2018 | EP | Summary |
| Commission response to text adopted in plenary                  |              | <a href="#">SP(2018)178</a>   | 24/04/2018 |    |         |

## Additional information

### Final act

[Regulation 2018/302](#)  
[OJ L 060 02.03.2018, p. 0001](#) Summary

[Corrigendum to final act 32018R0302R\(01\)](#)  
[OJ L 066 08.03.2018, p. 0001](#)

**PURPOSE:** to contribute to the proper functioning of the internal market by preventing discrimination based, directly or indirectly, on the nationality, place of residence or place of establishment of customers (including geo-blocking).

**PROPOSED ACT:** Regulation of the European Parliament and of the Council.

**ROLE OF THE EUROPEAN PARLIAMENT:** the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

**BACKGROUND:** despite the implementation of the non-discrimination principle in [Directive 2006/123/EC](#) ("Services Directive"), customers still face refusals to sell and different conditions, when buying goods or services across borders.

Such abolition can be undermined by private parties putting in place obstacles inconsistent with internal market freedoms. That occurs where traders operating in one Member State block or limit the access to their online interfaces, such as websites and apps, of customers from other Member States wishing to engage in cross-border commercial transactions (a practice known as geo-blocking).

It also occurs through other actions by certain traders involving the application of different general conditions of access to their goods and services with respect to such customers from other Member States, both online and offline.

Such discriminatory practices are an important factor contributing to the relatively low level of cross-border commercial transactions within the Union, including in the sector of electronic commerce, which prevents the full growth potential of the internal market from being realised. This is mainly due to uncertainty over what constitutes objective criteria that justify differences in the way traders treat customers. In order to remedy this problem, the Commission considers that traders and customers should have more clarity about the situations in which differences in treatment based on residence are not justifiable.

The [Digital Single Market Strategy](#) adopted in May 2015 and the [Single Market Strategy](#) adopted in October 2015 announced legislative action to address unjustified geo-blocking and comprehensively fight discrimination based on nationality or place of residence or establishment.

**IMPACT ASSESSMENT:** five scenarios were envisaged. The preferred option consisted of combining increased transparency with a ban on blocking website access to website, combined with the consent-based solution banning of automatic rerouting with the definition of certain specific situations in which geo-discrimination cannot be justified (for goods, if there is no cross-border delivery by the trader; for electronically supplied services; and for services received outside the customer's Member State).

**CONTENT:** the general objective of this proposal is to give customers better access to goods and services in the Single Market by preventing direct and indirect discrimination by traders artificially segmenting the market based on customers' residence.

**Scope:** the material scope of the proposal is aligned with that of the Services Directive to the extent possible in order to ensure consistency and maximum legal certainty for traders and customers. This means that, inter alia, non-economic services of general interest, transport services, audiovisual services, gambling activities, healthcare services and certain social services are excluded from the scope of this Regulation.

The territorial scope is designed to equally include traders established in the EU and those established in third countries but selling or seeking to sell goods and services to customers in the Union.

**Access to online interfaces:** the proposal establishes the obligations on traders not to prevent access to their online interfaces on the basis of customers' residence. It also requires the customer's consent for rerouting and requires traders to keep the version of the online interfaces that the customer sought to access before having been rerouted easily accessible.

The trader is exempted from these obligations where the access restrictions or rerouting are required by law. In these exceptional cases the trader has to provide a clear justification.

**Access to goods or services:** the proposal sets out three specific situations under which discrimination of customers based on residence is prohibited:

- the first situation concerns the selling of physical goods when the trader is not involved in the delivery of the product to the Member State of the customer;
- the second situation concerns the provision of electronically supplied services, other than services the main feature of which is the provision of access to and use of copyright protected works or other protected subject matter;
- the third situation applies to services, which are provided by the trader in a Member State different from that of the customer's Member State of residence.

**Non-discrimination rules specifically in the context of payments:** this rule provides that, in certain cases, traders cannot reject or otherwise discriminate with regards to payment instruments (such as credit or debit cards).

**Agreements with traders containing passive sales restrictions:** the proposal provides that agreements with traders containing passive sales restrictions which would lead to violations of the rules set out in this Regulation are automatically void. It is designed to avoid circumvention of those rules by contractual means.

**Enforcement by Member State authorities:** each Member State shall designate a body or bodies responsible for the enforcement of this Regulation. Member States shall ensure that adequate and effective means exist with the body or bodies designated in order to enforce compliance with this Regulation.

**Assistance to consumers:** each Member State shall confer responsibility for providing practical assistance to consumers to a body or bodies in case of a dispute between a consumer and a trader arising from the application of this Regulation. Member States shall designate one or more bodies providing practical assistance to consumers in relation to disputes resulting from this Regulation.

**Review clause:** the proposal is concerned with periodic reviews of the application of the Regulation by the Commission. Here it is specified that the first evaluation (two years after the entry into force of this Regulation) should assess, in particular, whether the prohibition of discrimination should be extended to electronically supplied services, the main feature of which is the provision of access to and use of copyright protected works or other protected subject matter, provided that the trader has the requisite rights for the relevant territories.

Lastly, the proposal provides for two amendments of existing instruments relating specifically to the protection of consumers, namely [Regulation \(EC\) No 2006/2004](#) and Directive 2009/22/EC. This would mean that this Regulation is added in the Annexes of those legal acts so

that it can also be enforced by way of the measures provided in the Consumer Protection Cooperation Regulation as well as the Injunctions Directive.

## 2016/0152(COD) - 27/04/2017 Committee report tabled for plenary, 1st reading/single reading

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The Committee on the Internal Market and Consumer Protection adopted the report by Róża Gräfin von THUN UND HOHENSTEIN (EPP, PL) on the proposal for a regulation of the European Parliament and of the Council on addressing geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC.

The Committee on Legal Affairs, exercising its prerogative as an associated committee in accordance with [Article 54 of the Rules of Procedure](#), also gave its opinion on the report.

The committee recommended that the European Parliaments position adopted at first reading, following the ordinary legislative procedure, should amend the Commission proposal as follows:

**Purpose and scope of the Regulation:** Members proposed limiting the scope of the regulation to consumers only, with one important exception, namely in case of dual purpose contracts with a limited trade focus.

It aims to prevent discrimination based on a consumers nationality, place of residence or temporary location, including geoblocking, in cross-border commercial transactions between a trader and a consumer relating to sales of goods and the provision of services within the Union

The non-discrimination prohibition shall cover not only nationality and place of residence but also temporary location. Purely internal situations without a cross-border component shall be excluded.

The Regulation shall not apply to activities covered by the Services Directive (Directive 2006/123/EC).

Audio-visual services, including services the main feature of which is the provision of access to broadcasts of sports events which are provided on the basis of exclusive territorial licenses, should be excluded from the scope of this Regulation. Access to retail financial services, including payment services, should also be excluded.

In particular, the first in-depth evaluation shall assess whether the scope of this Regulation should be extended to cover additional sectors such as the audio-visual, financial, transport, electronic communication or healthcare services sectors, taking due account of the particularities of each sector.

**Access to online interfaces:** Members considered that access to the online interface should not be restricted either by traders or by online marketplaces. The trader may not block or restrict consumer access to his on-line interface and shall not redirect him or her to a different version of his on-line interface to which the consumer has sought access originally, irrespective of his or her nationality or place of residence unless the consumer has given his explicit consent.

Where the trader allows the consumer to express a clear preference on a personal account, modifiable at any moment by the customer, the trader shall be allowed to routinely redirect that consumer to a specific landing page, on condition that that landing page allows clear and simple access to the online interface that the consumer initially sought to access.

The trader or the online marketplace shall justify clearly and explicitly the reasons for compliance in the language of the online interface that the consumer initially sought to access.

**Access to goods or services:** traders shall not apply different general conditions of access to their goods or services where the trader provides electronically (music, e-books, games and/or software) supplied works or services the main feature of which is the provision of access to and use of copyright protected works or other protected subject matter in respect of which the trader has the rights or has acquired the licence to use such content for all relevant territories.

The prohibition shall not prevent traders from offering general conditions of access, including sale prices, which differ from one Member State to another or which are offered to consumers in a specific territory or to specific groups of consumers.

**Non-discrimination for reasons related to payment:** a trader shall not apply different conditions for a payment transaction, where:

- that payment transaction is made through an electronic transaction by credit transfer, direct debit or a card-based payment instrument within the same payment brand and category;
- authentication requirements are fulfilled.

Members stated that the trader's shall have the right to withhold the goods or the provision of the service concerned until the trader has received confirmation that the payment transaction has been properly initiated.

In the case of direct debits, the trader should be allowed to request an advance payment via SEPA credit transfer before dispatching the goods or providing the service. Different treatment is therefore justifiable in situations where there are no other means available to the trader to verify the creditworthiness of the consumer.

**Enforcement:** the bodies responsible for the enforcement of this Regulation shall be responsible for ensuring cross-border cooperation with bodies in other Member States through the appropriate means.

The measures applicable for infringements of the provisions of this Regulation shall be communicated to the Commission and made publically available on the Commission's website.

**Assistance to customers:** each Member State shall confer responsibility for providing practical assistance and information to customers on the body or bodies tasked with enforcement, in the case of a dispute between a customer and a trader.

## 2016/0152(COD) - 06/02/2018 Text adopted by Parliament, 1st reading/single reading

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The European Parliament adopted by 557 votes to 89 with 33 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on addressing geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC.

Parliaments position adopted in first reading following the ordinary legislative procedure amended the Commission proposal as follows:

**Objective and scope of the Regulation:** the Regulation aims to prevent unjustified geo-blocking by preventing discrimination based on nationality, place of residence or even the temporary location of customers in cross-border transactions between a trader and a customer relating to the sale of goods and services in the Union. It does not apply to situations that are purely internal to a Member State where all the relevant elements of the transaction are confined to a single Member State.

**Access to online interfaces:** traders should not redirect a customer, for reasons related to nationality, place of residence or place of establishment, to a version of the traders online interface that is different from the interface to which the customer initially wanted access unless the customer has expressly consented to this effect.

The prohibitions on geo-blocking shall not apply where the blocking or limitation of access, or the redirection is necessary in order to ensure compliance with a legal requirement laid down in Union law, or in the laws of a Member State in accordance with Union law, to which the traders activities are subject.

In such instances, the trader shall provide a clear and specific explanation to customers in the language of the online interface that the customer initially sought to access, on why blocking or restricting access or redirection is necessary.

**Access to goods or services:** a trader shall not apply discriminatory conditions, where the customer seeks to:

- buy goods that are delivered to a location in a Member State to which the trader offers delivery in the general conditions of access or those goods are collected at a location agreed upon between the trader and the customer in a Member State in which the trader offers such an option;
- receive electronically supplied services from the trader, other than services the main feature of which is the use of copyright protected works, including the selling of copyright protected works or protected subject matter in an intangible form ;
- receive services from a trader, other than electronically supplied services, in a physical location within the territory of a Member State where the trader operates.

This prohibition shall not prevent traders from offering goods and services in different Member States or to certain groups of customers by offering targeted offers and different general conditions of access, including by setting up interfaces by country. However, in such situations, traders should always treat their customers in a non-discriminatory way when the latter want to take advantage of these offers and these general conditions of access.

**Non-discrimination for reasons related to payment:** a trader shall not apply, within the range of means of payment accepted by the trader, discriminatory conditions for payment transactions for reasons connected with the place of issue of the payment instrument in the Union, where:

- the payment transaction is made through an electronic transaction by credit transfer, direct debit or a card-based payment instrument within the same payment brand and category ;
- authentication requirements are fulfilled
- the payment transactions are in a currency that the trader accepts.

However, traders remain free to charge non-discriminatory charges for the use of a payment instrument, in accordance with Union law.

**Review:** the European Commission should evaluate within two years of the entry into force of the Regulation whether the prohibition on geo-blocking should not be extended to include copyrighted content as well as transport and audio-visual services, which are also excluded from the scope of the Regulation.

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## 2016/0152(COD) - 28/02/2018 Final act

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**PURPOSE:** to contribute to the proper functioning of the internal market by preventing discrimination based, directly or indirectly, on the nationality, place of residence or place of establishment of customers (including geo-blocking).

**LEGISLATIVE ACT:** Regulation (EU) 2018/302 of the European Parliament and of the Council 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/EC.

**CONTENT:** the Regulation aims to prevent unjustified geo-blocking and other forms of discrimination based, directly or indirectly, on the customers' nationality, place of residence or place of establishment, in transactions with traders within the Union.

Geographical blocking is a discriminatory practice of preventing online customers from accessing products or services offered on a website established in another Member State and from purchasing such products or services.

**Scope:** the Regulation shall not apply to purely internal situations in Member States. Services linked to copyright-protected content or works in an intangible form - such as music streaming services and e-books shall be excluded from the scope of the Regulation. Other services such as financial, audio-visual, transport, healthcare and social services shall also be excluded in line with the Services Directive 2006/123/EC.

**Non-discrimination regarding access to online interfaces:** a trader shall not, through the use of technological measures or otherwise, block or limit a customer's access to the trader's online interface for reasons related to the customer's nationality, place of residence or place of establishment.

A trader shall not redirect that customer to a version of the trader's online interface that is different from the online interface to which the customer initially sought access, unless the customer has explicitly consented to such redirection.

In such instances, the trader shall provide a clear and specific explanation to customers regarding the reasons why the blocking or limitation of access, or the redirection is necessary in order to ensure such compliance. That explanation shall be given in the language of the online interface that the customer initially sought to access.

Access to goods or services: a trader shall not apply different general conditions of access to goods or services, for reasons related to a customer's nationality, place of residence or place of establishment, where the customer seeks to:

- buy goods from a trader and either those goods are delivered to a location in a Member State to which the trader offers delivery in the general conditions of access or those goods are collected at a location agreed upon between the trader and the customer in a Member State in which the trader offers such an option in the general conditions of access;
- receive electronically supplied services from the trader, other than services the main feature of which is the provision of access to and use of copyright protected works or other protected subject matter, including the selling of copyright protected works or protected subject matter in an intangible form;
- receive services from a trader, other than electronically supplied services, in a physical location within the territory of a Member State where the trader operates (e.g. for services such as hotel accommodation and car rental which are received by the customer in the country where the trader operates).

The prohibition shall not prevent traders from offering general conditions of access, including net sale prices, which differ between Member States or within a Member State and which are offered to customers on a specific territory or to specific groups of customers on a non-discriminatory basis.

Non-discrimination for reasons related to payment: traders shall not be allowed to apply different payment conditions for reasons related to the nationality, place of residence or place of establishment of the customer when: (i) the payment transaction is made through an electronic transaction by credit transfer, direct debit or a card-based payment instrument within the same payment brand and category; (ii) authentication requirements are fulfilled; and (iii) the payment transactions are in a currency that the trader accepts.

However, the prohibition shall not prevent the trader from requesting charges for the use of a card-based payment instrument for which interchange fees are not regulated under EU law.

Passive sales: as a general rule, the new regulation will prevail in cases of conflict with competition law. However, the right of suppliers to impose active sales restrictions will not be affected.

Review: by 23 March 2020, and every five years thereafter, the Commission shall present an evaluation report of the Regulation. The first evaluation shall assess whether the prohibition on geographic blocking should not be expanded to include copyrighted works.

ENTRY INTO FORCE: 22.3.2018.

APPLICATION: from 3.12.2018.