

Geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market

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

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 Parliament's 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 consumer's 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 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.