

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) - 28/02/2018 - Final act

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.