

Geo-blocking: Council agrees to remove barriers to e-commerce

On 28 November 2016, the Council agreed on a draft regulation to ban unjustified geo-blocking between member states.

Geo-blocking is a discriminatory practice that prevents online customers from accessing and purchasing products or services from a website based in another member state.

The draft regulation is intended to remove discrimination based on customers' nationality, place of residence or place of establishment and to boost e-commerce.

"Shopping online from another EU country in the same way as locals do is something that many citizens expect nowadays. The new rules to stop unjustified geo-blocking will improve considerably the e-commerce economy and give citizens access to a wider choice of goods and services. This can only happen if there is a guarantee of safety and trust for both buyers and sellers. With our decision today, which was reached just a few months after the proposal was tabled, we have paved the way for a rapid opening of negotiations with the Parliament and a potential close next year".

Peter Žiga, the President of the Council and Minister of Economy of Slovakia

The agreement was reached by qualified majority. It will serve as the Council's common position to start negotiations with the European Parliament under the EU's ordinary legislative procedure.

The main features of the Council text are the following:

Objective and scope

The main objective of the proposal is to prevent discrimination for consumers and companies on access to prices, sales or payment conditions when buying products and services in another EU country.

Its scope is in line with the [Services Directive](#), which excludes certain activities such as financial, audio-visual, transport, healthcare and social services.

The new rules will be in compliance with other EU legislation in force applicable to cross-border sales, such as rules on copyright and Union law on judicial cooperation in civil matters, in particular the Rome I and Brussels I regulations.

Equal access to goods and services

Under the new rules, traders will not be able to discriminate between customers with regard to the general terms and conditions - including prices - they offer on the sales of goods and services in three cases. These are where the trader :

1. sells goods that are delivered in a member state to which the trader offers delivery or are collected at a location agreed upon with the customer;
2. provides electronically supplied services, such as cloud services, data warehousing services, website hosting and the provision of firewalls. This does not apply to services where the main feature is the provision of access to or use of copyright protected works or other protected subject matter, or the selling of copyright protected works in an intangible form, such as e-books or online music;
3. provides services which are received by the customer in the country where the trader operates, such as hotel accommodation, sports events, car rental, and entry tickets to music festivals or leisure parks.

Unlike price discrimination, price differentiation will not be prohibited, so traders are free to offer different general conditions of

access, including prices, and to target certain groups of customers in specific territories.

Moreover, traders will not be obliged to deliver goods to customers outside the member state to which they offer delivery.

Payment transactions

The regulation shall prohibit unjustified discrimination of customers in relation to the means of payment. Traders will not be allowed to apply different payment conditions for customers for reasons of nationality, place of residence or place of establishment.

Non discrimination for e-commerce website access

Traders will not be allowed to block or limit customers' access to their online interface for reasons of nationality or place of residence.

A clear explanation will have to be provided if a trader blocks or limits access or redirects customers to a different version of the online interface.

Passive sales

Under the general approach, some exemptions permitted by EU competition law will remain valid. One example is where traders are bound by an agreement with their supplier requiring them to restrict their passive sales (i.e. sales where the trader does not actively solicit the customer's business). In these cases, the new regulation would not apply.

Next steps

Negotiations will start between the Council, the European Parliament and the Commission once the Parliament agrees its position.

Background

The Commission submitted the original proposal to the Council and the European Parliament on 25 May 2016. It is based on article 114 of the EU treaty.

It was presented together with supplementary legislative proposals on cross-border parcel delivery services and a review of the Consumer Protection Cooperation Regulation, with the objective to move forward towards the integration of a truly single market.

In its conclusions of 25 and 26 June 2015, the European Council emphasised the importance of the digital single market strategy and called on taking action to implement key components of the strategy, including the removal of remaining barriers to the free circulation of goods and services sold online and to tackle unjustified discrimination on the grounds of geographic location.

[General approach on draft regulation addressing geo-blocking](#)

[Commission original proposal for a draft regulation addressing geo-blocking](#)

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