

05/12/2018

The Geo-blocking Regulation in the Context of E-commerce

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Regulatory

[Uroš Popović](#)

Publisher: Bojović Drašković Popović & Partners

The Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 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 (hereinafter: **Geo-blocking Regulation**) aims to provide consumers and businesses within the EU's internal market with more opportunities. In particular, it addresses the problem of some consumers not being able to buy goods and services from traders located in a different Member State because of their nationality, place of residence or place of establishment.

The Geo-blocking Regulation applies to all traders offering their goods or services to consumers in the EU, regardless of whether they are established in the EU or in a non-EU country. Therefore, traders established in non-EU countries that operate in the EU are subject to the Geo-blocking Regulation.

Term Geo-blocking

Geo-blocking refers to practices used by online sellers to restrict online cross-border sales based on nationality, residence or place of establishment. Such geo-blocking practices include: denying access to websites from other Member States and/or situations where access to a website is granted, but the customer from abroad is prevented from finalizing the purchase or is asked to pay with a debit or credit card from a certain country.

“Geo-discrimination” also takes place when buying goods and services off-line, e.g. when consumers are physically present at the trader's location but are either prevented from accessing a product or service or from being offered different conditions due to their nationality or residence. The Geo-Blocking Regulation lays down directly applicable provisions which aim at preventing these practices in specific situations where there is no objective justification for different treatment based on nationality, residence or place of establishment.

Main provisions of the Geo-blocking Regulation

Sale of goods and services

The Geo-blocking Regulation defines certain situations where there can be no justified reason for geo-blocking or other forms of discrimination based on nationality, residence or establishment. In these situations, customers from another Member State have the same access and possibility to acquire goods and services as local customers. These situations are as follows:

- sale of goods without delivery outside the area served by the trader;
- sale of electronically supplied services; and
- sale of services provided in a specific physical location.

Access to websites

The blocking of access to websites and re-routing without the customer's prior consent is banned. This increases price transparency by allowing customers to access different national websites. This provision also applies to non-audio-visual services supplied electronically, such as e-books, music, games and software.

Non-discrimination in payments

Differential treatment is prohibited if the following three conditions are met:

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

Which sectors are not covered by the Geo-blocking Regulation?

Sectors which are not covered by the Regulation are: services in the field of transport, financial services/retail financial services, audiovisual services and gambling services.

Application of the Geo-blocking Regulation

The Geo-blocking Regulation is applicable as of 3 December 2018 (except passive sales provision which is applicable as of 23 March 2020).