



2016/0152(COD)

15.11.2016

AMENDMENTS

42 - 164

Draft opinion

Eva Kaili

(PE592.238v01-00)

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

Proposal for a regulation

(COM(2016)0289 – C8-0192/2016 – 2016/0152(COD))

AM_Com_LegOpinion

Amendment 42

Evžen Tošenovský, Anneleen Van Bossuyt

Proposal for a regulation

Title 1

Text proposed by the Commission

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
(Text with EEA relevance)

Amendment

Proposal for a
REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
on addressing geo-blocking and other
forms of ***unjustified*** 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
(Text with EEA relevance)

Or. en

Amendment 43

José Blanco López, Sergio Gutiérrez Prieto

Proposal for a regulation

Title 1

Text proposed by the Commission

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
(Text with EEA relevance)

Amendment

Proposal for a REGULATION 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 Regulation (EC) No
2006/2004 and Directive 2009/22/EC
(Text with EEA relevance)

Or. es

Amendment 44
Notis Marias

Proposal for a regulation
Citation 1 a (new)

Text proposed by the Commission

Amendment

having regard to Protocol No 1 of the Treaty on the Functioning of the European Union on the role of national parliaments in the European Union,

Or. el

Amendment 45
Notis Marias

Proposal for a regulation
Citation 1 b (new)

Text proposed by the Commission

Amendment

having regard to Protocol No 2 of the Treaty on the Functioning of the European Union on the application of the principles of subsidiarity and proportionality,

Or. el

Amendment 46
Angelo Ciocca

Proposal for a regulation
Recital 1

Text proposed by the Commission

Amendment

(1) In order to realise the objective of ensuring good functioning of the internal market, as an area without internal frontiers in which the free movement of inter alia goods and services is ensured, it is not *sufficient to abolish, as* between Member States, *only State barriers. Such abolition*

(1) In order to realise the objective of ensuring good functioning of the internal market, as an area without internal frontiers in which the free movement of, *inter alia*, goods and services is ensured, it is not *just barriers* between Member States *that should be abolished. However, Article 18*

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). They also occur 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. Whereas there may sometimes be objective justifications for such differential treatment, in other cases traders deny consumers wishing to engage in cross-border commercial transactions access to goods or services, or apply different conditions in this regard, for purely commercial reasons.

TFEU makes prohibiting discrimination on grounds of nationality a requirement solely for the Member States and their bodies; such a requirement should not apply to private parties, in the light of the freedom to choose an occupation and the freedom to conduct a business, which are enshrined in the Charter of Fundamental Rights of the European Union. Furthermore, sometimes the differential treatment on grounds of nationality applied by traders in cross-border commercial transactions can be justified by objective factors.

Or. it

Amendment 47

José Blanco López, Sergio Gutiérrez Prieto

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) In order to realise the objective of ensuring good functioning of the internal market, as an area without internal frontiers in which the free movement of inter alia goods and services is ensured, it is not sufficient to abolish, as between Member States, only State barriers. 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

Amendment

(1) In order to realise the objective of ensuring good functioning of the internal market, as an area without internal frontiers in which the free movement of inter alia goods and services is ensured, it is not sufficient to abolish, as between Member States, only State barriers. 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. Whereas there may sometimes be objective justifications for such differential treatment, in other cases traders deny consumers wishing to engage in cross-border commercial transactions access to goods or services, or apply different conditions in this regard, for purely commercial reasons.

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. Whereas there may sometimes be objective justifications for such differential treatment, in other cases traders deny consumers wishing to engage in cross-border commercial transactions access to goods or services, or apply different conditions in this regard, for purely commercial reasons. ***According to analyses carried out, removing unjustified geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market could contribute to a 1.1 % expansion in market size and an, on average, -0.5 % to -0.6 % fall in prices.***

Or. es

Amendment 48
David Borrelli, Dario Tamburrano

Proposal for a regulation
Recital 1

Text proposed by the Commission

(1) In order to realise the objective of ensuring good functioning of the internal market, as an area without internal frontiers in which the free movement of inter alia goods and services is ensured, it is not sufficient to abolish, as between Member States, only State barriers. Such abolition can be undermined by private parties

Amendment

(1) In order to realise the objective of ensuring good functioning of the internal market, as an area without internal frontiers in which the free movement of inter alia goods and services is ensured, it is not sufficient to abolish, as between Member States, only State barriers. 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. Whereas there may *sometimes* be objective justifications for such differential treatment, in other cases traders deny consumers wishing to engage in cross-border commercial transactions access to goods or services, or apply different conditions in this regard, for purely commercial reasons.

putting in place obstacles inconsistent with *the principles and goals of the* internal market. 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. Whereas there may be objective justifications *in exceptional cases* for such differential treatment, in other cases traders deny consumers wishing to engage in cross-border commercial transactions access to goods or services, or apply different conditions in this regard, for purely commercial reasons. *As a result, customers feel frustrated, since they become aware that the guarantees of the internal market already regularly applied for physical transactions are not always respected in the online environment.*

Or. en

Amendment 49
Angelika Niebler

Proposal for a regulation
Recital 1

Text proposed by the Commission

(1) In order to realise the objective of ensuring good functioning of the internal market, as an area without internal frontiers in which the free movement of inter alia goods and services is ensured, it is not sufficient to abolish, as between Member States, only State barriers. Such abolition

Amendment

(1) In order to realise the objective of ensuring good functioning of the internal market, as an area without internal frontiers in which the free movement of inter alia goods and services is ensured, it is not sufficient to abolish, as between Member States, only State barriers. 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. Whereas there may sometimes be objective justifications for such differential treatment, in other cases traders deny consumers wishing to engage in cross-border commercial transactions access to goods or services, or apply different conditions in this regard, for purely commercial reasons.

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 **consumers** 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 **consumers** from other Member States, both online and offline. Whereas there may sometimes be objective justifications for such differential treatment, in other cases traders deny consumers wishing to engage in cross-border commercial transactions access to goods or services, or apply different conditions in this regard, for purely commercial reasons.

(Throughout the text the term 'customer' should be replaced by 'consumer' and the reference to the place of establishment should be deleted.)

Or. de

Amendment 50
Angelika Niebler

Proposal for a regulation
Recital 1

Text proposed by the Commission

(1) In order to realise the objective of ensuring good functioning of the internal market, as an area without internal frontiers in which the free movement of inter alia goods and services is ensured, it is not sufficient to abolish, as between Member States, only State barriers. Such abolition can be undermined by private parties

Amendment

(1) In order to realise the objective of ensuring good functioning of the internal market, as an area without internal frontiers in which the free movement of inter alia goods and services is ensured, it is not sufficient to abolish, as between Member States, only State barriers. 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. Whereas there may sometimes be objective justifications for such differential treatment, in other cases traders deny consumers wishing to engage in cross-border commercial transactions access to goods or services, or apply different conditions in this regard, for *purely commercial* reasons.

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. Whereas there may sometimes be objective justifications for such differential treatment, in other cases traders deny consumers wishing to engage in cross-border commercial transactions access to goods or services, or apply different conditions in this regard, for *non-objective* reasons.

Or. de

Justification

The term 'commercial' would not seem to be appropriate here.

Amendment 51 **Angelo Ciocca**

Proposal for a regulation **Recital 2**

Text proposed by the Commission

(2) *In this manner certain traders artificially segment the internal market along internal frontiers and hamper the free movement of goods and services, thus restricting the rights of customers and preventing them from benefitting from a wider choice and optimal conditions. Such discriminatory practices are an important factor contributing to the*

Amendment

(2) *Clarifying the circumstances in which differential treatment of this kind cannot be applied should bring clarity and legal certainty for all participants in cross-border transactions and should ensure that rules on non-discrimination can be effectively applied and enforced across the internal market. It is necessary to avert a situation in which enterprises*

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. Clarifying in which situations there can be no justification for differential treatment of this kind should bring clarity and legal certainty for all participants in cross-border transactions and should ensure that rules on non-discrimination can be effectively applied and enforced across the internal market.

have to adjust their logistical systems and to deal with all guarantee cases and cases of withdrawal from cross-border contracts, since this would reduce the number of traders from among SMEs and have a counter-productive effect on commercial transactions within the Union, and particularly in the e-commerce sector, thus preventing the full growth potential of the internal market from being realised.

Or. it

Amendment 52

David Borrelli, Dario Tamburrano

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) In this manner certain traders artificially segment the internal market along internal frontiers and hamper the free movement of goods and services, thus restricting the rights of customers and preventing them from benefitting from a wider choice and optimal conditions. 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. Clarifying in which situations there can be no justification for differential treatment of this kind should bring **clarity and** legal certainty for all participants in cross-border transactions and should ensure that rules on non-discrimination can be effectively applied and enforced across the internal

Amendment

(2) In this manner certain traders artificially segment the internal market along internal frontiers and hamper the free movement of goods and services, thus restricting the rights of customers and preventing them from benefitting from a wider choice and optimal conditions. 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 **development** potential of the internal market from being realised, **and delays or impedes technological innovation in the field**. Clarifying in which situations there can be no justification for differential treatment of this kind should bring legal certainty for all participants in cross-border transactions and should ensure that rules on non-discrimination can

market.

be effectively applied and enforced across the internal market.

Or. en

Amendment 53
Angelika Niebler

Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) In this manner certain traders artificially segment the internal market along internal frontiers and hamper the free movement of goods and services, thus restricting the rights of customers and preventing them from benefitting from a wider choice and optimal conditions. 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. Clarifying in which situations there can be no justification for differential treatment of this kind should bring clarity and legal certainty for all participants in cross-border transactions and should ensure that rules on non-discrimination can be effectively applied and enforced across the internal market.

Amendment

(2) In this manner certain traders artificially segment the internal market along internal frontiers and hamper the free movement of goods and services, thus restricting the rights of customers and preventing them from benefitting from a wider choice *of goods and services* and optimal conditions. 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. Clarifying in which situations there can be no justification for differential treatment of this kind should bring clarity and legal certainty for all participants in cross-border transactions and should ensure that rules on non-discrimination can be effectively applied and enforced across the internal market.

Or. de

Amendment 54
Michel Reimon
on behalf of the Verts/ALE Group

Proposal for a regulation
Recital 2

Text proposed by the Commission

(2) In this manner certain traders artificially segment the internal market along internal frontiers and hamper the free movement of goods and services, thus restricting the rights of customers and preventing them from benefitting from a wider choice and optimal conditions. 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. Clarifying in which situations there can be no justification for differential treatment of this kind should bring clarity and legal certainty for all participants in cross-border transactions and should ensure that rules on non-discrimination can be effectively applied and enforced across the internal market.

Amendment

(2) In this manner certain traders artificially segment the internal market along internal frontiers and hamper the free movement of goods and services, thus restricting the rights of customers and preventing them from benefitting from a wider choice ***of products and services*** and optimal conditions. 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. Clarifying in which situations there can be no justification for differential treatment of this kind should bring clarity and legal certainty for all participants in cross-border transactions and should ensure that rules on non-discrimination can be effectively applied and enforced across the internal market.

Or. en

Justification

Aligning the text with the scope of the regulation

Amendment 55
Esther de Lange

Proposal for a regulation
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) The existing national trade barriers fragment the Single Market and in this manner often force traders to engage in geo-blocking practices. Therefore the European Parliament, the Council and the Commission should continue to address these barriers with a

view to reduce market fragmentation and complete the Single Market.

Or. en

Amendment 56

David Borrelli, Dario Tamburrano

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) Pursuant to Article 20 of Directive 2006/123/EC of the European Parliament and of the Council¹⁷, Member States are to ensure that service providers established in the Union do not treat recipients of services differently on the basis of their nationality or place of residence. However, that provision has not been fully effective in combatting discrimination and it has not sufficiently reduced legal uncertainty, particularly because of the possibility to justify the differences in treatment for which it allows and the corresponding difficulties in enforcing it in practice. Moreover, geo-blocking and other forms of discrimination based on nationality, place of residence or place of establishment can also arise as a consequence of actions by traders established in third countries, which fall outside the scope of that Directive.

¹⁷ Directive 2006/123/EC of the European Parliament and of the Council of 12

Amendment

(3) Pursuant to Article 20 of Directive 2006/123/EC of the European Parliament and of the Council¹⁷, Member States are to ensure that service providers established in the Union do not treat recipients of services differently on the basis of their nationality or place of residence. However, that provision has not been fully effective in combatting discrimination and it has not sufficiently reduced legal uncertainty, particularly because of the possibility to justify the differences in treatment for which it allows and the corresponding difficulties in enforcing it in practice. Moreover, geo-blocking and other forms of discrimination based on nationality, place of residence or place of establishment can also arise as a consequence of actions by traders established in third countries, which fall outside the scope of that Directive.

Furthermore, such discrimination has often happened with the informal consensus of administrative and regulatory national authorities, which have been fully aware of the practice, but have chosen not to act against it. In order to develop the full potential of the Digital Single Market, such attitude should be overcome.

¹⁷ Directive 2006/123/EC of the European Parliament and of the Council of 12

December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

Or. en

Amendment 57
José Blanco López

Proposal for a regulation
Recital 3

Text proposed by the Commission

(3) Pursuant to Article 20 of Directive 2006/123/EC of the European Parliament and of the Council¹⁷, Member States are to ensure that service providers established in the Union do not treat recipients of services differently on the basis of their nationality or place of residence. However, that provision has not been fully effective in combatting discrimination and it has not sufficiently reduced legal uncertainty, particularly because of the possibility to justify the differences in treatment for which it allows and the corresponding difficulties in enforcing it in practice. Moreover, geo-blocking and other forms of discrimination based on nationality, place of residence or place of establishment can also arise as a consequence of actions by traders established in third countries, which fall outside the scope of that Directive.

¹⁷ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

Amendment

(3) Pursuant to Article 20 of Directive 2006/123/EC of the European Parliament and of the Council¹⁷, Member States are to ensure that service providers established in the Union do not treat recipients of services differently on the basis of their nationality or place of residence. However, that provision has not been fully effective in combatting discrimination and it has not sufficiently reduced legal uncertainty, particularly because of the possibility to justify the differences in treatment for which it allows and the corresponding difficulties in enforcing it in practice. Moreover, *unjustified* geo-blocking and other forms of discrimination based on nationality, place of residence or place of establishment can also arise as a consequence of actions by traders established in third countries, which fall outside the scope of that Directive.

¹⁷ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).

Or. es

Amendment 58

Lieve Wierinck, Fredrick Federley, Kaja Kallas, Gerben-Jan Gerbrandy

Proposal for a regulation

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) Although the present Regulation aims to address geo-blocking and hence taking down a barrier to the functioning of the internal market, it needs to be kept in mind that many other differences in Member States' legislation, such as different national standards, or a lack of mutual recognition or harmonisation at Union level, still constitute significant barriers that continue to lead to fragmentation in the single market.

Or. en

Amendment 59

Angelika Niebler

Proposal for a regulation

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) This regulation clarifies, but does not replace, the Services Directive (2006/123/EC). Directive 2006/123/EC will continue to apply.

Or. de

Amendment 60

Evžen Tošenovský, Anneleen Van Bossuyt

Proposal for a regulation

Recital 4

Text proposed by the Commission

Amendment

(4) For the purposes of ensuring the

(4) For the purposes of ensuring the

good functioning of the internal market, the targeted measures set out in this Regulation, which provide for a clear, uniform and effective set of rules on a selected number of issues, are therefore required.

good functioning of the internal market, the targeted measures set out in this Regulation, which provide for a clear, uniform and effective set of rules on a selected number of issues, are therefore required. ***These measures should maintain balance between consumer protection for customers and economic and contractual freedom for traders. In this respect, any disproportionate costs or administrative burden or the obligation to deliver to all Member States should be imposed on traders. Furthermore, the new obligations imposed on Member States should not extend beyond what is necessary to implement the new rules.***

Or. en

Amendment 61
David Borrelli, Dario Tamburrano

Proposal for a regulation
Recital 5

Text proposed by the Commission

(5) This Regulation aims at preventing discrimination based on customers' nationality, place of residence or place of establishment, including geo-blocking, in cross-border commercial transactions between traders and customers relating to the sales of goods and the provision of services within the Union. It seeks to ***address*** direct as well as indirect discrimination, ***thus also covering*** unjustified differences of treatment on the basis of other distinguishing criteria which lead to the same result as the application of criteria directly based on customers' nationality, place of residence or place of establishment. Such other criteria can be applied, in particular, on the basis of information indicating the physical location of customers, such as the IP

Amendment

(5) This Regulation aims at preventing discrimination based on customers' nationality, place of residence or place of establishment, including geo-blocking, in cross-border commercial transactions between traders and customers relating to the sales of goods and the provision of services within the Union. It seeks to ***prevent*** direct as well as indirect discrimination. ***By indirect discrimination it is understood the application of distinguishing criteria other than customer's nationality, place of residence or place of establishment which lead either deterministically or statistically to the same result as the direct application of those same criteria. It also covers*** unjustified differences of treatment on the basis of other distinguishing criteria which

address used when accessing an online interface, the address submitted for the delivery of goods, the choice language made or the Member State where the customer's payment instrument has been issued.

lead to the same result as the application of criteria directly based on customers' nationality, place of residence or place of establishment. Such other criteria can be applied, in particular, on the basis of information indicating the physical location of customers, such as the IP address used when accessing an online interface, the address submitted for the delivery of goods, the choice language made or the Member State where the customer's payment instrument has been issued.

Or. en

Amendment 62

José Blanco López, Sergio Gutiérrez Prieto

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) This Regulation aims at preventing discrimination based on customers' nationality, place of residence or place of establishment, including geo-blocking, in cross-border commercial transactions between traders and customers relating to the sales of goods and the provision of services within the Union. It seeks to address direct as well as indirect discrimination, thus also covering unjustified differences of treatment on the basis of other distinguishing criteria which lead to the same result as the application of criteria directly based on customers' nationality, place of residence or place of establishment. Such other criteria can be applied, in particular, on the basis of information indicating the physical location of customers, such as the IP address used when accessing an online interface, the address submitted for the delivery of goods, the choice language

Amendment

(5) This Regulation aims at preventing discrimination based on customers' nationality, place of residence or place of establishment, including geo-blocking, in cross-border commercial transactions between traders and customers relating to the sales of goods and the provision of services within the Union; ***the activities referred to in Article 2(2) of Directive 2006/123/EC are excluded from the scope of its application.*** It seeks to address direct as well as indirect discrimination, thus also covering unjustified differences of treatment on the basis of other distinguishing criteria which lead to the same result as the application of criteria directly based on customers' nationality, place of residence or place of establishment. Such other criteria can be applied, in particular, on the basis of information indicating the physical location of customers, such as the IP

made or the Member State where the customer's payment instrument has been issued.

address used when accessing an online interface, the address submitted for the delivery of goods, the choice *of* language made or the Member State where the customer's payment instrument has been issued.

Or. es

Amendment 63

Evžen Tošenovský, Anneleen Van Bossuyt

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) This Regulation aims at preventing discrimination based on customers' nationality, place of residence or place of establishment, including geo-blocking, in cross-border commercial transactions between traders and customers relating to the sales of goods and the provision of services within the Union. It seeks to address direct as well as indirect discrimination, thus also covering unjustified differences of treatment on the basis of other distinguishing criteria which lead to the same result as the application of criteria directly based on customers' nationality, place of residence or place of establishment. Such other criteria can be applied, in particular, on the basis of information indicating the physical location of customers, such as the IP address used when accessing an online interface, the address submitted for the delivery of goods, the choice language made or the Member State where the customer's payment instrument has been issued.

Amendment

(5) This Regulation aims at preventing *unjustified* discrimination based on customers' nationality, place of residence or place of establishment, including geo-blocking, in cross-border commercial transactions between traders and customers relating to the sales of goods and the provision of services within the Union. It seeks to address direct as well as indirect discrimination, thus also covering unjustified differences of treatment on the basis of other distinguishing criteria which lead to the same result as the application of criteria directly based on customers' nationality, place of residence or place of establishment. Such other criteria can be applied, in particular, on the basis of information indicating the physical location of customers, such as the IP address used when accessing an online interface, the address submitted for the delivery of goods, the choice language made or the Member State where the customer's payment instrument has been issued.

Or. en

Amendment 64

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) Considering that some regulatory and administrative barriers for traders have been removed across the Union in certain services sectors as a result of the implementation of Directive 2006/123/EC, in terms of material scope, consistency should be ensured between this Regulation and Directive 2006/123/EC. *As a consequence, the provisions of this Regulation should apply inter alia to non-audio-visual 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, subject however to the specific exclusion provided for in Article 4 and the subsequent evaluation of that exclusion as provided for in Article 9. Audio-visual services, including services the main feature of which is the provision of access to broadcasts of sports events and which are provided on the basis of exclusive territorial licenses, are excluded from the scope of this Regulation.* Access to retail financial services, including payment services, should therefore also be excluded, notwithstanding the provisions of this Regulation regarding non-discrimination in payments.

Amendment

(6) Considering that some regulatory and administrative barriers for traders have been removed across the Union in certain services sectors as a result of the implementation of Directive 2006/123/EC, in terms of material scope, consistency should be ensured between this Regulation and Directive 2006/123/EC. Access to retail financial services, including payment services, should therefore also be excluded, notwithstanding the provisions of this Regulation regarding non-discrimination in payments.

Or. en

Justification

Modification required in order to align the recitals to the new content of Art.4

Amendment 65

Aldo Patriciello

Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) Considering that some regulatory and administrative barriers for traders have been removed across the Union in certain services sectors as a result of the implementation of Directive 2006/123/EC, in terms of material scope, consistency should be ensured between this Regulation and Directive 2006/123/EC. As a consequence, the provisions of this Regulation should apply inter alia to non-audio-visual 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, subject however to the specific exclusion provided for in Article 4 and the subsequent evaluation of that exclusion as provided for in Article 9. ***Audio-visual services, including services the main feature of which is the provision of access to broadcasts of sports events and which are provided on the basis of exclusive territorial licenses, should therefore be excluded from the scope of this Regulation. Access to retail financial services, including payment services, should therefore also be excluded, notwithstanding the provisions of this Regulation regarding non-discrimination in payments.***

Amendment

(6) Considering that some regulatory and administrative barriers for traders have been removed across the Union in certain services sectors as a result of the implementation of Directive 2006/123/EC, in terms of material scope, consistency should be ensured between this Regulation and Directive 2006/123/EC. As a consequence, the provisions of this Regulation should apply inter alia to non-audio-visual 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, subject however to the specific exclusion provided for in Article 4 and the subsequent evaluation of that exclusion as provided for in Article 9.

Or. it

Amendment 66
Kaja Kallas

Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) Considering that some regulatory and administrative barriers for traders have been removed across the Union in certain services sectors as a result of the implementation of Directive 2006/123/EC, in terms of material scope, consistency should be ensured ***between this Regulation and Directive 2006/123/EC. As a consequence, the provisions of this Regulation should apply inter alia to non-audio-visual 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, subject however to the specific exclusion provided for in Article 4 and the subsequent evaluation of that exclusion as provided for in Article 9.*** Audio-visual services, including services the main feature of which is the provision of access to broadcasts of sports events and which are provided on the basis of exclusive territorial licenses, are excluded from the scope of this Regulation. Access to retail financial services, including payment services, should therefore also be excluded, notwithstanding the provisions of this Regulation regarding non-discrimination in payments.

Amendment

(6) Considering that some regulatory and administrative barriers for traders have been removed across the Union in certain services sectors as a result of the implementation of Directive 2006/123/EC, in terms of material scope, consistency should be ensured ***as much as possible between this Regulation and Directive 2006/123/EC.*** Audio-visual services, including services the main feature of which is the provision of access to broadcasts of sports events and which are provided on the basis of exclusive territorial licenses, are excluded from the scope of this Regulation. Access to retail financial services, including payment services, should therefore also be excluded, notwithstanding the provisions of this Regulation regarding non-discrimination in payments.

Or. en

Amendment 67
Angelika Niebler

Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) Considering that some regulatory and administrative barriers for traders have been removed across the Union in certain services sectors as a result of the

Amendment

(6) Considering that some regulatory and administrative barriers for traders have been removed across the Union in certain services sectors as a result of the

implementation of Directive 2006/123/EC, in terms of material scope, consistency should be ensured between this Regulation and Directive 2006/123/EC. As a consequence, the provisions of this Regulation should apply *inter alia* to non-audio-visual 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, subject however to the specific exclusion provided for in Article 4 ***and the subsequent evaluation of that exclusion as provided for in Article 9***. Audio-visual services, including services the main feature of which is the provision of access to broadcasts of sports events and which are provided on the basis of exclusive territorial licenses, are excluded from the scope of this Regulation. Access to retail financial services, including payment services, should therefore also be excluded, notwithstanding the provisions of this Regulation regarding non-discrimination in payments.

implementation of Directive 2006/123/EC, in terms of material scope, consistency should be ensured between this Regulation and Directive 2006/123/EC. As a consequence, the provisions of this Regulation should apply *inter alia* to non-audio-visual 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, subject however to the specific exclusion provided for in Article 4. Audio-visual services, including services the main feature of which is the provision of access to broadcasts of sports events and which are provided on the basis of exclusive territorial licenses, are excluded from the scope of this Regulation. Access to retail financial services, including payment services, should therefore also be excluded, notwithstanding the provisions of this Regulation regarding non-discrimination in payments.

Or. de

Justification

Access to copyright protected works or other protected subject matter and the use of such works or subject matter should continue to fall outside the scope of this regulation. This will rule out overlap with other items of EU legislation.

Amendment 68

Kaja Kallas

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) Discrimination can also occur in relation to services in the field of transport, in particular with respect to the sales of tickets for the transport of passengers.

Amendment

(7) Discrimination can also occur in relation to services in the field of transport, in particular with respect to the sales of tickets for the transport of passengers,

However, in that regard Regulation (EC) No 1008/2008 of the European Parliament and of the Council¹⁸, Regulation (EU) No 1177/2010 of the European Parliament and of the Council¹⁹ and Regulation (EU) No 181/2011 of the European Parliament and of the Council²⁰ already contain broad prohibitions of discriminations covering all discriminatory practices that the present Regulation seeks to address. Furthermore, it is intended that Regulation (EC) No 1371/2007 of the European Parliament and of the Council²¹ will be amended to that effect in near future. Therefore, and in order to ensure consistency with the scope of application of Directive 2006/123/EC, services in the field of transport should remain outside the scope of this Regulation.

therefore the provisions of this Regulation should also apply to these services.

²¹ Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations (OJ L 315, 3.12.2007, p. 14).

Or. en

Justification

Although consistency with the scope of the Services directive is needed, the range of transport services provided online has evolved and increased since the adoption of that Directive, and discrimination often occur with respect to the sales of tickets. This is therefore not justified to provide an exemption for these services.

Amendment 69 **Lieve Wierinck**

Proposal for a regulation **Recital 10**

Text proposed by the Commission

Amendment

(10) This Regulation should ***not affect*** acts of Union law concerning judicial cooperation in civil matters, notably the provisions on the law applicable to contractual obligations and on jurisdiction set out in Regulations (EC) No 593/2008 of the European Parliament and of the Council²⁴ and (EU) 1215/2012 of the European Parliament and of the Council²⁵, including the application of those acts and provisions in individual cases. In particular, the mere fact that a trader acts in accordance with the provisions of this Regulation should not be construed as implying that he directs his activities to the consumer's Member State for the purpose of such application.

²⁴ Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ L 177, 4.7.2008, p. 6).

²⁵ Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the

(10) This Regulation should ***be without prejudice to*** acts of Union law concerning judicial cooperation in civil matters, notably the provisions on the law applicable to contractual obligations and on jurisdiction set out in Regulations (EC) No 593/2008 of the European Parliament and of the Council²⁴ and (EU) 1215/2012 of the European Parliament and of the Council²⁵, including the application of those acts and provisions in individual cases. In particular, the mere fact that a trader acts in accordance with the provisions of this Regulation should not be construed as implying that he directs his activities to the consumer's Member State for the purpose of such application. ***For that reason, and in order to ensure legal certainty for traders complying with this Regulation, it should be made clear that the mere fact that a trader makes its online interface accessible for customers from another Member State or does not apply different general conditions of access in the cases laid down in this Regulation, including where relevant through the conclusion of contracts, or accepts payment instruments from another Member State, should not in itself be regarded, for the purpose of determining the applicable law and jurisdiction, as indicating that the trader's activities are directed to the Member State of the consumer, unless additional elements are proved from which the existence of an intention on the part of the trader to direct activities to such Member States in accordance with Union law can be concluded.***

²⁴ Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ L 177, 4.7.2008, p. 6).

²⁵ Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the

recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1).

recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1).

Or. en

Amendment 70
José Blanco López

Proposal for a regulation
Recital 10

Text proposed by the Commission

(10) This Regulation should not affect acts of Union law concerning judicial cooperation in civil matters, notably the provisions on the law applicable to contractual obligations and on jurisdiction set out in Regulations (EC) No 593/2008 of the European Parliament and of the Council²⁴ and (EU) 1215/2012 of the European Parliament and of the Council²⁵, including the application of those acts and provisions in individual cases. In particular, the mere fact that a trader acts in accordance with the provisions of this Regulation should not be construed as implying that he directs his activities to the consumer's Member State for the purpose of such application.

²⁴ Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ L 177, 4.7.2008, p. 6).

²⁵ Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1).

Amendment

(10) This Regulation should not affect acts of Union law concerning judicial cooperation in civil matters, notably the provisions on the law applicable to contractual obligations and on jurisdiction set out in Regulations (EC) No 593/2008 of the European Parliament and of the Council²⁴ and (EU) 1215/2012 of the European Parliament and of the Council²⁵, including the application of those acts and provisions in individual cases. In particular, the mere fact that a trader acts in accordance with the provisions of this Regulation should not be construed as implying that he directs his activities to the consumer's Member State for the purpose of such application ***and should not, therefore, be read as an obligation to sell.***

²⁴ Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ L 177, 4.7.2008, p. 6).

²⁵ Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 351, 20.12.2012, p. 1).

Amendment 71

Eva Kaili

Proposal for a regulation

Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) When traders that comply with this Regulation make their online interfaces available for customers in another Member State or do not apply different general conditions of access in the cases laid down in this Regulation, they should not be regarded, for the purpose of determining the applicable law and jurisdiction, as directing their activities to the Member State of the consumer, unless additional elements are proved from which the existence of an intention so to do can be concluded.

Or. en

Amendment 72

David Borrelli, Dario Tamburrano

Proposal for a regulation

Recital 11

Text proposed by the Commission

Amendment

(11) The discriminatory practices that this Regulation seeks to address typically take place through general terms, conditions and other information set and applied by or on behalf of the trader concerned, as a precondition for obtaining access to the goods or services in question, and that are made available to the public at large. Such general conditions of access include inter alia prices, payment conditions and delivery conditions. They

(11) The discriminatory practices that this Regulation seeks to address typically take place through general terms, conditions and other information set and applied by or on behalf of the trader concerned, as a precondition for obtaining access to the goods or services in question, and that are made available to the public at large. Such general conditions of access include inter alia prices, payment conditions and delivery conditions. They

can be made available to the public at large by or on behalf of the trader through various means, such as information published in advertisements, on websites or pre-contractual or contractual documentation. Such conditions apply in the absence of an individually negotiated agreement to the contrary entered into directly between the trader and the customer. Terms and conditions that are individually negotiated between the trader and the customers should not be considered general conditions of access for the purposes of this Regulation.

can be made available to the public at large by or on behalf of the trader through various means, such as information published in advertisements, on websites or pre-contractual or contractual documentation. Such conditions apply in the absence of an individually negotiated agreement to the contrary entered into directly between the trader and the customer. Terms and conditions that are individually negotiated between the trader and the customers should not be considered general conditions of access for the purposes of this Regulation. *As a standard of proof for demonstrating such individual negotiation, regulatory authorities should request evidence of substantially personalised contractual terms and conditions.*

Or. en

Amendment 73

Kaja Kallas, Lieve Wierinck

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) The discriminatory practices that this Regulation seeks to address typically take place through general terms, conditions and other information set and applied by or on behalf of the trader concerned, as a precondition for obtaining access to the goods or services in question, and that are made available to the public at large. Such general conditions of access include inter alia prices, payment conditions and delivery conditions. They can be made available to the public at large by or on behalf of the trader through various means, such as information published in advertisements, on websites or pre-contractual or contractual

Amendment

(11) The discriminatory practices that this Regulation seeks to address typically take place through general terms, conditions and other information set and applied by or on behalf of the trader concerned, as a precondition for obtaining access to the goods or services in question, and that are made available to the public at large. Such general conditions of access include inter alia prices, ***requirements based on telephone prefixes***, payment conditions and delivery conditions. They can be made available to the public at large by or on behalf of the trader through various means, such as information published in advertisements, on websites or

documentation. Such conditions apply in the absence of an individually negotiated agreement to the contrary entered into directly between the trader and the customer. Terms and conditions that are individually negotiated between the trader and the customers should not be considered general conditions of access for the purposes of this Regulation.

pre-contractual or contractual documentation. Such conditions apply in the absence of an individually negotiated agreement to the contrary entered into directly between the trader and the customer. Terms and conditions that are individually negotiated between the trader and the customers should not be considered general conditions of access for the purposes of this Regulation.

Or. en

Justification

Discrimination can occur when traders require a customer to have a phone number with a specific country code to complete a transaction

Amendment 74 **Angelika Niebler**

Proposal for a regulation **Recital 11**

Text proposed by the Commission

(11) The discriminatory practices that this Regulation seeks to address typically take place through general terms, conditions and other information set and applied by or on behalf of the trader concerned, as a precondition for obtaining access to the goods or services in question, and that are made available to the public at large. Such general conditions of access include inter alia *prices*, payment conditions and delivery conditions. They can be made available to the public at large by or on behalf of the trader through various means, such as information published in advertisements, on websites or pre-contractual or contractual documentation. Such conditions apply in the absence of an individually negotiated agreement to the contrary entered into directly between the trader and the

Amendment

(11) The discriminatory practices that this Regulation seeks to address typically take place through general terms, conditions and other information set and applied by or on behalf of the trader concerned, as a precondition for obtaining access to the goods or services in question, and that are made available to the public at large. Such general conditions of access include inter alia payment conditions and delivery conditions. They can be made available to the public at large by or on behalf of the trader through various means, such as information published in advertisements, on websites or pre-contractual or contractual documentation. Such conditions apply in the absence of an individually negotiated agreement to the contrary entered into directly between the trader and the customer. Terms and

customer. Terms and conditions that are individually negotiated between the trader and the customer should not be considered general conditions of access for the purposes of this Regulation.

conditions that are individually negotiated between the trader and the customer should not be considered general conditions of access for the purposes of this Regulation.

Or. de

Justification

As set out in the explanatory memorandum, pricing should fall outside the scope of this regulation. It is not the aim of this proposal to alter traders' pricing policies.

Amendment 75
Angelika Niebler

Proposal for a regulation
Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) Differing pricing arrangements in individual Member States will not count as a discriminatory practice.

Or. de

Amendment 76
Angelika Niebler

Proposal for a regulation
Recital 12

Text proposed by the Commission

Amendment

(12) ***Both*** consumers ***and undertakings*** should be safeguarded from discrimination for reasons related to their nationality, place of residence ***or place of establishment*** when acting as customers for the purposes of this Regulation. ***However, that protection should not extend to customers purchasing a good or a service for resale, because it would affect widely used distribution schemes***

(12) Consumers should be safeguarded from discrimination for reasons related to their nationality ***and*** place of residence when acting as customers for the purposes of this Regulation.

between undertakings in a business to business context, such as selective and exclusive distribution, which generally allow for manufacturers to select their retailers, subject to compliance with the rules on competition.

Or. de

Justification

The regulation should cover only business-to-consumer transactions. This will rule out overlap with competition law.

Amendment 77

David Borrelli, Dario Tamburrano

Proposal for a regulation

Recital 14

Text proposed by the Commission

(14) In order to increase the possibility for customers to access information related to the sales of goods and the provision of services on the internal market and to increase transparency, including with respect to prices, traders should not, through the use of technological measures or otherwise, prevent customers from having full and equal access to online interfaces on the basis of their nationality, place of residence or place of establishment. Such technological measures can encompass, in particular, any technologies used to determine the physical location of the customer, including the tracking of that by means of IP address, coordinates obtained through a global navigation satellite system or data related to a payment transaction. However, that prohibition of discrimination with respect to access to online interfaces should not be understood as creating an obligation for the trader to engage in commercial transactions with customers.

Amendment

(14) In order to increase the possibility for customers to access information related to the sales of goods and the provision of services on the internal market and to increase transparency, including with respect to prices ***but not limited to them***, traders ***or any other parties acting on their behalf*** should not, through the use of technological measures or otherwise, prevent customers from having full and equal access to online interfaces on the basis of their nationality, place of residence or place of establishment. Such technological measures can encompass, in particular, any technologies used to determine the physical location of the customer, including the tracking of that by means of IP address, ***surfing history and/or patterns, GSM tracking or localisation***, coordinates obtained through a global navigation satellite system or data related to a payment transaction. However, that prohibition of discrimination with respect to access to online interfaces

should not be understood as creating an obligation for the trader to engage in commercial transactions with customers.

Or. en

Amendment 78
Angelo Ciocca

Proposal for a regulation
Recital 14

Text proposed by the Commission

(14) In order to increase the possibility for customers to access information related to the sales of goods and the provision of services on the internal market and to increase transparency, including with respect to prices, traders should **not**, through the use of technological measures or otherwise, prevent customers from having full and equal access to online interfaces on the basis of their nationality, place of residence or place of establishment. Such technological measures can encompass, in particular, any technologies used to determine the physical location of the customer, including the tracking of that by means of IP address, coordinates obtained through a global navigation satellite system or data related to a payment transaction. However, that prohibition of discrimination with respect to access to online interfaces should not be understood as creating an obligation for the trader to engage in commercial transactions with customers.

Amendment

(14) In order to increase the possibility for customers to access information related to the sales of goods and the provision of services on the internal market and to increase transparency, including with respect to prices, traders should **be able**, through the use of technological measures or otherwise, **to choose not to** prevent customers from having full and equal access to online interfaces on the basis of their nationality, place of residence or place of establishment. Such technological measures can encompass, in particular, any technologies used to determine the physical location of the customer, including the tracking of that by means of IP address, coordinates obtained through a global navigation satellite system or data related to a payment transaction. However, that prohibition of discrimination with respect to access to online interfaces should not be understood as creating an obligation for the trader to engage in commercial transactions with customers.

Or. it

Amendment 79
Angelika Niebler

Proposal for a regulation
Recital 14

Text proposed by the Commission

(14) In order to increase the possibility for customers to access information related to the sales of goods and the provision of services on the internal market and to increase transparency, ***including with respect to prices***, traders should not, through the use of technological measures or otherwise, prevent customers from having full and equal access to online interfaces on the basis of their nationality, place of residence or place of establishment. Such technological measures can encompass, in particular, any technologies used to determine the physical location of the customer, including the tracking of that by means of IP address, coordinates obtained through a global navigation satellite system or data related to a payment transaction. However, that prohibition of discrimination with respect to access to online interfaces should not be understood as creating an obligation for the trader to engage in commercial transactions with customers.

Amendment

(14) In order to increase the possibility for customers to access information related to the sales of goods and the provision of services on the internal market and to increase transparency, traders should not, through the use of technological measures or otherwise, prevent customers from having full and equal access to online interfaces on the basis of their nationality, place of residence or place of establishment. Such technological measures can encompass, in particular, any technologies used to determine the physical location of the customer, including the tracking of that by means of IP address, coordinates obtained through a global navigation satellite system or data related to a payment transaction. However, that prohibition of discrimination with respect to access to online interfaces should not be understood as creating an obligation for the trader to engage in commercial transactions with customers.

Or. de

Justification

As set out in the explanatory memorandum, pricing should fall outside the scope of this regulation. It is not the aim of this proposal to alter traders' pricing policies.

Amendment 80
David Borrelli, Dario Tamburrano

Proposal for a regulation
Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) In particular, any trader using technologies enabling it to carry out geo-

marketing could be requested from the authorities to demonstrate that it is not using neither such technologies, nor the information collected through them, in order to apply discriminatory practices. Moreover, traders should not be allowed to sell physical products where regional lock out mechanisms are implemented to be applicable within the territory of the Union, either via hardware or software. Regional differences corresponding to national technical standards notified as established by Article 12 of Regulation (EU) 1025/2012 of the European Parliament and the Council are not deemed to constitute regional lock out mechanisms.

Or. en

Amendment 81
Esther de Lange

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) In certain cases, blocking, limiting of access or redirection without the customer's consent to an alternative version of an online interface for reasons related to the customer's nationality, place or residence or place of establishment might be necessary in order to ensure compliance with a legal requirement in Union law or in the laws of Member States in accordance with Union law. Such laws can limit customers' access to certain goods or services, for instance by prohibiting the display of specific content in certain Member States. Traders should not be prevented from complying with such requirements and thus be able to block, limit the access or redirect certain customers or customers in certain

Amendment

(16) In certain cases, blocking, limiting of access or redirection without the customer's consent to an alternative version of an online interface for reasons related to the customer's nationality, place or residence or place of establishment might be necessary in order to ensure compliance with a legal requirement in Union law or in the laws of Member States in accordance with Union law. Such laws can limit customers' access to certain goods or services, for instance by prohibiting the display of specific content in certain Member States. Traders should not be prevented from complying with such requirements and thus be able to block, limit the access or redirect certain customers or customers in certain

territories to an online interface, insofar as that is necessary for that reason.

territories to an online interface, insofar as that is necessary for that reason. ***Where a trader blocks or limits access to an online interface in order to ensure compliance with a legal requirement in Union law or in the laws of Member States in accordance with Union law, the trader should provide a clear justification.***

Or. en

Amendment 82
Eva Kaili

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) In certain cases, blocking, limiting of access or redirection without the customer's consent to an alternative version of an online interface for reasons related to the customer's nationality, place or residence or place of establishment might be necessary in order to ensure compliance with a legal requirement in Union law or in the laws of Member States in accordance with Union law. Such laws can limit customers' access to certain goods or services, for instance by prohibiting the display of specific content in certain Member States. Traders should not be prevented from complying with such requirements and thus be able to block, limit the access or redirect certain customers or customers in certain territories to an online interface, insofar as that is necessary for that reason.

Amendment

(16) In certain cases, blocking, limiting of access or redirection without the customer's consent to an alternative version of an online interface for reasons related to the customer's nationality, place or residence or place of establishment might be necessary in order to ensure compliance with a legal requirement in Union law or in the laws of Member States in accordance with Union law. Such laws can limit customers' access to certain goods or services, for instance by prohibiting the display of specific content in certain Member States. Traders should not be prevented from complying with such requirements and thus be able to block, limit the access or redirect certain customers or customers in certain territories to an online interface, insofar as that is necessary for that reason.

Furthermore, the application of this Regulation should not prevent Member States from applying their fundamental rules and principles relating to the freedom of press and freedom of expression.

Amendment 83**Lieve Wierinck, Fredrick Federley, Gerben-Jan Gerbrandy****Proposal for a regulation****Recital 16***Text proposed by the Commission*

(16) In certain cases, blocking, limiting of access or redirection without the customer's consent to an alternative version of an online interface for reasons related to the customer's nationality, place or residence or place of establishment might be necessary in order to ensure compliance with a legal requirement in Union law or in the laws of Member States in accordance with Union law. Such laws can limit customers' access to certain goods or services, for instance by prohibiting the display of specific content in certain Member States. Traders should not be prevented from complying with such requirements and thus be able to block, limit the access or redirect certain customers or customers in certain territories to an online interface, insofar as that is necessary for that reason.

Amendment

(16) In certain cases, blocking, limiting of access or redirection without the customer's consent to an alternative version of an online interface for reasons related to the customer's nationality, place or residence or place of establishment might be necessary in order to ensure compliance with a legal requirement in Union law or in the laws of Member States in accordance with Union law. Such laws can limit customers' access to certain goods or services, for instance by prohibiting the display of specific content in certain Member States. Traders should not be prevented from complying with such requirements and thus be able to block, limit the access or redirect certain customers or customers in certain territories to an online interface, insofar as that is necessary for that reason.

Furthermore, the application of this regulation should not prevent Member States from applying their fundamental rules and principles relating to the freedom of press and freedom of expression.

Amendment 84**Angelika Niebler****Proposal for a regulation****Recital 17**

Text proposed by the Commission

(17) In a number of specific situations, any differences in the treatment of customers through the application of general conditions of access, including outright refusals to sell goods or to provide services, for reasons related to the customers' nationality, place of residence or place of establishment cannot be objectively justified. In those situations, all such discrimination should be prohibited and customers should consequently be entitled, under the specific conditions laid down in this Regulation, to engage in commercial transactions under the same conditions as a local customer and have full and equal access to any of the different goods or services offered irrespective of their nationality, place of residence or place of establishment. Where necessary, traders should therefore take measures to ensure compliance with that prohibition of discrimination if otherwise the customers concerned would be precluded from having such full and equal access. However, the prohibition applicable in those situations should not be understood as precluding traders from directing their activities at different Member States or certain groups of customers with targeted offers and differing terms and conditions, including through the setting-up of country-specific online interfaces.

Amendment

(17) In a number of specific situations, any differences in the treatment of customers through the application of general conditions of access, including outright refusals to sell goods or to provide services, for reasons related to the customers' nationality, place of residence or place of establishment cannot be objectively justified. In those situations, all such discrimination should be prohibited and customers should consequently be entitled, under the specific conditions laid down in this Regulation, to engage in commercial transactions under the same conditions as a local customer and have full and equal access to any of the different goods or services offered irrespective of their nationality, place of residence or place of establishment. Where necessary, traders should therefore take measures to ensure compliance with that prohibition of discrimination if otherwise the customers concerned would be precluded from having such full and equal access. However, the prohibition applicable in those situations should not be understood as precluding traders from directing their activities at different Member States or certain groups of customers with targeted offers and differing terms and conditions, including through the setting-up of country-specific online interfaces. ***Should different conditions be applied to services or goods for objective reasons, however, this will not constitute unlawful discrimination as defined in Article 20 and in Recital 95 of Directive 2006/123/EC (Services Directive).***

Or. de

Amendment 85
David Borrelli, Dario Tamburrano

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) In ***a number of*** specific ***situations***, any differences in the treatment of customers through the application of general conditions of access, including outright refusals to sell goods or to provide services, for reasons related to the customers' nationality, place of residence or place of establishment cannot be objectively justified. In those situations, all such discrimination should be prohibited and customers should consequently be entitled, under the specific conditions laid down in this Regulation, to engage in commercial transactions under the same conditions as a local customer and have full and equal access to any of the different goods or services offered irrespective of their nationality, place of residence or place of establishment. Where necessary, traders should therefore take measures to ensure compliance with that prohibition of discrimination if otherwise the customers concerned would be precluded from having such full and equal access. However, the prohibition applicable in those situations should not be understood as precluding traders from directing their activities at different Member States or certain groups of customers with targeted offers and differing terms and conditions, including through the setting-up of country-specific online interfaces.

Amendment

(17) In ***principle, and barring the*** specific ***exceptions provided by this Regulation***, any differences in the treatment of customers through the application of general conditions of access, including outright refusals to sell goods or to provide services, for reasons related to the customers' nationality, place of residence or place of establishment, ***or any other indirect means correlated to these criteria***, cannot be ***considered*** as objectively justified ***in the sense of Article 20 of Directive 2006/123 on services in the internal market***. In those situations, all such discrimination should be prohibited and customers should consequently be entitled, under the specific conditions laid down in this Regulation, to engage in commercial transactions under the same conditions as a local customer and have full and equal access to any of the different goods or services offered irrespective of their nationality, place of residence or place of establishment. Where necessary, traders should therefore take measures to ensure compliance with that prohibition of discrimination if otherwise the customers concerned would be precluded from having such full and equal access. However, the prohibition applicable in those situations should not be understood as precluding traders from directing their activities at different Member States or certain groups of customers with targeted offers and differing terms and conditions, including through the setting-up of country-specific online interfaces.

Or. en

Amendment 86
Angelo Ciocca

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) In a number of specific situations, any differences in the treatment of customers through the application of general conditions of access, including outright refusals to sell goods or to provide services, for reasons related to the customers' nationality, place of residence or place of establishment **cannot** be objectively justified. In those situations, all such discrimination should be prohibited and customers **should** consequently be entitled, under the specific conditions laid down in this Regulation, to engage in commercial transactions under the same conditions as a local customer and have full and equal access to any of the different goods or services offered irrespective of their nationality, place of residence or place of establishment. Where necessary, traders should therefore take measures to ensure compliance with that prohibition of discrimination if otherwise the customers concerned would be precluded from having such full and equal access. However, the prohibition applicable in those situations should not be understood as precluding traders from directing their activities at different Member States or certain groups of customers with targeted offers and differing terms and conditions, including through the setting-up of country-specific online interfaces.

Amendment

(17) In a number of specific situations, any differences in the treatment of customers through the application of general conditions of access, including outright refusals to sell goods or to provide services, for reasons related to the customers' nationality, place of residence or place of establishment **might not** be objectively justified. In those situations, all such discrimination should be prohibited and customers **could** consequently be entitled, under the specific conditions laid down in this Regulation, to engage in commercial transactions under the same conditions as a local customer and have full and equal access to any of the different goods or services offered irrespective of their nationality, place of residence or place of establishment. Where necessary, traders should therefore take measures to ensure compliance with that prohibition of discrimination if otherwise the customers concerned would be precluded from having such full and equal access. However, the prohibition applicable in those situations should not be understood as precluding traders from directing their activities at different Member States or certain groups of customers with targeted offers and differing terms and conditions, including through the setting-up of country-specific online interfaces.

Or. it

Amendment 87
Angelika Niebler

Proposal for a regulation
Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) This Regulation may not restrict the entrepreneurial freedom and freedom of contract enshrined in Article 16 of the Charter of Fundamental Rights of the European Union. Providers' freedom of contract may not become a contractual obligation, including an obligation to deliver, vis-à-vis consumers. This also applies to the cases defined in Article 4(1)(a) to (c).

Or. de

Amendment 88
Angelika Niebler

Proposal for a regulation
Recital 17 b (new)

Text proposed by the Commission

Amendment

(17b) Article 6 of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) governs consumer contracts. Pursuant to that article, a contract which a consumer has concluded with a trader is subject to the law of the State in which the consumer has his or her normal place of residence, provided that the trader, by any means, directs a professional or commercial activity to that country. In the cases defined in Article 4(1)(a) to (c), the provider does not direct his activity to the consumer's Member State. In such cases the Rome I Regulation stipulates that the contract is not subject to the law of the consumer's State of residence. The principle of freedom of choice (Article 3 of the Rome I Regulation) applies here.

The same applies to jurisdiction, which is governed by Regulation (EU) No 1215/2012.

Or. de

Amendment 89
Angelika Niebler

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) The first of those situations is where the trader sells goods and there is no cross-border delivery of those goods by or on behalf of the trader to the Member State where the customer resides. In that situation the customer should be able to purchase goods, under exactly the same conditions, including **price and** conditions relating to the delivery of the goods, as similar customers who are residents of the Member State of the trader. That may mean that a foreign customer will have to pick up the good in that Member State, or in a different Member State to which the trader delivers. In this situation, there is no need to register for value added tax ("VAT") in the Member State of the customer, nor arrange for the cross-border delivery of goods.

Amendment

(18) The first of those situations is where the trader sells goods and there is no cross-border delivery of those goods by or on behalf of the trader to the Member State where the customer resides. In that situation, ***provided that a contract is concluded between the supplier and the customer***, the customer should be able to purchase goods, under exactly the same conditions, including conditions relating to the delivery of the goods, as similar customers who are residents of the Member State of the trader. That may mean that a foreign customer will have to pick up the good in that Member State, or in a different Member State to which the trader delivers. In this situation, there is no need to register for value added tax ("VAT") in the Member State of the customer, nor arrange for the cross-border delivery of goods. ***The supplier must not be compelled to deliver the goods.***

Or. de

Amendment 90
Angelo Ciocca

Proposal for a regulation
Recital 18

Text proposed by the Commission

(18) The first of those situations is where the trader sells goods and there is no cross-border delivery of those goods by or on behalf of the trader to the Member State where the customer resides. In that situation the customer ***should*** be able to purchase goods, under exactly the same conditions, including price and conditions relating to the delivery of the goods, as similar customers who are residents of the Member State of the trader. That may mean that a foreign customer will have to pick up the good in that Member State, or in a different Member State to which the trader delivers. In this situation, there is no need to register for value added tax ("VAT") in the Member State of the customer, nor arrange for the cross-border delivery of goods.

Amendment

(18) The first of those situations is where the trader sells goods and there is no cross-border delivery of those goods by or on behalf of the trader to the Member State where the customer resides. In that situation the customer ***could*** be able to purchase goods, under exactly the same conditions, including price and conditions relating to the delivery of the goods, as similar customers who are residents of the Member State of the trader. That may mean that a foreign customer will have to pick up the good in that Member State, or in a different Member State to which the trader delivers. In this situation, there is no need to register for value added tax ("VAT") in the Member State of the customer, nor arrange for the cross-border delivery of goods.

Or. it

Amendment 91

David Borrelli, Dario Tamburrano

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) The second situation is where the trader provides 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, such as cloud services, data warehousing services, website hosting and the provision of firewalls. In this case, no physical delivery is required, as the services are being supplied electronically. The trader can declare and pay VAT in a simplified manner in accordance with the rules on VAT Mini-One-Stop-Shop (MOSS) set out

Amendment

(19) The second situation is where the trader provides 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, such as cloud services, data warehousing services, website hosting and the provision of firewalls. In this case, no physical delivery is required, as the services are being supplied electronically. The trader can declare and pay VAT in a simplified manner in accordance with the rules on VAT Mini-One-Stop-Shop (MOSS) set out

in Council Implementing Regulation (EU) No 282/2011²⁶.

in Council Implementing Regulation (EU) No 282/2011²⁶. ***Any difference in the application of tax regimes should not entail the application of different conditions of access.***

²⁶ Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (OJ L 77, 23.3.2011, p. 1).

²⁶ Council Implementing Regulation (EU) No 282/2011 of 15 March 2011 laying down implementing measures for Directive 2006/112/EC on the common system of value added tax (OJ L 77, 23.3.2011, p. 1).

Or. en

Amendment 92

Angelo Ciocca

Proposal for a regulation

Recital 20

Text proposed by the Commission

(20) Finally, in the situation where the trader provides services and those services are received by the customer in the premises of or at a location chosen by the trader and different from the Member State of which the customer is a national or in which the customer has his or her place of residence or place of establishment, the application of different general conditions of access for reasons related to such criteria ***should not be*** justified ***either***. Those situations concern, as the case may be, the provision of services such as hotel accommodation, sport events, car rental, and entry tickets to music festivals or leisure parks. In those situations, the trader does not have to register for VAT in another Member State nor arrange for cross-border delivery of goods.

Amendment

(20) Finally, in the situation where the trader provides services and those services are received by the customer in the premises of or at a location chosen by the trader and different from the Member State of which the customer is a national or in which the customer has his or her place of residence or place of establishment, ***it may be that*** the application of different general conditions of access for reasons related to such criteria ***are also*** not justified. Those situations concern, as the case may be, the provision of services such as hotel accommodation, sport events, car rental, and entry tickets to music festivals or leisure parks. In those situations, the trader does not have to register for VAT in another Member State nor arrange for cross-border delivery of goods.

Or. it

Amendment 93
Angelo Ciocca

Proposal for a regulation
Recital 21

Text proposed by the Commission

(21) In all those situations, by virtue of the provisions on the law applicable to contractual obligations and on jurisdiction set out in Regulations (EC) No 593/2008 and (EU) 1215/2012, where a trader does not pursue his activities in the Member State of the **consumer** or does not direct his activities there, **or where the customer is not a consumer**, compliance with this Regulation **does not imply** any additional costs for the trader associated with jurisdiction or differences in applicable law. Where, in contrast, a trader does pursue his activities in the **consumer's** Member State or does direct his activities there, the trader has manifested its intention to establish commercial relations with **consumers** from that Member State and thus been able to take account of any such costs.

Amendment

(21) In all those situations, by virtue of the provisions on the law applicable to contractual obligations and on jurisdiction set out in Regulations (EC) No 593/2008 and (EU) 1215/2012, where a trader does not pursue his activities in the Member State of the **customer** or does not direct his activities there, compliance with this Regulation **should not entail** any additional costs for the trader associated with jurisdiction or differences in applicable law. Where, in contrast, a trader does pursue his activities in the **customer's** Member State or does direct his activities there, the trader has manifested his or her intention to establish commercial relations with **customers** from that Member State and has thus been able to take account of any such costs.

Or. it

Amendment 94
Lieve Wierinck, Fredrick Federley, Gerben-Jan Gerbrandy

Proposal for a regulation
Recital 22

Text proposed by the Commission

(22) Traders falling under the special scheme provided in Chapter 1 of Title XII of Council Directive 2006/112/EC²⁷ are not required to pay VAT. For those traders, when providing electronically supplied services, the prohibition of applying different general conditions of access for

Amendment

(22) Traders falling under the special scheme provided in Chapter 1 of Title XII of Council Directive 2006/112/EC²⁷ are not required to pay VAT **in the Member State where they are established**. For those traders, when providing electronically supplied services, the prohibition of

reasons related to the nationality, place of residence or place of establishment of the customer would imply a requirement to register in order to account for VAT of other Member States and might entail additional costs, which would be a disproportionate burden, considering the size and characteristics of the traders concerned. Therefore, those traders should be exempted from that prohibition for such time as such a scheme is applicable.

²⁷ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1–118)

applying different general conditions of access for reasons related to the nationality, place of residence or place of establishment of the customer would imply a requirement to register in order to account for VAT of other Member States and might entail additional costs, which would be a disproportionate burden, considering the size and characteristics of the traders concerned. Therefore, those traders should be exempted from that prohibition for such time as such a scheme is applicable.

²⁷ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1–118)

Or. en

Amendment 95

Lieve Wierinck

Proposal for a regulation

Recital 24

Text proposed by the Commission

(24) Under Union law, traders are in principle free to decide which means of payment they wish to accept, including payment brands. However, once this choice has been made, in view of the existing legal framework for payment services, there are no reasons for traders to discriminate customers within the Union by refusing certain commercial transactions, or by otherwise applying certain different conditions of payment in respect of those transactions, for reasons related to the nationality, place of residence or place of establishment of the customer. In this particular context, such unjustified unequal treatment for reasons related to the

Amendment

(24) Under Union law, traders are in principle free to decide which means of payment they wish to accept, including payment brands. However, once this choice has been made, in view of the existing legal framework for payment services, there are no reasons for traders to discriminate customers within the Union by refusing certain commercial transactions, or by otherwise applying certain different conditions of payment in respect of those transactions, for reasons related to the nationality, place of residence or place of establishment of the customer. In this particular context, such unjustified unequal treatment for reasons related to the

location of the payment account, the place of establishment of the payment service provider or the place of issue of the payment instrument within the Union should be expressly prohibited as well. It should be further recalled that Regulation (EU) No 260/2012 already prohibits all payees, including traders, from requiring bank accounts to be located in a certain Member State for a payment in euro to be accepted.

location of the payment account, the place of establishment of the payment service provider or the place of issue of the payment instrument within the Union should be expressly prohibited as well. It should be further recalled that Regulation (EU) No 260/2012 already prohibits all payees, including traders, from requiring bank accounts to be located in a certain Member State for a payment in euro to be accepted. ***The trader should remain free to request charges for the use of a payment instrument. However, this right is subject to the restriction introduced by Article 62 of the Directive (EU) 2015/2366, meaning amongst others that these additional charges cannot be higher than the actual cost the trader has incurred.***

Or. en

Amendment 96
Angelo Ciocca

Proposal for a regulation
Recital 25

Text proposed by the Commission

(25) Directive 2015/2366/EU of the European Parliament and of the Council²⁸ introduced strict security requirements for the initiation and processing of electronic payments, which reduced the risk of fraud for all new and more traditional means of payment, especially online payments. Payment service providers are obliged to apply so-called strong customer authentication, an authentication process that validates the identity of the user of a payment service or of the payment transaction. For remote transactions, such as online payments, the security requirements go even further, requiring a dynamic link to the amount of the transaction and the account of the payee, to

Amendment

(25) Directive 2015/2366/EU of the European Parliament and of the Council²⁸ introduced strict security requirements for the initiation and processing of electronic payments, which reduced the risk of fraud for all new and more traditional means of payment, especially online payments. Payment service providers are obliged to apply so-called strong customer authentication, an authentication process that validates the identity of the user of a payment service or of the payment transaction. For remote transactions, such as online payments, the security requirements go even further, requiring a dynamic link to the amount of the transaction and the account of the payee, to

further protect the user by minimising the risks in case of mistakes or fraudulent attacks. As a result of these provisions, the risk of payment fraud in national and cross-border purchases is brought to an equal level and should not be used as an argument to refuse or discriminate any commercial transactions within the Union.

further protect the user by minimising the risks in case of mistakes or fraudulent attacks. As a result of these provisions, the risk of payment fraud in national and cross-border purchases is brought to an equal level and should not be used as an argument to refuse or discriminate any commercial transactions within the Union.
The possibility of traders charging for the cost of using a payment instrument should be subject to the limitations set out in Article 62 of that Directive.

²⁸ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35–127).

²⁸ Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35–127).

Or. it

Amendment 97

Angelo Ciocca

Proposal for a regulation

Recital 26

Text proposed by the Commission

(26) This Regulation should not affect the application of the rules on competition, and in particular Articles 101 and 102 TFEU. Agreements imposing on traders obligations not to engage in passive sales within the meaning of Commission Regulation (EU) No 330/2010²⁹ to certain customers or to customers in certain territories are generally considered restrictive of competition and cannot normally be exempted from the prohibition laid down in Article 101(1) TFEU. ***Even***

Amendment

(26) This Regulation should not affect the application of the rules on competition, and in particular Articles 101 and 102 TFEU. Agreements imposing on traders obligations not to engage in passive sales within the meaning of Commission Regulation (EU) No 330/2010²⁹ to certain customers or to customers in certain territories are generally considered restrictive of competition and cannot normally be exempted from the prohibition laid down in Article 101(1) TFEU. This

when they are not caught by Article 101 TFEU, in the context of the application of this Regulation, they disrupt the proper functioning of the internal market and they may be used to circumvent the provisions of this Regulation. The relevant provisions of such agreements and of other agreements in respect of passive sales requiring the trader to act in violation of this Regulation should therefore be automatically void. However, this Regulation, and in particular its provisions on access to goods or services, should not affect agreements restricting active sales within the meaning of Regulation (EU) No 330/2010.

²⁹ Commission Regulation (EU) No 330/2010 of 20 April 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices (OJ L 102, 23.4.2010, p. 1).

Regulation, and in particular its provisions on access to goods or services, should not affect agreements restricting active sales within the meaning of Regulation (EU) No 330/2010.

²⁹ Commission Regulation (EU) No 330/2010 of 20 April 2010 on the application of Article 101(3) of the Treaty on the Functioning of the European Union to categories of vertical agreements and concerted practices (OJ L 102, 23.4.2010, p. 1).

Or. it

Amendment 98 **Esther de Lange**

Proposal for a regulation **Recital 27**

Text proposed by the Commission

(27) Member States should designate one or more bodies responsible for taking effective action to monitor and to secure compliance with the provision of this Regulation. Member States should also ensure that effective, proportionate and dissuasive penalties can be imposed on traders in the event of any breach of this Regulation.

Amendment

(27) Member States should designate one or more bodies responsible for taking effective action to monitor and to secure compliance with the provision of this Regulation. Member States should also ensure that effective, proportionate and dissuasive penalties can be imposed on traders in the event of any breach of this Regulation. ***These penalties should be harmonised at Union level.***

Justification

Member States shall provide similar penalties for similar infringements in order to prevent market distortions, ensure a Union wide level playing field and minimise uncertainty for traders and consumers.

Amendment 99

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 28

Text proposed by the Commission

(28) *Consumers* should be in the position to receive assistance from responsible authorities facilitating the resolution of conflicts with traders, arising from the application of this Regulation, including by way of a uniform complaint form.

Amendment

(28) *Customers* should be in the position to receive assistance from responsible authorities facilitating the resolution of conflicts with traders, arising from the application of this Regulation, including by way of a uniform complaint form.

Justification

Adapting the text in order to offer a true Single Digital Market

Amendment 100

Angelika Niebler

Proposal for a regulation

Recital 29

Text proposed by the Commission

(29) This Regulation should be regularly evaluated, with a view to proposing amendments where necessary. *The first evaluation should concentrate, in particular, on the possible extension of the prohibition of Article 4(1)(b) to*

Amendment

(29) This Regulation should be regularly evaluated, with a view to proposing amendments where necessary.

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.

Or. de

Justification

Access to copyright protected works or other protected subject matter and the use of such works or subject matter should continue to fall outside the scope of this regulation. This will rule out overlap with other items of EU legislation.

Amendment 101

Angelo Ciocca

Proposal for a regulation

Recital 29

Text proposed by the Commission

(29) This Regulation should be regularly evaluated, with a view to proposing amendments where necessary. The *first evaluation should concentrate, in particular, on the possible* extension of the prohibition of Article 4(1)(b) 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.

Amendment

(29) This Regulation should be regularly evaluated, with a view to proposing amendments where necessary. The extension of the prohibition of Article 4(1)(b) 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, *should not be subject to that evaluation.*

Or. it

Amendment 102

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) Traders, public authorities and other interested parties should have sufficient time to adapt to, and ensure compliance with, the provisions of this Regulation. ***In light of the particular characteristics 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, it is appropriate to apply the prohibition of Article 4(1)(b) only from a later date with respect to the provision of those services.***

Amendment

(32) Traders, public authorities and other interested parties should have sufficient time to adapt to, and ensure compliance with, the provisions of this Regulation.

Or. en

Justification

Necessary to align the text with the new version of Art. 4

Amendment 103
Angelo Ciocca

Proposal for a regulation
Recital 35

Text proposed by the Commission

(35) This Regulation respects fundamental rights and observes the principle recognised in the Charter of Fundamental Rights of the European Union. In particular this Regulation seeks to ensure full respect of Articles 16 and 17 thereof,

Amendment

(35) This Regulation respects fundamental rights and observes the principle recognised in the Charter of Fundamental Rights of the European Union. In particular this Regulation seeks to ensure full respect of Articles **15**, 16 and 17 thereof,

Or. it

Amendment 104
Angelika Niebler

Proposal for a regulation

Article 1 – paragraph 1

Text proposed by the Commission

1. This Regulation seeks 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.

Amendment

1. This Regulation seeks 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. ***Should different conditions be applied to services or goods for objective reasons, however, this will not constitute unlawful discrimination as defined in Article 20 and Recital 95 of Directive 2006/123/EC (Services Directive).***

Or. de

Amendment 105

Evžen Tošenovský, Anneleen Van Bossuyt

Proposal for a regulation

Article 1 – paragraph 1

Text proposed by the Commission

1. This Regulation seeks 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.

Amendment

1. This Regulation seeks 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, ***and where such discrimination cannot be directly justified by objective criteria pursuant to Article 20(2) of Directive 2006/123/EC.***

Or. en

Amendment 106

Angelika Niebler

Proposal for a regulation

Article 1 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. This Regulation may not restrict the entrepreneurial freedom and freedom of contract enshrined in Article 16 of the Charter of Fundamental Rights of the European Union.

Or. de

Amendment 107

Evžen Tošenovský, Anneleen Van Bossuyt

Proposal for a regulation

Article 1 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. This Regulation applies to the *following* situations:

2. This Regulation applies to the ***cross-border commercial transactions and analogous situations in a Member State where the customer has a place of residence, place of establishment or nationality other than trader.***

Or. en

Amendment 108

Evžen Tošenovský

Proposal for a regulation

Article 1 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) where the trader sells goods, provides services, or seeks to do so, in a Member State other than the Member State in which the customer has the place of residence or the place of establishment;

deleted

Or. en

Amendment 109
Evžen Tošenovský

Proposal for a regulation
Article 1 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) where the trader sells goods, provides services, or seeks to do so, in the same Member State as the one in which the customer has the place of residence or place of establishment, but the customer is a national of another Member State; **deleted**

Or. en

Amendment 110
Evžen Tošenovský

Proposal for a regulation
Article 1 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) where the trader sells goods or provides services, or seeks to do so, in a Member State in which the customer is temporarily located without residing in that Member State or having the place of establishment in that Member State. **deleted**

Or. en

Amendment 111
Kaja Kallas

Proposal for a regulation
Article 1 – paragraph 3

Text proposed by the Commission

Amendment

3. This Regulation does not apply to

3. This Regulation does not apply to

the activities referred to in Article 2(2) of Directive 2006/123/EC.

the activities referred to in Article 2(2) of Directive 2006/123/EC ***with the exception of services in the field of transport.***

Or. en

Justification

Although consistency with the scope of the Services directive is needed, the range of transport services provided online has evolved and increased since the adoption of that Directive, and discrimination often occur with respect to the sales of tickets. This is therefore not justified to provide an exemption for these services.

Amendment 112 **Eva Kaili**

Proposal for a regulation **Article 1 – paragraph 5**

Text proposed by the Commission

5. This Regulation shall not affect acts of Union law concerning judicial cooperation in civil matters. Compliance with this Regulation shall not be construed as implying that a trader directs his or her activities to the Member State where the consumer has the habitual residence or domicile within the meaning of point (b) of Article 6(1) of Regulation (EC) No 593/2008 and point (c) of Article 17(1) of Regulation (EU) 1215/2012.

Amendment

5. This Regulation shall not affect acts of Union law concerning judicial cooperation in civil matters. Compliance with this Regulation shall not be construed as implying that a trader directs his or her activities to the Member State where the consumer has the habitual residence or domicile within the meaning of point (b) of Article 6(1) of Regulation (EC) No 593/2008 and point (c) of Article 17(1) of Regulation (EU) 1215/2012. ***In particular, where a trader, in accordance with this Regulation ensures access to their online interface for customers regardless of their nationality or place of residence, does not apply different general conditions of access when selling goods or providing services in cases laid down in this Regulation or where the trader accepts payments instruments issued in a another Member State on a non-discriminatory basis, the trader shall not be considered as directing his or her activities to the Member State, where the consumer has the habitual residence or domicile, unless***

the existence of other additional elements is established, indicating the overall intention of the trader to direct his or her activity to such Member State.

Or. en

Amendment 113

José Blanco López, Sergio Gutiérrez Prieto

Proposal for a regulation

Article 1 – paragraph 5

Text proposed by the Commission

5. This Regulation shall not affect acts of Union law concerning judicial cooperation in civil matters. Compliance with this Regulation shall not be construed as implying that a trader directs his or her activities to the Member State where the consumer has the habitual residence or domicile within the meaning of point (b) of Article 6(1) of Regulation (EC) No 593/2008 and point (c) of Article 17(1) of Regulation (EU) 1215/2012.

Amendment

5. This Regulation shall not affect acts of Union law concerning judicial cooperation in civil matters. Compliance with this Regulation shall not be construed as implying that a trader directs his or her activities to the Member State where the consumer has the habitual residence or domicile within the meaning of point (b) of Article 6(1) of Regulation (EC) No 593/2008 and point (c) of Article 17(1) of Regulation (EU) 1215/2012. ***The mere fact that a trader guarantees access to his online interface irrespective of the customer's nationality or place of residence shall not be construed as the trader directing his business of selling goods or providing services at the Member State in which the customer resides, unless there are additional factors proving the trader's intention of directing his business activities at said Member State.***

Or. es

Amendment 114

Angelika Niebler

Proposal for a regulation

Article 2 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) 'customer' means a consumer who, or an undertaking which, is a national of a Member State or has his or her place of residence or place of establishment in a Member State, and intends to purchase or purchases a good or a service within the Union, other than for resale;

deleted

(If the amendment is adopted, the term 'customer' should be replaced by 'consumer' throughout the text and the reference to the place of establishment should be deleted.)

Or. de

Justification

Throughout the text the term 'customer' should be replaced by 'consumer' and the reference to the place of establishment should be deleted. The regulation should cover only business-to-consumer transactions. This will rule out overlap with competition law.

Amendment 115

David Borrelli, Dario Tamburrano

Proposal for a regulation

Article 2 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) 'customer' means a consumer who, or an undertaking which, is a national of a Member State or has his or her place of residence or place of establishment in a Member State, and intends to purchase or purchases a good or a service within the Union, other than for resale;

(c) 'customer' means a consumer who, or an undertaking which, is a national of a Member State or has his or her place of residence or place of establishment in a Member State, and intends to purchase or purchases a good or a service within the Union, other than for resale, *rental, transformation or processing on a commercial scale*;

Or. en

Amendment 116
Kaja Kallas, Lieve Wierinck

Proposal for a regulation
Article 2 – paragraph 2 – point d

Text proposed by the Commission

(d) 'general conditions of access' means all terms, conditions and other information, including sale prices, regulating the access of customers to goods or services offered for sale by a trader, which are set, applied and made available to the public at large by or on behalf of the trader and which apply in the absence of an individually negotiated agreement between the trader and the customer;

Amendment

(d) 'general conditions of access' means all terms, conditions and other information, including sale prices, ***requirements based on telephone prefixes***, regulating the access of customers to goods or services offered for sale by a trader, which are set, applied and made available to the public at large by or on behalf of the trader and which apply in the absence of an individually negotiated agreement between the trader and the customer;

Or. en

Justification

Discrimination can occur when traders require a customer to have a phone number with a specific country code to complete a transaction

Amendment 117
Angelika Niebler

Proposal for a regulation
Article 2 – paragraph 2 – point c

Text proposed by the Commission

(c) 'general conditions of access' means all terms, conditions and other information, ***including sale prices***, regulating the access of customers to goods or services offered for sale by a trader, which are set, applied and made available to the public at large by or on behalf of the trader and which apply in the absence of an individually negotiated agreement between the trader and the customer;

Amendment

(c) 'general conditions of access' means all terms, conditions and other information regulating the access of customers to goods or services offered for sale by a trader, which are set, applied and made available to the public at large by or on behalf of the trader and which apply in the absence of an individually negotiated agreement between the trader and the customer;

Justification

As set out in the explanatory memorandum, pricing should fall outside the scope of this regulation. It is not the aim of this proposal to alter traders' pricing policies.

Amendment 118
José Blanco López

Proposal for a regulation
Article 2 – paragraph 2 – point e

Text proposed by the Commission

(e) 'online interface' means any software, including a website and applications, operated by or on behalf of a trader, which serves to give customers access to the trader's goods or services with a view to engaging in a commercial transaction with respect to those goods or services;

Amendment

(e) 'online interface' means any software, including a website, ***or some part thereof***, and applications, operated by or on behalf of a trader, which serves to give customers access to the trader's goods or services with a view to engaging in a commercial transaction with respect to those goods or services;

Amendment 119
Lieve Wierinck

Proposal for a regulation
Article 2 – paragraph 2 – point f

Text proposed by the Commission

(f) 'online interface' means any software, including a website and applications, operated by or on behalf of a trader, which serves to give customers access to the trader's goods or services with a view to engaging in a commercial transaction with respect to those goods or services;

Amendment

(f) 'online interface' means any software, including a website ***or part of a website*** and applications, operated by or on behalf of a trader, which serves to give customers access to the trader's goods or services with a view to engaging in a commercial transaction with respect to those goods or services;

Amendment 120
Esther de Lange

Proposal for a regulation
Article 3 – paragraph 1

Text proposed by the Commission

1. Traders shall not, ***through the use of technological measures or otherwise***, block or limit customers' access to their online interface for reasons related to the nationality, place of residence or place of establishment of the customer.

Amendment

1. Traders shall not block or limit customers' access to their online interface for reasons related to the nationality, place of residence or place of establishment of the customer.

Or. en

Amendment 121
Angelo Ciocca

Proposal for a regulation
Article 3 – paragraph 1

Text proposed by the Commission

1. Traders shall ***not***, through the use of technological measures or otherwise, block or limit customers' access to their online interface for reasons related to the nationality, place of residence or place of establishment of the customer.

Amendment

1. Traders shall ***be able***, through the use of technological measures or otherwise, ***not to*** block or limit customers' access to their online interface for reasons related to the nationality, place of residence or place of establishment of the customer.

Or. it

Amendment 122
Angelo Ciocca

Proposal for a regulation
Article 3 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Traders shall ***not***, for reasons related to the

Amendment

Traders shall ***be able***, for reasons related to

nationality, place of residence or place of establishment of the customer, redirect customers to a version of their online interface that is different from the online interface which the customer originally sought to access, by virtue of its layout, use of language or other characteristics that make it specific to customers with a particular nationality, place of residence or place establishment, unless the customer gives his or her explicit consent prior to such redirection.

the nationality, place of residence or place of establishment of the customer, **not to** redirect customers to a version of their online interface that is different from the online interface which the customer originally sought to access, by virtue of its layout, use of language or other characteristics that make it specific to customers with a particular nationality, place of residence or place establishment, unless the customer gives his or her explicit consent prior to such redirection.

Or. it

Amendment 123
Lieve Wierinck

Proposal for a regulation
Article 3 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Traders shall not, for reasons related to the nationality, place of residence or place of establishment of the customer, redirect customers to a version of their online interface that is different from the online interface which the customer **originally** sought to access, by virtue of its layout, use of language or other characteristics that make it specific to customers with a particular nationality, place of residence or place establishment, unless the customer gives his or her explicit consent prior to such redirection.

Amendment

Traders shall not, for reasons related to the nationality, place of residence or place of establishment of the customer, redirect customers to a version of their online interface that is different from the online interface which the customer **first** sought to access, by virtue of its layout, use of language or other characteristics that make it specific to customers with a particular nationality, place of residence or place establishment, unless the customer gives his or her explicit consent prior to such redirection.

Or. en

Amendment 124
José Blanco López, Sergio Gutiérrez Prieto

Proposal for a regulation
Article 3 – paragraph 2 – subparagraph 2

Text proposed by the Commission

In the event of such redirection with the customer's explicit consent, the **original** version of the online interface shall remain easily accessible for that customer.

Amendment

In the event of such redirection with the customer's explicit consent, the version of the online interface **which the customer initially sought to access** shall remain easily accessible for that customer.

Or. es

Amendment 125

Angelo Ciocca

Proposal for a regulation

Article 3 – paragraph 3

Text proposed by the Commission

3. ***The prohibitions set out in paragraphs*** 1 and 2 shall not apply where the blocking, limitation of access or redirection with respect to certain customers or to customers in certain territories is necessary in order to ensure compliance with a legal requirement in Union law or in the laws of Member States in accordance with Union law.

Amendment

3. ***Paragraphs*** 1 and 2 shall not apply where the blocking, limitation of access or redirection with respect to certain customers or to customers in certain territories is necessary in order to ensure compliance with a legal requirement in Union law or in the laws of Member States in accordance with Union law.

Or. it

Amendment 126

Angelika Niebler

Proposal for a regulation

Article 3 – paragraph 4

Text proposed by the Commission

4. Where a trader blocks or limits access of customers to an online interface or redirects customers to a different version of the online interface in compliance with paragraph 4, the trader shall provide a clear justification. ***That*** justification shall be given in the language of the online interface that the customer originally

Amendment

4. Where a trader blocks or limits access of customers to an online interface or redirects customers to a different version of the online interface in compliance with paragraph 3, the trader shall provide a clear justification. ***The justification to be provided to the consumer*** shall be given in the language of the online interface that the

sought to access.

customer originally sought to access.

Or. de

Amendment 127

Esther de Lange

Proposal for a regulation

Article 3 – paragraph 4

Text proposed by the Commission

4. Where a trader blocks or limits access of customers to an online interface or redirects customers to a different version of the online interface in compliance with paragraph 4, the trader shall provide a clear justification. That justification shall be given in the language of the online interface that the customer originally sought to access.

Amendment

4. Where a trader blocks or limits access of customers to an online interface or redirects customers to a different version of the online interface in compliance with paragraph 3, the trader shall provide a clear justification. That justification shall be given in the language of the online interface that the customer originally sought to access.

Or. en

Amendment 128

Angelo Ciocca

Proposal for a regulation

Article 3 – paragraph 4

Text proposed by the Commission

4. Where a trader blocks or limits access of customers to an online interface or redirects customers to a different version of the online interface in compliance with paragraph 4, the trader shall provide a clear justification. That justification shall be given in the language of the online interface that the customer originally sought to access.

Amendment

4. Where a trader blocks or limits access of customers to an online interface or redirects customers to a different version of the online interface in compliance with paragraph 3, the trader shall provide a clear justification. That justification shall be given in the language of the online interface that the customer originally sought to access.

(Correction of a material error in the text proposed by the Commission)

Amendment 129
Lieve Wierinck

Proposal for a regulation
Article 3 – paragraph 4

Text proposed by the Commission

4. Where a trader blocks or limits access of customers to an online interface or redirects customers to a different version of the online interface in compliance with paragraph 4, the trader shall provide a clear justification. That justification shall be given in the language of the online interface that the customer *originally* sought to access.

Amendment

4. Where a trader blocks or limits access of customers to an online interface or redirects customers to a different version of the online interface in compliance with paragraph 4, the trader shall provide a clear justification. That justification shall be given in the language of the online interface that the customer *first* sought to access.

Amendment 130
Angelika Niebler

Proposal for a regulation
Article 4 – paragraph 1 – introductory part

Text proposed by the Commission

1. Traders shall not apply different general conditions of access to their goods or services, for reasons related to the nationality, place of residence or place of establishment of the customer, in the *following situations*:

Amendment

1. ***In the cases defined in paragraph 1(a)-(c) of this Article 4***, traders shall not apply different general conditions of access to their goods or services, for reasons related to the nationality, place of residence or place of establishment of the customer. ***Should different conditions be applied to services or goods for objective reasons, however, this will not constitute unlawful discrimination as defined in Article 20 and Recital 95 of Directive 2006/123/EC (Services Directive).***
This Regulation may not restrict the entrepreneurial freedom and freedom of contract enshrined in Article 16 of the

Charter of Fundamental Rights of the European Union. Providers' freedom of contract may not become a contractual obligation, including an obligation to deliver, vis-à-vis consumers. This also applies to the cases defined in Article 4(1)(a) to (c).

Article 6 of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) governs consumer contracts. Pursuant to that article, a contract which a consumer has concluded with a trader is subject to the law of the State in which the consumer has his or her normal place of residence, provided that the trader, by any means, directs a professional or commercial activity to that country. In the cases defined in Article 4(1)(a) to (c), the provider does not direct his activity to the consumer's Member State. In such cases the Rome I Regulation stipulates that the contract is not subject to the law of the consumer's State of residence. The principle of freedom of choice (Article 3 of the Rome I Regulation) applies here. The same applies to jurisdiction, which is governed by Regulation (EU) No 1215/2012.

Or. de

Amendment 131

Angelo Ciocca

Proposal for a regulation

Article 4 – paragraph 1 – introductory part

Text proposed by the Commission

1. Traders ***shall not*** apply ***different*** general conditions of access to their goods or services, ***for reasons related to the nationality, place of residence or place of establishment of the customer***, in the

Amendment

1. Traders ***may*** apply ***equal*** general conditions of access to their goods or services in the following situations:

following situations:

Or. it

Amendment 132

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 4 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) where the trader provides 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;***

(b) where the trader provides electronically supplied services;

Or. en

Justification

This amendment gives legal certainty to the following policy statement by Andrus Ansip, Vice-President for the Digital Single Market: "All too often people are blocked from accessing the best offers when shopping online or decide not to buy cross-border because the delivery prices are too high or they are worried about how to claim their rights if something goes wrong. We want to solve the problems that are preventing consumers and businesses from fully enjoying the opportunities of buying and selling products and services online."

Amendment 133

Kaja Kallas

Proposal for a regulation

Article 4 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) where the trader provides 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 and the trader has the requisite rights to supply

the service in the relevant territories;

Or. en

Amendment 134

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 4 – paragraph 1 – point c

Text proposed by the Commission

(c) where the trader provides services, ***other than those covered by point (b)***, and those services are supplied to the customer in the premises of the trader or in a physical location where the trader operates, in a Member State other than that of which the customer is a national or in which the customer has the place of residence or the place of establishment.

Amendment

(c) where the trader provides services, and those services are supplied to the customer in the premises of the trader or in a physical location where the trader operates, in a Member State other than that of which the customer is a national or in which the customer has the place of residence or the place of establishment.

Or. en

Justification

Aligning the text with the new Art. 4 (b)

Amendment 135

Angelo Ciocca

Proposal for a regulation

Article 4 – paragraph 3 – subparagraph 1

Text proposed by the Commission

The prohibition set out in paragraph 1 shall not apply in so far as a specific provision laid down in Union law or in the laws of Member States in accordance with Union law prevents the trader from selling the goods or providing the services to certain customers or to customers in certain

Amendment

Paragraph 1 shall not apply in so far as a specific provision laid down in Union law or in the laws of Member States in accordance with Union law prevents the trader from selling the goods or providing the services to certain customers or to customers in certain territories.

territories.

Or. it

Amendment 136

Angelo Ciocca

Proposal for a regulation

Article 4 – paragraph 3 – subparagraph 2

Text proposed by the Commission

With respect to sales of books, the ***prohibition*** set out in paragraph 1 shall not preclude traders from applying different prices to customers in certain territories in so far as they are required to do so under the laws of Member States in accordance with Union law.

Amendment

With respect to sales of books, the ***provisions*** set out in paragraph 1 shall not preclude traders from applying different prices to customers in certain territories in so far as they are required to do so under the laws of Member States in accordance with Union law.

Or. it

Amendment 137

Angelo Ciocca

Proposal for a regulation

Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

1. Traders ***shall not, for reasons related to the nationality, place of residence or place of establishment of the customer, the location of the payment account, the place of establishment of the payment service provider or the place of issue of the payment instrument within the Union,*** apply ***different*** conditions of payment for any sales of goods or provision of services, where:

Amendment

1. Traders ***may*** apply ***equal*** conditions of payment for any sales of goods or provision of services, where:

Or. it

Amendment 138
Angelo Ciocca

Proposal for a regulation
Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) the *payee* can request strong customer authentication by the payer pursuant to the Directive (EU) 2015/2366; and

Amendment

(b) the *trader* can request strong customer authentication by the payer pursuant to the Directive (EU) 2015/2366; and

Or. it

Amendment 139
David Borrelli, Dario Tamburrano

Proposal for a regulation
Article 5 – paragraph 1 – point c

Text proposed by the Commission

(c) the payments are in a currency that the payee accepts.

Amendment

(c) the payments are in a currency *of a Member State of the European Union, or in any other currency* that the payee accepts.

Or. en

Amendment 140
Angelo Ciocca

Proposal for a regulation
Article 5 – paragraph 1 – point c

Text proposed by the Commission

(c) the payments are in a currency that the *payee* accepts.

Amendment

(c) the payments are in a currency that the *trader* accepts.

Or. it

Amendment 141
Eva Kaili

Proposal for a regulation
Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The prohibition set out in paragraph 1 shall not preclude trader's right to withhold the goods or the provision of the service based on objective reasons, until the payment transaction is correctly initiated.

Or. en

Amendment 142
Angelo Ciocca

Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission

Amendment

2. *The prohibition* set out in paragraph 1 shall not preclude traders' possibility to request charges for the use of a card-based payment instrument for which interchanges fees are not regulated under Chapter II of Regulation (EU) 2015/751 and for those payment services to which Regulation (EU) No 260/2012 does not apply. Those charges shall not exceed the costs borne by the trader for the use of the payment instrument.

2. *Without prejudice to any national laws adopted pursuant to Article 62(5) of Directive (EU) 2015/2366, the provisions* set out in paragraph 1 shall not preclude traders' possibility to request charges for the use of a card-based payment instrument for which interchanges fees are not regulated under Chapter II of Regulation (EU) 2015/751 and for those payment services to which Regulation (EU) No 260/2012 does not apply. Those charges shall not exceed the costs borne by the trader for the use of the payment instrument.

Or. it

Amendment 143
Angelo Ciocca

Proposal for a regulation
Article 6

Text proposed by the Commission

Amendment

Article 6

deleted

Agreements on passive sales

Agreements imposing on traders obligations, in respect of passive sales, to act in violation of this Regulation shall be automatically void.

Or. it

Amendment 144
Angelika Niebler

Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

Amendment

Agreements imposing on traders obligations, in respect of passive sales, to act in violation of this Regulation shall be automatically void.

deleted

Or. de

Justification

It is completely unclear what 'passive sales' means. The definition of 'passive sales' is incomprehensible.

Amendment 145
Eva Kaili

Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

Amendment

Agreements imposing on traders

Contractual provisions imposing on

obligations, in respect of passive sales, to act in violation of this Regulation shall be automatically void.

traders obligations, in respect of passive sales ***within the meaning of Commission Regulation (EU) No 330/2010***, to act in violation of this Regulation shall be automatically ***null and*** void.

Or. en

Amendment 146

Lieve Wierinck

Proposal for a regulation

Article 6 – paragraph 1

Text proposed by the Commission

Agreements imposing on traders obligations, in respect of passive sales, to act in violation of this Regulation shall be automatically void.

Amendment

Agreements imposing on traders obligations, in respect of passive sales ***within the meaning of Commission Regulation (EU) No 330/2010***, to act in violation of this Regulation shall be automatically void.

Or. en

Amendment 147

Evžen Tošenovský

Proposal for a regulation

Article 7 – paragraph 1

Text proposed by the Commission

1. 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.

Amendment

1. Each Member State shall designate ***an existing*** body or bodies responsible for the enforcement ***of this Regulation, as well as lay down and implement effective, proportionate and dissuasive rules on the measures applicable for infringements of the provisions*** 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.

Amendment 148
Evžen Tošenovský

Proposal for a regulation
Article 7 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall lay down the rules on the penalties applicable for infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive. **deleted**

Or. en

Amendment 149
Esther de Lange

Proposal for a regulation
Article 7 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall lay down the rules on the penalties applicable for infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate *and dissuasive*.

2. Member States shall lay down the rules on the penalties applicable for infringements of the provisions of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate, *dissuasive and harmonised at Union level*.

Or. en

Justification

Member States shall provide similar penalties for similar infringements in order to prevent market distortions, ensure a Union wide level playing field and minimise uncertainty for traders and consumers.

Amendment 150

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 8 – title

Text proposed by the Commission

Assistance to *consumers*

Amendment

Assistance to *customers*

Or. en

Amendment 151

Kaja Kallas

Proposal for a regulation

Article 8 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. Traders shall indicate the general conditions of access and possible restrictions in accordance with this Regulation at the latest at the beginning of the ordering process in accordance with Article 8 of Directive 2011/83/EU.

Or. en

Amendment 152

Evžen Tošenovský

Proposal for a regulation

Article 8 – paragraph 1

Text proposed by the Commission

Amendment

1. 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

1. Each Member State shall ***designate an existing body or bodies responsible for providing general advise to consumers*** in case of a dispute between a consumer and a trader arising from the application of this

application of this Regulation. ***Each Member State shall designate a body or bodies responsible for that task.***

Regulation.

Or. en

Amendment 153

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 8 – paragraph 1

Text proposed by the Commission

1. 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. Each Member State shall designate a body or bodies responsible for that task.

Amendment

1. Each Member State shall confer responsibility for providing practical assistance to consumers to a body or bodies in case of a dispute between a ***customer*** and a trader arising from the application of this Regulation. Each Member State shall designate a body or bodies responsible for that task.

Or. en

Amendment 154

Evžen Tošenovský

Proposal for a regulation

Article 8 – paragraph 2

Text proposed by the Commission

2. ***The bodies referred to in paragraph 1 shall offer consumers a uniform model form to file complaints to the bodies referred to in paragraph 1 and in Article 7(1). The Commission shall assist those bodies in developing this model form.***

Amendment

deleted

Or. en

Amendment 155

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 8 – paragraph 2

Text proposed by the Commission

2. The bodies referred to in paragraph 1 shall offer **consumers** a uniform model form to file complaints to the bodies referred to in paragraph 1 and in Article 7(1). The Commission shall assist those bodies in developing this model form.

Amendment

2. The bodies referred to in paragraph 1 shall offer **customers** a uniform model form to file complaints to the bodies referred to in paragraph 1 and in Article 7(1). The Commission shall assist those bodies in developing this model form.

Or. en

Amendment 156

Evžen Tošenovský

Proposal for a regulation

Article 9 – paragraph 1

Text proposed by the Commission

1. By [date: **two** years after the entry into force of this Regulation] and every **five** years thereafter, the Commission shall report on the evaluation of this Regulation to the European Parliament, the Council and the European Economic and Social Committee. That report shall, where necessary, be accompanied by a proposal for an amendment of this Regulation, in light of legal, technical and economic developments.

Amendment

1. By [date: **three** years after the entry into force of this Regulation] and every **three** years thereafter, the Commission shall report on the evaluation of this Regulation to the European Parliament, the Council and the European Economic and Social Committee. That report shall, where necessary, be accompanied by a proposal for an amendment of this Regulation, in light of legal, technical and economic developments.

Or. en

Amendment 157

Angelika Niebler

Proposal for a regulation
Article 9 – paragraph 2

Text proposed by the Commission

Amendment

2. *The first evaluation referred to in paragraph 1 shall be carried out, in particular, with a view to assessing whether the prohibition of Article 4(1)(b) should also apply 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.* *deleted*

Or. de

Justification

Access to copyright protected works or other protected subject matter and the use of such works or subject matter should continue to fall outside the scope of this regulation. This will rule out overlap with other items of EU legislation.

Amendment 158
Kaja Kallas

Proposal for a regulation
Article 9 – paragraph 2

Text proposed by the Commission

Amendment

2. *The first evaluation referred to in paragraph 1 shall be carried out, in particular, with a view to assessing whether the prohibition of Article 4(1)(b) should also apply 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.* *deleted*

Amendment 159

Michel Reimon

on behalf of the Verts/ALE Group

Proposal for a regulation

Article 9 – paragraph 2

Text proposed by the Commission

Amendment

2. *The first evaluation referred to in paragraph 1 shall be carried out, in particular, with a view to assessing whether the prohibition of Article 4(1)(b) should also apply 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.* **deleted**

Or. en

Justification

Aligning the text with the new Art. 4 (b)

Amendment 160

Angelo Ciocca

Proposal for a regulation

Article 9 – paragraph 2

Text proposed by the Commission

Amendment

2. The *first evaluation referred to in paragraph 1 shall be carried out, in particular, with a view to assessing whether the prohibition of* Article 4(1)(b) *should also apply* to electronically supplied services, the main feature of which is the provision of access to and use of copyright protected works or other

2. The *extension of the prohibition of discrimination set* out in Article 4(1)(b) 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, *shall not be subject to the evaluation referred to in paragraph 1, in particular*, provided that

protected subject matter, provided that the trader has the requisite rights for the relevant territories.

the trader has the requisite rights for the relevant territories.

Or. it

Amendment 161
Angelika Niebler

Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission

It shall apply from [date: *six* months following the day of its publication].

Amendment

It shall apply from [date: *twelve* months following the day of its publication].

Or. de

Amendment 162
Angelo Ciocca

Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission

It shall apply from [date: *six months* following the day of its publication].

Amendment

It shall apply from [date: *one year* following the day of its publication].

Or. it

Amendment 163
Evžen Tošenovský

Proposal for a regulation
Article 11 – paragraph 3

Text proposed by the Commission

However, point (b) of Article 4(1) shall apply from 1 July 2018.

Amendment

deleted

Or. en

Amendment 164
Angelo Ciocca

Proposal for a regulation
Article 11 – paragraph 3

Text proposed by the Commission

However, point (b) of Article 4(1) shall apply from **1 July 2018**.

Amendment

However, point (b) of Article 4(1) shall apply from ***[date: two years after the date of entry into force of this Regulation]***.

Or. it