



10.2.2017

## **OPINION**

of the Committee on Industry, Research and Energy

for the Committee on Internal Market and Consumer Protection

on the proposal for a regulation of the European Parliament and of the Council on addressing geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC  
(COM(2016)0289 – C8-0192/2016 – 2016/0152(COD))

Rapporteur: Eva Kaili

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## SHORT JUSTIFICATION

The 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 is an essential component in ensuring that customers and traders are allowed to have commercial transactions without having to experience any unjustified discrimination.

As a Regulation, it will impose binding obligations to traders from the date of its entry into force, so as to allow customers to access and purchase products, preventing the effects of discrimination based on nationality or place of residence or establishment or payment service. It aims to lift any unjustified barriers in e-commerce and to be a decisive step towards the completion of the Digital Single Market.

In addition to lifting the barriers leading to unjustified discrimination this Regulation clarifies that businesses are not obliged to conduct their activities all across Europe. This Regulation recognises the need for clarification with regards to the businesses' obligation to deliver to customers outside of their territory of activities. It is crucial to avoid adding additional burdens to the traders.

Furthermore, this Regulation acknowledges the importance of the establishment of a truly digital single market for all citizens and shows the direction for other important legal reforms that need to be made including but not limited to the copyright reform, the audiovisual sector reform and the reform in taxation. The same principles should be followed so as to lead to the creation of a user and business friendly Digital Single Market.

The present opinion aims to make improvements and clarifications to a number of points as set out below.

### **Content and scope of this Regulation**

This Regulation's scope is aligned with that of the Directive 2006/123/EC so as to ensure legal continuity and certainty for traders and customers. This means that, inter alia, non-economic services of general interest, transport services, audio-visual services, gambling activities, healthcare services and certain social services are excluded from the scope of this Regulation. With regards to copyrighted material and audiovisual content it is important to allow for the respective reforms to take place before assessing whether a potential inclusion would have beneficial effects for the consumers and the sectors alike.

### **Access to online interfaces**

Prevention of access to online interfaces and redirecting are regarded as a practise that causes frustration to customers and this proposal addresses the issue, ensuring that customers would be able to access the interface of their liking at all times and regardless of their geographical location.

### **Discrimination of customers based on residence**

The application of different general terms and conditions to customers as a product of discrimination based on residence is prohibited. However compliance with the provisions of the Regulation should not be considered as a restriction to traders to develop their activities at different Member States with targeted offers and different terms and conditions, provided that a foreign customer could access these products or services with the same contractual rights and obligations applicable to national transactions. Furthermore, compliance with this Regulation provide neither for an obligation to deliver goods cross-border nor for an obligation to accept to withdraw these from the country of establishment or of residence of the customer.

### **Discrimination based in the context of payments**

The provisions of this Regulation provide that traders cannot reject or otherwise discriminate concerning payment instruments. In further detail and with regards to card based payment instruments, when a certain payment brand and category are being accepted, the trader will be obliged to accept the same brand and category regardless of the country of origin of that payment method. Such a provision does not oblige traders to accept all card based payment instruments.

### **Enforcement and assistance to customers**

It is proposed that Member States designate bodies to ensure effective enforcement of this Regulation and that those bodies also facilitate customers when in need of assistance.

### **Review of the Regulation**

The first evaluation will be of great importance, as the European Commission should assess the scope and application of this proposal, taking into consideration the legal developments in the fields of copyright, taxation, audiovisual services and portability of online content.

### **Date of application**

This Regulation shall apply from 6 months from the day of its publication, which will enable customers to benefit from the lifting of the obstacles that cause unjustified discrimination.

## AMENDMENTS

The Committee on Industry, Research and Energy calls on the Committee on Internal Market and Consumer Protection, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Proposal for a regulation Title

*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

*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

### Amendment 2

#### 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,*

### Amendment 3

#### 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,*

## Amendment 4

### 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 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.

##### *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 *of various types and forms* 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 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 *non-objective* reasons. *According to analyses carried out, for the impact assessment of the European Commission, 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. Additionally and as*

*the result of the Commission's stakeholder consultation demonstrates, it could contribute to lower levels of customer frustration as unjustified geoblocking is one of its primary sources.*

## **Amendment 5**

### **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.

## **Amendment 6**

### **Proposal for a regulation**

#### **Recital 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*(2a) 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 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, 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.*

## **Amendment 7**

### **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 Council<sup>17</sup>, 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.

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<sup>17</sup> Directive 2006/123/EC of the European

##### *Amendment*

(3) Pursuant to Article 20 of Directive 2006/123/EC of the European Parliament and of the Council<sup>17</sup>, 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. ***Consequently, this Regulation should apply to traders as well as service providers, and to goods as well as services.***

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<sup>17</sup> 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).

Parliament and of the Council of  
12 December 2006 on services in the  
internal market (OJ L 376, 27.12.2006, p.  
36).

## Amendment 8

### Proposal for a regulation Recital 3 a (new)

*Text proposed by the Commission*

*Amendment*

***(3a) This Regulation aims to clarify Article 20 of the Directive 2006/123/EC. It should not be construed as replacing Directive 2006/123/EC, either as regards the scope of that Directive, where this Regulation abides by the same principles, excluding the activities referred to in Article 2(2) of Directive 2006/123/EC from the scope of its application, or as regards its effect, as the application of Directive 2006/123/EC is independent of, and complementary to, that of this Regulation. This Regulation may not restrict the entrepreneurial freedom and freedom of contract as defined in Article 16 of the Charter of Fundamental Rights of the European Union.***

## Amendment 9

### Proposal for a regulation Recital 4

*Text proposed by the Commission*

*Amendment*

(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.

(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. ***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 not be imposed on traders. Furthermore, the new obligations imposed on Member States should not extend beyond what is necessary to implement the new rules.*

## Amendment 10

### 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 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 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 11

### Proposal for a regulation Recital 6 a (new)

*Text proposed by the Commission*

*Amendment*

**(6a) Recital 29 of Directive 2001/29/EC of the European Parliament and of the Council<sup>1a</sup> establishes that the question of exhaustion does not arise in the case of services and on-line services in particular.**

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<sup>1a</sup> **Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society**

## Amendment 12

### 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 Council<sup>24</sup> and (EU) 1215/2012 of the European Parliament and of the Council<sup>25</sup>, 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.

(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 Council<sup>24</sup> and (EU) 1215/2012 of the European Parliament and of the Council<sup>25</sup>, 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 customer, 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.*

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<sup>24</sup> 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).

<sup>25</sup> 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).

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<sup>24</sup> 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).

<sup>25</sup> 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 13**

### **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

##### *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 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.

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 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.

#### *Justification*

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

### **Amendment 14**

#### **Proposal for a regulation Recital 11 a (new)**

*Text proposed by the Commission*

*Amendment*

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

### **Amendment 15**

#### **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

(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 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.

the purposes of this Regulation. However, that protection should not extend to customers purchasing a good or a service for resale, ***commercial rent, or transformation and processing of purchased goods***, because it would affect widely used distribution schemes 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. ***Customers should only be safeguarded from discrimination for reasons related to their nationality, place of residence or place of establishment when purchasing a good or service for end use.***

## Amendment 16

### 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

##### *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, including intermediaries and operators of online interfaces for the purposes of access***, 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, ***but not be limited to***, 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

trader to engage in commercial transactions with customers.

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 17**

### **Proposal for a regulation**

#### **Recital 14 a (new)**

*Text proposed by the Commission*

*Amendment*

***(14a) 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. 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 explanation.***

## **Amendment 18**

### **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 19**

**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

*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.

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, ***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/EC.*** 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.***

## Amendment 20

### Proposal for a regulation Recital 17 a (new)

*Text proposed by the Commission*

*Amendment*

***(17a) Article 6 of Regulation (EC) No 593/2008 (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.***

## **Amendment 21**

### **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 trader 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 trader must not be compelled to deliver the goods.***

## **Amendment 22**

### **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 in Council Implementing Regulation (EU) No 282/2011<sup>26</sup>.

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<sup>26</sup> 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).

### **Amendment 23**

#### **Proposal for a regulation** **Recital 21 a (new)**

*Text proposed by the Commission*

*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 282/2011<sup>26</sup>. ***Any difference in the final price that might occur as a result of the application of different VAT rates in accordance with applicable legislation in the place of consumption should not entail the application of different conditions of access.***

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<sup>26</sup> 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).

*Amendment*

***(21a) The prohibition of discrimination in those situations should not be considered as a restriction on the right of traders to develop their business strategy by directing their activities at different Member States or certain groups of customers with targeted offers and different terms and conditions, including***

*country- or region-specific online interfaces. However, where a foreign customer seeks access to such online interfaces and specific offers, in accordance with one given set of terms and conditions, he or she should enjoy the same contractual rights, and be subject to the same obligations, as those applicable to national transactions. Territorial limitations on the provision of after-sales services deriving from terms and conditions to which the customer has agreed, in accordance with Union law and the applicable national law enacted pursuant thereto, should be permissible under this Regulation. Compliance with this Regulation should not entail any obligation on traders to deliver goods across borders or any obligation to take goods back from the customer's country of establishment or residence.*

## **Amendment 24**

### **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/EC<sup>27</sup> are not required to pay VAT. For those traders, when providing electronically supplied services, the prohibition of 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.

#### *Amendment*

(22) Traders falling under the special scheme provided in Chapter 1 of Title XII of Council Directive 2006/112/EC<sup>27</sup> 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 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.

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<sup>27</sup> 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)

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<sup>27</sup> 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)

## Amendment 25

### 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 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.

##### *Amendment*

(24) Under Union law, traders are in principle free to decide which means of payment they wish to accept. ***In accordance with Regulation (EU) 2015/751 of the European Parliament and of the Council<sup>1a</sup> and Directive 2007/64/EC of the European Parliament and of the Council<sup>1b</sup>, traders accepting a card-based payment instrument of a specific payment brand and category are under no obligation to accept card-based payment instruments of the same category but of a different brand, or of the same brand but of a different category.*** 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. ***The European Commission should assess the use of incentives to promote the use of***

***European payment services. Moreover, the Commission should assess whether to provide the legal framework that allows, subject to the freedom of contract principle, the protection of undertakings and consumers when the transaction is carried through alternative modes of payment, including virtual currencies, other blockchain type transactions and e-wallets. The personal data created by the e-commerce transactions should be stored in data centres in the Union, regardless of the location that the seat of the payment company is incorporated, unless the transfer of such data to a third country takes place in accordance with Regulation (EU) 2016/679 and ensures adequate levels of protection for the consumers and the undertakings. 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. Traders should remain free to request charges for the use of a payment instrument. However, this right should be subject to the restrictions introduced by Article 62 of Directive (EU) 2015/2366<sup>1c</sup>, meaning amongst others that these additional charges cannot be higher than the actual cost the trader has incurred.***

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<sup>1a</sup> ***Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions (OJ L 123, 19.5.2015, p. 1).***

<sup>1b</sup> ***Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC (OJ L 319, 5.12.2007, p. 1).***

<sup>1c</sup> ***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).*

## **Amendment 26**

### **Proposal for a regulation Recital 24 a (new)**

*Text proposed by the Commission*

*Amendment*

*(24a) In the case of any measure taken by a government, central bank or other regulatory body to limit the flow of capital in and out of a Member State's economy, such as capital restrictions, this Regulation should continue to apply in accordance with Union law and the applicable national law and relative restrictions imposed in accordance with Union law. Consequently, any direct or indirect discrimination based on the customer's nationality, place of residence or place of establishment, or the location of the payment account, of the payment service provider or of the place of issue of the payment instrument within the Union should be prohibited.*

## **Amendment 27**

### **Proposal for a regulation Recital 25 a (new)**

*Text proposed by the Commission*

*Amendment*

*(25a) Data generated by e-commerce and online transactions should conform to the legislative framework on traffic and location of data, data retention, data protection and data analysis, ensuring full compliance with Union law. Network and information systems should operate in accordance with the relevant provisions of*

***Directive (EU) 2016/1148 of the European Parliament and the Council<sup>1a</sup>, ensuring maximum security of networks and information systems.***

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***<sup>1a</sup> Directive (EU) 2016/1148 of the European Parliament and the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union (OJ L 194, 19.7.2016, p. 1).***

## **Amendment 28**

### **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.

## **Amendment 29**

### **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 by defining, inter alia, situations where different treatment, as referred to in Article 20(2) of Directive 2006/123/EC is under no circumstances justifiable, excluding the cases where different conditions could be applied to services or***



*goods for objective reasons according the same Article of Directive 2006/123/EC.*

## Amendment 30

### 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.***

## Amendment 31

### Proposal for a regulation

#### Article 1 – paragraph 5

*Text proposed by the Commission*

*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.

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.*

## Amendment 32

### Proposal for a regulation Article 2 – paragraph 1

*Text proposed by the Commission*

For the purposes of this Regulation, the *definitions* set out in Article 7 of Implementing Regulation (EU) No 282/2011, Article 2(10), (20) and (30) of Regulation (EU) 2015/751 *of the European Parliament and Council*<sup>32</sup> and Article 4(8), (9), (11), (12), (14), (23), (24) and (30) of Directive (EU) 2015/2366 shall apply.

*Amendment*

For the purposes of this Regulation, the *definition of the term 'electronically supplied services'* set out in Article 7 of Implementing Regulation (EU) No 282/2011, *the definitions of the terms 'interchange fee', 'card-based payment instrument', 'payment brand', 'debit card', 'credit card' and 'prepaid card' respectively set out in Article 2(10), (20) and (30), (33), (34) and (35) of Regulation (EU) 2015/751 and the definitions of the terms 'payment transaction', 'payer', 'payment service provider', 'payment account', 'payment instrument', 'direct debit', 'credit transfer' and 'strong customer authentication' respectively set out in Article 4(5), (8), (11), (12), (14), (23), (24) and (30) of Directive (EU) 2015/2366 shall apply.*

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<sup>32</sup> *Regulation (EU) 2015/751 of the European Parliament and of the Council of 29 April 2015 on interchange fees for card-based payment transactions (OJ L 123, 19.5.2015, p. 1).*

## Amendment 33

### Proposal for a regulation Article 2 – paragraph 2 – introductory part

*Text proposed by the Commission*

*Amendment*

The following definitions shall also apply:

The following definitions shall also apply  
***for the purposes of this Regulation:***

#### **Amendment 34**

##### **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. The intention for end-use by that consumer or undertaking, is the only one covered by this Regulation;***

#### **Amendment 35**

##### **Proposal for a regulation**

##### **Article 2 – paragraph 2 – point d**

*Text proposed by the Commission*

*Amendment*

(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;

(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;

*Justification*

*Discrimination can occur when traders require a customer to have a phone number with a*

*specific country code to complete a transaction*

### **Amendment 36**

#### **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 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 37**

#### **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.

### **Amendment 38**

#### **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.

**Amendment 39**

**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. The prohibitions set out in paragraphs 1 and 2 shall not apply where the blocking **of the online interface, the** limitation of access or **the** 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 40**

**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 **explanation to the customers concerned**. That **explanation** shall be given in the language of the online interface that the customer **first** sought to access.

## Amendment 41

### 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. 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 ***situations where the customer seeks to***:

## Amendment 42

### Proposal for a regulation

#### Article 4 – paragraph 1 – point a

*Text proposed by the Commission*

(a) ***where the trader sells goods*** and those goods are not delivered cross-border to the Member State of the customer by the trader or on his or her behalf;

*Amendment*

(a) ***buy goods from a trader*** and those goods are not delivered cross-border to the Member State of the customer by the trader or on his or her behalf;

## Amendment 43

### Proposal for a regulation

#### Article 4 – paragraph 1 – point b

*Text proposed by the Commission*

(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;

*Amendment*

(b) ***receive*** electronically supplied services ***from a trader***, other than services the main feature of which is the provision of access to and use of copyright protected works or other protected subject matter;

## Amendment 44

### Proposal for a regulation

#### Article 4 – paragraph 1 – point c

*Text proposed by the Commission*

*Amendment*

(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.*

(c) *receive* services, other than those covered by point (b), *from a trader in a Member State* where *that* trader operates, *and where that* customer is a national *of, or has a* place of residence *or establishment in, another Member State.*

**Amendment 45**

**Proposal for a regulation**

**Article 5 – paragraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

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:

1. Traders shall not, *within the range of electronic payment means, namely credit transfers, direct debits or card-based payment instruments of a specific brand and category,* 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 46**

**Proposal for a regulation**

**Article 5 – paragraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

(a) *those payments are made through electronic transactions by credit transfer, direct debit or a card-based payment instrument within the same payment*

*deleted*

*brand;*

#### **Amendment 47**

##### **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 *identity of the payer or the validity of the use of the payment means* can *be verified by* strong customer authentication pursuant to Directive (EU) 2015/2366; and

#### **Amendment 48**

##### **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 payment *transactions* are in a currency that the *trader* accepts.

#### **Amendment 49**

##### **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.*

#### **Amendment 50**

##### **Proposal for a regulation Article 5 – paragraph 2**



*Text proposed by the Commission*

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.

*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, ***unless national prohibitions or limitations of the right to request charges for the use of payment instruments have been introduced in the laws of the Member States pursuant to Article 62(5) of Directive (EU) 2015/2366.*** Those charges shall not exceed the costs borne by the trader for the use of the payment instrument.

**Amendment 51**

**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*

***Contractual provisions*** 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 ***null and*** void.

**Amendment 52**

**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

*Amendment*

1. Each Member State shall designate ***an existing*** body or bodies responsible for the enforcement of this Regulation ***with regard to traders and customers. Without prejudice to other information and***

bodies designated in order to enforce compliance with this Regulation.

*cooperation mechanisms, those bodies shall be responsible for ensuring cross-border cooperation with bodies in other Member States through the appropriate means.* 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 53

### Proposal for a regulation Article 7 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

*Ia. Where no other information and cooperation mechanisms exist, existing structures shall be used. The Internal Market Information System ('IMI') established by Regulation (EU) No 1024/2012 of the European Parliament and of the Council<sup>1a</sup> shall be used for the purposes of this Article.*

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*<sup>1a</sup> Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ('the IMI Regulation') (OJ L 316, 14.11.2012, p. 1).*

## Amendment 54

### Proposal for a regulation Article 8 – title

*Text proposed by the Commission*

*Amendment*

Assistance to *consumers*

Assistance to *customers*

## Amendment 55

**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.**

**Amendment 56**

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

1. Each Member State shall confer responsibility for providing practical assistance **and information to customers on the** body or bodies **tasked with enforcement, in the** case of a dispute between a **customer** and a trader arising from the application of this Regulation.

**Amendment 57**

**Proposal for a regulation**  
**Article 8 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

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.

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 **of this Article** and in Article 7(1). The Commission shall assist those bodies in developing this model form. **They shall be responsible, inter alia, for accepting complaints from customers, forwarding complaints to bodies in other Member States and facilitating communication between the customer and the trader in order to**

*facilitate the resolution of the dispute.*

## **Amendment 58**

### **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: two 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.

## **Amendment 59**

### **Proposal for a regulation Article 9 – paragraph 2**

*Text proposed by the Commission*

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.***

*Amendment*

***deleted***

*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 60**

### **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].

## PROCEDURE – COMMITTEE ASKED FOR OPINION

|                                                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Title</b>                                              | Addressing geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>References</b>                                         | COM(2016)0289 – C8-0192/2016 – 2016/0152(COD)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Committee responsible</b><br>Date announced in plenary | IMCO<br>9.6.2016                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Opinion by</b><br>Date announced in plenary            | ITRE<br>9.6.2016                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>Rapporteur</b><br>Date appointed                       | Eva Kaili<br>6.7.2016                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Discussed in committee</b>                             | 9.11.2016                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Date adopted</b>                                       | 26.1.2017                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Result of final vote</b>                               | +: 44<br>–: 13<br>0: 0                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Members present for the final vote</b>                 | Bendt Bendtsen, Xabier Benito Ziluaga, José Blanco López, David Borrelli, Jerzy Buzek, Angelo Ciocca, Edward Czesak, Jakop Dalunde, Pilar del Castillo Vera, Christian Ehler, Fredrick Federley, Ashley Fox, Theresa Griffin, András Gyürk, Rebecca Harms, Roger Helmer, Hans-Olaf Henkel, Eva Kaili, Seán Kelly, Jeppe Kofod, Jaromír Kohlíček, Peter Kouroumbashev, Miapetra Kumpula-Natri, Janusz Lewandowski, Paloma López Bermejo, Edouard Martin, Csaba Molnár, Nadine Morano, Dan Nica, Angelika Niebler, Miroslav Poche, Carolina Punset, Michel Reimon, Herbert Reul, Algirdas Saudargas, Neoklis Sylikiotis, Dario Tamburrano, Patrizia Toia, Evžen Tošenovský, Claude Turmes, Vladimír Urutchev, Henna Virkkunen, Martina Werner, Lieve Wierinck, Hermann Winkler, Anna Záborská, Flavio Zanonato, Carlos Zorrinho |
| <b>Substitutes present for the final vote</b>             | Amjad Bashir, Michał Boni, Gunnar Hökmark, Werner Langen, Olle Ludvigsson, Massimiliano Salini, Anne Sander, Davor Škrlec, Pavel Telička                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |