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25 October 2017

Ref.: Consumers ask you to include music and eBooks and to prevent loopholes in the proposed Regulation on geo-blocking

Dear Deputy Permanent Representative,

I am writing on behalf of BEUC, The European Consumer Organisation, concerning the upcoming agreement on the proposal for a Regulation on addressing geo-blocking and other forms of discrimination based on customers' nationality, place of residence or place of establishment within the internal market.

As you know, BEUC strongly supports this proposal because consumers are very often prevented from ordering a product online in another Member State or are faced with higher prices than local consumers just because of their country of origin.

It is high time for the EU to take measures that open the single market also to consumers who would like to buy products and services in another EU country. In the context of the current "end spurt" for finding an agreement with the European Parliament, we would like to provide you with the consumers perspective on the two outstanding but critical elements of the regulation:

1. Inclusion of music and eBooks

BEUC strongly supports the European Parliament's position to extend the prohibition of discrimination on the basis of nationality and place of residence to non-audio-visual copyrighted content.

Nobody would accept that a high street record shop or book shop refuses to sell a CD or a book to a consumer because of his/her nationality or place of residence. Yet, in the on-line world this is a common practice, which leads to consumer frustration.

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It is inexplicable, in particular for younger consumers, that geo-blocking should continue to exist for these products which are the most obvious to be purchased on-line across borders. There is ample evidence¹ showing that consumers are willing to pay for legal offers but that too often they cannot do so because of outdated business practices aiming to maximise profits.

There is no good reason why, in a Digital Single Market, consumers should continue to be blocked and unable to decide where across the EU they want to purchase these types of digital content.

In times of EU-scepticism, the Member States should take the opportunity to provide the tangible benefits of one of the greatest assets of the European Union: its Single Market - to citizens. This will benefit both consumers and businesses.

Contrary to what critics say, the removal of geo-blocking would benefit Europe's cultural diversity. It would enable consumers to listen to music, read books and play videogames from across the EU's cultural landscape in the most convenient – and – legal way.

2. Closing loopholes (ban on restrictions to passive sales)

BEUC strongly supports the initial article 6 of the European Commission's proposal declaring void any contractual clause that restricts passive sales.

This rule is justified because business-to-business restrictions to cross-border passive sales in exclusive and selective distribution agreements are often used as a basis to geo-block consumers and could jeopardise the effectiveness of this Regulation and the realisation of the internal market.

BEUC believes that a clear prohibition to restrictions on passive sales in substantive law is necessary and more appropriate and cost-efficient than the case-by-case assessment under competition law enforcement. It also provides legal certainty to both business and consumers.

Thank you for considering this recommendations in the upcoming debate.

Yours faithfully,

Ursula Pachi
Deputy Director General

¹ According to a recent study of the EUIPO, 6 out of 10 youngsters would stop using illegal sources to access digital content if there would be affordable original products in place.
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