contrast



Online sales without borders

Imagine…

Your company sells consumer electronics throughout Europe, both in your brick and mortar stores and on your own websites.

You apply different prices in different Member States and you deliver products that are ordered online only to customers established in the Member State from which the order was placed. Customers from other Member States are automatically re-routed to their local website on the basis of their IP address. So customers always pay the price that applies in the Member State where the order is placed.

You recently received an e-mail from Legal informing you that "re-routing" and "geo-blocking" will soon be illegal and that your company will no longer be entitled to discriminate against online customers on the basis of nationality or geographical location. A new European regulation on geo-blocking will prohibit this practice as of December 2018.

You are dumbfounded. Re-routing, geo-blocking, a geo-blocking regulation? What will all this mean for your company´s online strategy?

A brief clarification.

In 2017, the European Commission announced the results of its extensive sector inquiry into e-commerce. On the basis of this inquiry, the Commission determined that 63% of the websites studied engage in geo-blocking.

Geo-blocking is a practice where a trader blocks access to an online interface for online customers on the basis of their nationality, place of residence or place of establishment. Traders often also apply

different general access conditions to the goods or services depending on the nationality, place of residence or place of establishment of online customers.

Europe wants to change this situation with a regulation on geo-blocking. The regulation introduces a general principle of equal treatment for all end customers who reside or are established in the EU, regardless of their nationality, place of residence or establishment:

- Customers from other Member States must have the possibility of purchasing goods and services online and picking them up in a Member State where delivery is offered for local customers.
- Customers from other Member States must have the same online access to electronic services as do local customers (e.g. cloud services, data storage services, web hosting, setting up firewalls, etc.).
- Customers from other Member States must be able to use online the same services as local customers in the Member State where the services are offered (e.g. hotel room rental, car rental, sports events, tickets for concerts and amusement parks, etc.).

Traders are prohibited from blocking access to websites, apps or other online interfaces on the basis of the nationality or geographical location of a customer. Customers may no longer be re-routed to a different version of a website without their explicit consent and they must always have the possibility of returning to the website that they originally visited.

The general ban on discrimination also applies for means of payment. Traders are free to determine which means of payment they will allow, but they may not refuse payment when customers pay with a means of payment accepted by the trader (e.g. credit cards) and the currency unit and authentication requirements are complied with. Different payment conditions on the basis of nationality or geographical location of the customer are prohibited.

The geo-blocking regulation provides for a number of exceptions, including access to audiovisual services, e.g. services that give access to broadcasts of sports events, if the broadcasting rights are granted with territorial exclusivity.

Concretely:

The online landscape will change significantly beginning on 3 December 2018. Under the geo-blocking regulation, traders are obliged to treat an end customer from a different Member State online in the same way as a local end customer. Traders must take specific account of the following:

- It is prohibited to deny customers **access** to local websites, apps and other online interfaces on the basis of their IP address or other factors relating to their nationality or geographical location (e.g. address, postal code or GPS coordinates).
- It is prohibited **to re-route** customers to a different version of a website without their explicit consent.
- Websites and apps must be designed in such a way that EU customers can **easily place orders**. This means that customers must be able to fill in their invoicing and contact information in whatever format. With regard to the delivery, however, a trader may use an address format that relates exclusively to the Member State in which delivery is offered or to an agreed location.
- It is not allowed to (automatically) adapt **prices, conditions and product offers** on a website on the basis of the IP address, domicile or means of payment of customers.

- It is prohibited to refuse **means of payment** in certain EU Member States if these means of payment are technically accepted generally on a website.

Want to know more?

- Geo-blocking regulation: Regulation 2018/302 of the European Parliament and of the Council of 28 February 2018 on addressing unjustified geo-blocking and other forms of discrimination based on customers´ nationality, place of residence or place of establishment within the internal market and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC, OJ L60/1.

- Q&A on the Geo-blocking Regulation in the context of e-commerce.