



REPLIES OF THE EUROPEAN COMMISSION

TO THE EUROPEAN COURT OF AUDITORS' SPECIAL REPORT

Unjustified geo-blocking in e-commerce

The Regulation provides a balanced framework, but challenges remain in implementation

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This document presents the replies of the European Commission to observations of a Special Report of the European Court of Auditors, in line with Article 265 of the [Financial Regulation](#) and to be published together with the Special Report.

I. THE COMMISSION REPLIES IN BRIEF

The Geo-blocking Regulation was part of the overall e-commerce package of measures of the Digital Single Market (DSM) Strategy that has been put forward by the Commission in 2015 with a view to enabling consumers and businesses to benefit fully from the opportunities offered by the internet and digital technologies and to benefit from the Single Market when buying online.

Within this context, and as also recognised in the ECA's report, the Regulation aims at **striking a balance between the expectations of access by customers**, on the one side, and the **legitimate justifications of traders** in managing their cross-border marketing policy, on the other. This is reflected in several features of the Regulation, and in particular the **shop-like-a-local principle**, the careful delineations of the prohibited practices, as well as its scope. These aspects feature prominently in the Impact Assessment and, with specific regard to its scope, have already been subject to specific scrutiny in the context of the first short-term review. This **first review analysed in detail the possible effects of an extension of the scope of the Regulation**, including with regard to electronically supplied services excluded from the scope of application of Article 4 (e.g. services giving access to music, e-books, video games), and to audiovisual services, excluded from the scope of the Regulation. In this regard it **highlighted the different effects that an extension of the Regulation might have in different sectors**, depending on copyright licensing practices and approaches, and the need for further analysis. As a follow-up, the Commission held a dialogue with the audiovisual sector to identify industry-led solutions to improve access to and availability of audiovisual content across the EU. Building on this extensive work, the **Commission will continue analysing the impacts of a potential extension of the scope of the Regulation** to the audiovisual sector, targeting specific categories of works and/or distribution models.

The Commission services accompanied the entry into force of the Regulation with guidance documents and provided support in the interpretation of the Regulation in the context of bilateral and multilateral **exchanges with the competent national authorities to reduce the risk of fragmented interpretation**. As the application of the Regulation may need to take into account the specificities of the individual cases, it is appropriate to regularly update the guidance on the basis of the experience gathered. Moreover, the **2025 review will provide opportunities to improve awareness about the actual scope of the Regulation** among traders and customers.

The Geo-blocking Regulation was built on the existing degree of harmonisation of consumer protection and enforcement. In the latter aspect, at the moment, **the exclusive competences remain in the hands of Member States**. However, the ECA's observations flagged the challenges faced in the implementation of the Regulation. In this regard, the Commission has – as also highlighted by Enrico Letta¹ – identified a clear need to further strengthen the enforcement of EU consumer law, including the Geo-Blocking Regulation, under the Consumer Protection Cooperation (CPC) Regulation (EU) 2017/2394. In line with the recommendations of the Letta report and the findings of its 25 July 2024 report on the application of the CPC Regulation², the **Commission is exploring approaches to strengthening the Commission's role in specific circumstances that affect consumers throughout the Union and further improving the enforcement cooperation system for national authorities**, including, where necessary, through a possible

¹ Enrico Letta - Much more than a market (April 2024) (europa.eu)

² https://commission.europa.eu/law/law-topic/consumer-protection-law/consumer-protection-cooperation-regulation_en#documents

legislative initiative. This possible Consumer Enforcement Initiative would significantly strengthen effective enforcement of EU consumer law, including in the area of unjustified geo-blocking.

The monitoring framework to assess the effectiveness of the Geo-blocking Regulation consists of the monitoring arrangements set out in Chapter 8 of the Impact Assessment (SWD(2016)173) accompanying the proposal for a Regulation and the review clause in Article 9 of the Regulation. The monitoring arrangements will form the basis of **the 2025 formal evaluation**. That evaluation **will provide the opportunity for the Commission to assess the suitability of the monitoring arrangements**, including the indicators, data sources and frequency for collecting data.

II. COMMISSION REPLIES TO MAIN OBSERVATIONS OF THE ECA

1. Progress has been made in addressing unjustified geo-blocking in the EU

As recognised in the ECA's observations, the Regulation was conceived to find a balance between tackling directly and horizontally specific, unjustified, obstacles to the access by customers to offers available within the internal market, without however affecting those situations where traders may still have legitimate reasons to differentiate or eventually refuse the provision of services across borders, for instance in view of the additional costs or mandatory requirements that the active cross-border provision may trigger³.

The impact assessment was therefore based on the assumption that the Regulation would have been a horizontal enabler to facilitate cross-border access to goods and services, but without mandating changes to the active marketing policies of traders. This means that the Geo-blocking Regulation did not mandate price harmonisation across the Union (which would have had direct and measurable impact on the prices levels), but rather indirectly facilitated price convergence, through better comparability of local offers and the prohibition to reject passive sales to cross-border customers willing to avail themselves of these offers. Accordingly, the identification of the **macroeconomic impact of the Regulation has been assessed on the basis of its indirect positive impact** on the general effects of cross-border commerce, e.g. the increase of purchasing power⁴, taking into account the Better Regulation principle of proportionate analysis⁵.

Moreover, in view of the fact that the Regulation is a horizontal enabler for cross-border trade also meant that **its conception needed to be carefully coordinated with the degree of harmonisation achieved on other aspects connected to the cross-border provision of services**. Within this context the Impact Assessment looked in detail to the interaction of the proposed prohibition with the specific rules applicable to the cross-border provision of services, including in particular the extent to which these would trigger additional unavoidable costs for traders selling cross-border. This assessment therefore involved several areas including the (then applicable) general framework for the cross-border provision of information society services, the degree of

³ See ECA observation 22

⁴ See page 42 of the Impact Assessment included in SWD(2016)173

⁵ Tool n. 12, [Better Regulation Guidelines](#)

harmonisation of consumer protection, referred to in the ECA's report⁶, but also the enforcement framework for consumer acquis and the legislation in the area of on parcel delivery, copyright, VAT for cross-border e-commerce, international private law rules (e.g. Rome and Brussels I Regulations)⁷. With specific regard to General Data Protection Regulation (GDPR), this area is actually already fully harmonised at Union level and therefore less of a concern in the context of cross-border e-commerce. The Commission proposal to review the Alternative Dispute Resolution (ADR) Directive had explicitly intended to widen the scope of the Directive to cover non-contractual disputes stemming from the Regulation. Nevertheless, Member States argue that enforcement bodies are better positioned to deal with such disputes rather than the ADR entities.

Accordingly, taking into account the various requirements applicable to cross-border provision of services and goods and in view of its focused approach, the **Regulation aims at addressing specific challenges affecting cross-border trade** due to unjustified obstacles and discrimination based on customer's location. Also, **the limitations on the scope, flagged by the ECA, have been subject to a specific in-depth scrutiny in the context of the first, short-term review**. Within this context, both the extension of the scope to services giving access to copyright protected content and to other services has been subject to specific analysis, taking into account that sector-specific regulations are excluded from the scope of the Regulation as in the Services Directive. On copyright-protected content, while recognising some potential benefits from extension in certain areas, notably in terms of availability of content, in particular **for audiovisual content, the first short-term review stressed the need to further analyse the dynamic impact on investments incentives for the production of new content**. Regarding audiovisual content, the Commission engaged in a dialogue with the concerned stakeholders, to identify possible solutions to improve access to and availability of audiovisual content across the EU. With regard to the other sectors, the analysis of current evidence and regulatory specificities, including the current sector-specific non-discriminatory rules, suggested that the horizontal framework of the Regulation may not be suited to tackle remaining issues in these areas.

2. Shortcomings in awareness, enforcement and monitoring challenged the Regulation's effective implementation

The Commission has issued guidance on the application and interpretation of the Regulation, both to improve awareness among consumers and traders as well as to support national competent authorities in implementing it. This included documents adopted at the time of entry into force of the Regulation, as well as in 2022 as regards the interrelationship of the Regulation with the Services Directive⁸. Moreover, the **Commission provided support on a bilateral and multilateral basis to national authorities and assistance bodies**. In this latter regard, it is still reported, including in the latest 2024 stocktaking exercise, that traders often correct their practices following intervention of assistance bodies. Similarly, the 2024 stocktaking exercise also reported expectations of consumers about the actual scope of traders' duties vis à vis cross-border sales that go well beyond the provisions of the Regulation. While in both instances awareness about the actual scope of the obligations may be improved, more general limitations to cross-border offers (including a more active cross-border engagement by traders including cross-border delivery, which is often expected by consumers) are also due to several other obstacles not addressed by the

⁶ See second bullet point of ECA observation 25

⁷ See section 7.5 of the Impact Assessment, as well as Annex 11, for a general overview of requirements involved in cross-border provision, as well as the specific considerations in this regard in the assessment of options

⁸ See in particular para 3.10 and 6.2.2. of the 2022 [Handbook on the Implementation of the Services Directive](#)

Geo-blocking Regulation, as also highlighted in the 2024 stocktaking exercise. Moreover, in both 2020 and 2024 exercises the Commission engaged in monitoring the implementation of the Regulation, including through a specific Mystery Shopping carried out in 2019, showing a decrease of those geo-blocking practices directly tackled by the Regulation, and analysis of main trends of complaints received by national bodies.

As regards the observation that there has been only one coordinated enforcement action under the CPC Regulation⁹ covering geo-blocking issues, it is important to underline that the Geo-blocking Regulation is among 28 EU Regulations and Directives currently under the supervision of the CPC Network. The CPC Network therefore needs to balance various parameters when planning its activities, including the availability of resources and enforcement priorities set at national and EU level. In the meantime, on 12 November 2024, the CPC Network announced the launch of a new coordinated enforcement action which covers exclusively geo-blocking issues.¹⁰

Furthermore, coordinated actions are not the only enforcement mechanism foreseen in the CPC Regulation. The enforcement of the Union's geo-blocking rules can also take place via the mutual assistance mechanism between individual national authorities and through online sweeps. All of these EU-level enforcement activities are complementary to proceedings and actions conducted by enforcement authorities at national level.

III. COMMISSION REPLIES TO THE RECOMMENDATIONS OF THE ECA

Recommendation 1: Carry out a study to assess whether to extend the scope of the Geo-blocking Regulation or amend other relevant sector-specific regulations

The Commission should carry out a study, based on relevant and accurate data, to assess the benefits, challenges and possible risks of extending the scope of the Regulation to the sectors that are currently excluded or, where more appropriate, amending relevant sector-specific regulations.

Target implementation date: end of 2026

The Commission **partially accepts** Recommendation 1.

The Commission accepts the recommendation to further analyse the benefits, challenges and possible risks of an extension of the Geo-blocking Regulation, in particular, to services providing access to audiovisual content. An extensive external study, assessing the impacts of extending the scope of the Regulation to audiovisual content and non-audiovisual content protected by copyright, was already carried out in the framework of the first review of the Regulation in November

⁹ Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017 on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation

¹⁰ https://ec.europa.eu/commission/presscorner/detail/en/ip_24_5727

2020¹¹. The economic analysis included in this study identified potential benefits linked to the possible extension to the audiovisual sector, as well as challenges and risks that have been further discussed in the context of the stakeholder dialogue on cross-border access to audiovisual content. Building on this extensive work, and in view of the recommendation, the Commission will continue analysing the impact of extending the scope of the Regulation to the audiovisual sector.

Besides services providing access to audiovisual content, the Commission considers that at this stage there are insufficient indications available to modify its position stated in the context of the first short-term review¹² indicating that barriers to cross-border provision in excluded sectors need to be evaluated and assessed in view of their specific regulatory frameworks, rather than in the context of the horizontal framework of the Geo-blocking Regulation. In particular, the Commission notes that in the context of its first, short-term review and the specific indications laid down in Article 9(2) of the Regulation for that exercise, it has already looked in detail into the specific issues, evidence and specificities of these sectors, including the financial sector, subject to their own regulatory framework and specific and general objectives. Within this context, it concluded that a blanket extension of a horizontal instrument such as the Geo-blocking Regulation does not appear warranted, in view of the fact that cross-border provision in these sectors may trigger sector specific compliance requirements or may be subject to specific safeguards and checks embedded in sector specific legislation, which make them not suitable for an analysis under the horizontal design underpinning the Geo-blocking Regulation¹³. The Commission therefore considers that the issue of non-discrimination in these sectors could only, where appropriate, be analysed and eventually assessed within the general and specific objectives embedded in the applicable regulatory frameworks. In this regard, as regards financial services the Commission accepts to analyse the benefits, challenges and possible risks/burdens of an introduction of a non-discrimination rule in certain specific financial services related legislation in the context of the work to build the Savings and Investments Union.

Recommendation 2: Improve support and awareness in member states

The Commission should:

- (a) update its guidance for member state authorities; and**
- (b) contribute to increasing awareness of customers and traders and exchanges of experience between member states.**

Target implementation date: end of 2026

The Commission **accepts** Recommendation 2(a).

The Commission will update its guidance for Member State authorities, taking into account that cross-border e-commerce has evolved, including with an increasing role of marketplaces and digital intermediaries, as stressed in the 2024 stocktaking exercise. It is therefore appropriate to update the guidance on the application of the Regulation on the basis of the experience gathered by national

¹¹ VVA et al. *Study on the impacts of the extension of the scope of the geo-blocking regulation to audiovisual and non-audiovisual services giving access to copyright protected content*, available at <https://op.europa.eu/en/publication-detail/-/publication/4fc70542-223b-11eb-b57e-01aa75ed71a1/language-en>.

¹² COM(2020)766

¹³ COM(2020)766 page 13

authorities and the Commission, including on the basis of the evidence gathered in the context of the forthcoming evaluation.

The Commission **accepts** Recommendation 2(b).

The Commission will produce awareness-raising content as relevant, taking also into account the activities planned for the 2025 review and the updated guidance. Such content will be disseminated as applicable across networks such as Enterprise Europe Network, Clusters (Euroclusters and European Cluster Collaboration Platform), SME Envoys network, Eurochambers, ECCnet (network of European Consumer Centres), CPC network (network of Consumer protection enforcement authorities), CPAG network (Consumer policy advisory group including consumer associations, business associations, etc.) and any relevant business networks via meetings and electronic channels as appropriate in order to raise awareness among businesses and consumers. The Commission will increase exchanges of experiences between member states through networks outlined above via meetings and electronic channels as applicable.

Recommendation 3: Complement member states' enforcement mechanisms at EU level

The Commission should strengthen national enforcement arrangements with an EU-wide enforcement mechanism.

Target implementation date: end of 2026

The Commission **accepts** recommendation 3.

Under the Geo-blocking Regulation there is no EU-wide enforcement mechanism. The Commission acknowledges that the enforcement of the Geo-blocking Regulation could be further improved as part of a broader exercise to strengthen the current EU legal framework¹⁴ that regulates the cross-border enforcement of Union laws that protect consumers' interests, which is the Regulation on cooperation between national authorities responsible for the enforcement of consumer protection laws (EU) 2017/2394 ("the CPC regulation"). To achieve this aim, the Commission will continue to explore approaches to strengthening the Commission's role in specific circumstances that affect consumers throughout the Union and to further improve the enforcement cooperation system for national authorities set out in the CPC regulation (EU) 2017/2394¹⁵, including, where necessary, through a possible legislative initiative.

It will continue to support and, where appropriate, coordinate enforcement actions of the CPC Network in parallel.

Recommendation 4: Improve the adequacy of the current monitoring arrangements for the Geo-blocking Regulation

The Commission should improve the adequacy of the monitoring arrangements for measuring the effectiveness of the Geo-blocking Regulation, with a particular focus on:

¹⁴ i.e. the CPC Regulation

¹⁵ i.e. Regulation on cooperation between national authorities responsible for the enforcement of consumer protection laws (EU) 2017/2394 ("the CPC regulation")

- (a) robust indicators on geo-blocking practices,**
- (b) reliable data sources,**
- (c) an appropriate frequency for collecting data; and**
- (d) the quality of the data provided by European Consumer Centres.**

Target implementation date: end of 2026

The Commission **accepts** Recommendations 4(a)-(d).

In 2025, the Commission will conduct a formal evaluation, under Article 9 of the Regulation, which will assess, among other things, the effectiveness of the Regulation and the progress made towards achieving the specific and the operational objectives of the Geo-blocking Regulation. The monitoring arrangements, which were used already in the context of the first short-term evaluation, will form the basis of that evaluation. As part of the evaluation, the Commission will assess the suitability of the monitoring arrangements, including the indicators, data sources and frequency for collecting data.

The Commission will also assess the quality of the data in the European Consumer Centres and review the network's case handling data catalogue to ensure greater harmonisation with the provisions of Geo-blocking Regulation.