



Brussels, 19 February 2018
(OR. en, de, fr)

Interinstitutional File:
2016/0152 (COD)

6054/18
ADD 2 REV 1

CODEC 179
MI 76
TELECOM 32
DIGIT 14
CONSOM 33
IND 45
COMPET 65
ENT 17
POSTES 2
JUSTCIV 27
PI 14

'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Draft 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 Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC
(first reading)
- Adoption of the legislative act
- Statements

Statement by Luxembourg

"In order to create a fully functioning Digital Single Market, there is a need to remove the current legal fragmentation. Otherwise businesses, in particular SMEs and micro-enterprises, will not sell throughout the Single Market because of legal uncertainty and disproportionate compliance costs. As a result, consumers will not have access to the goods and services they want to buy.

Luxembourg remains skeptical as to the added value of the Regulation, which does not provide for legal certainty and which confirms, rather than removes, existing barriers. It obliges traders to sell everywhere in the EU without providing for any improvements and clarifications as regards the determination of the applicable law and the competent court. Businesses will not be able to protect themselves against legal and economic risks by restricting their sales to their domestic market or a limited number of markets, as they can today.

However, Luxembourg appreciates the efforts of the Estonian Presidency to provide for more clarity, in particular through new provisions in the Regulation's review clause. Two years after the entry into force of the Regulation, the Commission will have to assess the additional costs faced by businesses when selling across borders and which are due to legal fragmentation, including with respect to the existing rules on applicable law.

The review clause also invites the Commission to consider ways of facilitating consumers' access to electronic services protected by copyright – the “geoblocking” of which is a major issue for consumers today.

Therefore, Luxembourg can support the compromise text resulting from the trilogues with the European Parliament. Luxembourg hopes that the review of the Regulation will provide for ambitious and concrete results as soon as possible."

Statement by Germany

In the German Federal Government's view, it should go without saying that any review of the scope will always be accompanied by a comprehensive impact assessment - particularly since the European Commission, in its statement, agrees to a review with regard to audiovisual services. We request that the following statement be entered in these minutes relating to Article 9, 'Review clause':

'Any review of the scope of this Regulation in accordance with Article 9 must be preceded by a detailed impact study by the European Commission.'

Statement by France

The French authorities support the statement by the German authorities on the Regulation addressing unjustified geoblocking 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 2016/2004 and Directive 2009/22/EC.

For the French authorities, it is essential that any proposal to amend the Regulation's scope of application be underpinned by a detailed impact study..
