NEW REGULATION ON GEO-BLOCKING WILL APPLY FROM 3 DECEMBER 2018

On 28 February 2018, a new regulation banning unjustified geo-blocking and other geographically-based restrictions in the internal market (Regulation 2018/302, the "**Geo-blocking Regulation**") was adopted. The Geo-blocking Regulation entered into force on 22 March 2018 and, in order to allow (in particular) small traders to adapt, will start applying as of 3 December 2018.

Geo-blocking is a discriminatory practice that prevents online customers from accessing and purchasing products or services from a website based in another Member State. Geo-blocking, as well as other geographically-based restrictions, therefore undermine online shopping and cross-border sales. The Geo-blocking Regulation will remove discrimination based on customers' nationality, place of residence and place of establishment. The ban on geo-blocking is an important element of the digital single market strategy.

The Geo-blocking Regulation defines three specific situations when there can be no justified reasons for geo-blocking or other discriminations based on nationality, residence or location:

- **The sale of goods without physical delivery**

  Example: A Belgian customer wishes to buy a refrigerator and finds the best deal on a German website. The customer will be entitled to order the product and collect it at the trader's premises or organize delivery himself to his home.

- **The sale of electronically supplied services**

  Example: A Bulgarian consumer wishes to buy hosting services for her website from a Spanish company. She will now have access to the service, can register and buy this service without having to pay additional fees compared to a Spanish consumer.

- **The sale of services provided in a specific physical location**

  Example: An Italian family visits a French theme park and wishes to take advantage of a family discount on the price of the entry tickets. The discounted price will be available for the Italian family.

Furthermore, the Geo-blocking Regulation provides for:

- A ban on the blocking of access to websites and the use of automatic re-routing if the customer has not given prior consent; and

- A non-discrimination rule in payments. While traders remain free to offer whatever payment means they want, the Geo-blocking Regulation includes a specific provision on non-discrimination within those payment means.

The Geo-blocking Regulation does not impose an obligation to sell and does not harmonize prices. It does, however, address discrimination in access to goods and services in cases where it cannot be objectively justified (for example, by VAT obligations or different legal requirements).

Within two years after the entry into force of the new rules, the Commission will carry out a first evaluation of their impact on the internal market. The Commission will also include in its evaluation an assessment of the scope of the Regulation, including of the possible application of the new rules to certain electronically supplied services which offer copyright-protected content such as music, e-

books, software and online games, as well as of services in sectors such as transport and audio-visual..

The Geo-blocking Regulation can be consulted via this link. Additional information on geo-blocking and the Geo-blocking Regulation can be found here.

We selected this topic, given the importance of e-commerce for the internal market within the EU.

We hope this information is useful. You should not hesitate to contact us should you have any questions or require further information.

Kind regards,

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