

EU Commission Releases First Findings on Geo-Blocking in E-Commerce Sector Inquiry

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Antitrust & Competition Practice

On 18 March, the **European Commission** (Commission) published its initial findings on geo-blocking in the framework of its ongoing antitrust sector inquiry into e-commerce.

The findings are based on responses to questionnaires sent to more than 1400 retailers and digital content providers from all 28 EU Member States in 2015.

The questionnaires focused on geo-blocking practices in the sales of goods (clothing, shoes and accessories, consumer electronics, household appliances, computer games and software, toys and childcare articles, books, media carriers, cosmetic and healthcare products, sports, outdoor, house and garden equipment), and in the provision of digital content services (films, sports, TV programmes, music).

The findings suggest that geo-blocking is a widespread practice. Where the sale of tangible goods is concerned, in most cases the decision to have geo-blocking in place is made unilaterally by the retailer. In only 12 percent of the cases, retailers were forced by contract to put restrictions in place on cross-border sales.

On the other hand, geo-blocking in digital content is for the most part a contractual requirement imposed by suppliers (for 59 percent of the respondents).

The data on geo-blocking now published by the Commission seem to strengthen the Commission's suspicions that geo-blocking practices are widespread and may significantly impact intra-EU cross-border trade. The Commission said that geo-blocking may be in breach of competition law, particularly when it results from agreements between businesses or if practised by a dominant market player.

However, the Commission also recognized that retailers and service providers may have valid reasons to put geo-blocking in place to restrict cross-border sales. In light of this, the Commission may decide to address the conditions under which geo-blocking is justified in further legislation or guidance to businesses first, rather than take immediate enforcement measures on the back of the sector inquiry.

Any ensuing enforcement action would have to take place on a case-by-case basis, separately from the overall sector inquiry.

It is expected that the Commission will present its final report on the present inquiry by the middle of 2016.

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