



Brussels, 26 May 2020
REV2 – replaces the notice (REV1) dated
21 March 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF GEO-BLOCKING

Since 1 February 2020, the United Kingdom has withdrawn from the European Union and has become a “third country”.¹ The Withdrawal Agreement² provides for a transition period ending on 31 December 2020.³ Until that date, EU law in its entirety applies to and in the United Kingdom.⁴

During the transition period, the EU and the United Kingdom will negotiate an agreement on a new partnership, providing notably for a free trade area. However, it is not certain whether such an agreement will be concluded and will enter into force at the end of the transition period. In any event, such an agreement would create a relationship which in terms of market access conditions will be very different from the United Kingdom’s participation in the internal market,⁵ in the EU Customs Union, and in the VAT and excise duty area.

Moreover, after the end of the transition period the United Kingdom will be a third country as regards the implementation and application of EU law in the EU Member States.

Therefore, all interested parties, and especially economic operators, are reminded of the legal situation after the end of the transition period.

¹ A third country is a country not member of the EU.

² Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, OJ L 29, 31.1.2020, p. 7 (“Withdrawal Agreement”).

³ The transition period may, before 1 July 2020, be extended once for up to 1 or 2 years (Article 132(1) of the Withdrawal Agreement). The UK government has so far ruled out such an extension.

⁴ Subject to certain exceptions provided for in Article 127 of the Withdrawal Agreement, none of which is relevant in the context of this notice.

⁵ In particular, a free trade agreement does not provide for internal market concepts (in the area of goods and services) such as mutual recognition, the “country of origin principle”, and harmonisation. Nor does a free trade agreement remove customs formalities and controls, including those concerning the origin of goods and their input, as well as prohibitions and restrictions for imports and exports.

Advice to stakeholders:

Stakeholders, notably natural persons residing in the United Kingdom (unless they have a nationality of a Member State) and undertakings established in the United Kingdom, are in particular advised to assess the consequences of the end of the transition period in view of this notice.

Please note:

This notice does not address other aspects related to online transactions, such as online purchase with subsequent parcel delivery and electronic commerce and net neutrality, or to consumer protection generally.

For these aspects, other notices are in preparation or have been published.⁶

After the end of the transition period, the EU rules in the field of geo-blocking, in particular Regulation (EU) 2018/302⁷ 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, no longer apply to the United Kingdom. This has in particular the following consequences:

1. GENERAL CONSIDERATIONS

Regulation (EU) 2018/302 prohibits discrimination based on customers' nationality, place of residence or place of establishment, including unjustified geo-blocking, in certain cross-border transactions between a trader and a customer in relation to the sales of goods and the provision of services within the EU. In particular, it provides for the following measures protecting customers⁸.

- ban of discriminatory blocking or limiting customers' access to traders' online interfaces (e.g. a website) and redirecting them to another online interface without the customer's prior consent (Article 3);
- prohibition on traders to apply, in certain defined situations, on a discriminatory basis different conditions of access for customers to goods and services (Article 4; informally known as "shop like a local" principle);
- non-discrimination for reasons related to payment (Article 5).

⁶ https://ec.europa.eu/info/european-union-and-united-kingdom-forging-new-partnership/future-partnership/preparing-end-transition-period_en

⁷ Regulation (EU) 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, OJ L 60 I, 2.3.2018, p. 1.

⁸ Both consumers and businesses.

2. CUSTOMERS IN THE UK

At the end of the transition period, natural persons residing in the United Kingdom (unless they have a nationality of a Member State and the possible discriminatory treatment is based on such criterion) or undertakings established in the United Kingdom will not be able to benefit from Regulation (EU) 2018/302:

- Firstly, such persons or undertakings who wish to access websites in the EU will not benefit from the aforementioned ban related to access to traders' online interfaces. This means that a trader could block, limit or redirect those customers to specific versions of his/her website which might be different from the one that the customers initially sought to access.
- Secondly, such persons or undertakings will not have the guarantee to be able to "shop like a local" in the EU in the situations covered by Article 4 of the Regulation, including benefitting from the same prices and conditions relating to the delivery of goods and services as the locals (i.e. the customers of the trader's home Member State). For example, the off-line and on-line sales of goods and services, such as goods delivered or picked up in the EU territory, tickets for sports events or amusement parks in Member States, and the sale of electronically supplied services, such as hosting services, are areas where those customers will be affected.
- Thirdly, such persons or undertakings using payment means from the United Kingdom will not be protected against traders applying different conditions for a payment transaction from the ones offered to EU customers, or refused to complete the purchase for reasons related to payment, when (wanting to) pay electronically for goods or services.

3. UK TRADERS OPERATING IN THE EU

Regulation (EU) 2018/302 applies to all traders operating within the EU, regardless of whether those traders are established in the EU or in a third country (recital 17 of Regulation (EU) 2018/302).

Therefore, after the end of the transition period, traders who are established in the United Kingdom and operate in the EU will continue to be bound by the rules established by the Regulation (EU) 2018/302 in so far as their activities taking place within the EU are concerned.

Consequently, customers who have the nationality of a Member State or who reside or are established in a Member State can continue to invoke the abovementioned rights resulting from the Regulation in respect of those traders.

The website of the Commission on EU rules on geo-blocking (<https://ec.europa.eu/digital-single-market/en/geo-blocking-digital-single-market>) provides general information concerning Union legislation applicable to geo-blocking. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Communication Networks, Content and Technology