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Rev1

NOTICE TO STAKEHOLDERS

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

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement¹ establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').² The United Kingdom will then become a 'third country'.³

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, stakeholders are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, Regulation (EU) 2018/302⁴ 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 will no longer apply to the United Kingdom. This has in particular the following consequences.

¹ Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

² Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

³ A third country is a country not member of the EU.

⁴ 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.

1. CUSTOMERS

From its date of application (3 December 2018), 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 customers⁵:

- 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).

As of the withdrawal date, natural persons residing in the United Kingdom (unless they have a nationality of a Member State) 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.

2. TRADERS

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).

⁵ Both consumers and businesses.

Therefore, as of the withdrawal date, traders who are established in the United Kingdom and offer their goods or services to customers in the EU will continue to be bound by the rules established by the Regulation (EU) 2018/302 in respect of those activities.

The website of the Commission <https://ec.europa.eu/digital-single-market/en/geo-blocking-digital-single-market> provides general information concerning geo-blocking. This page will be updated with further information on the United Kingdom's withdrawal, where necessary.

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