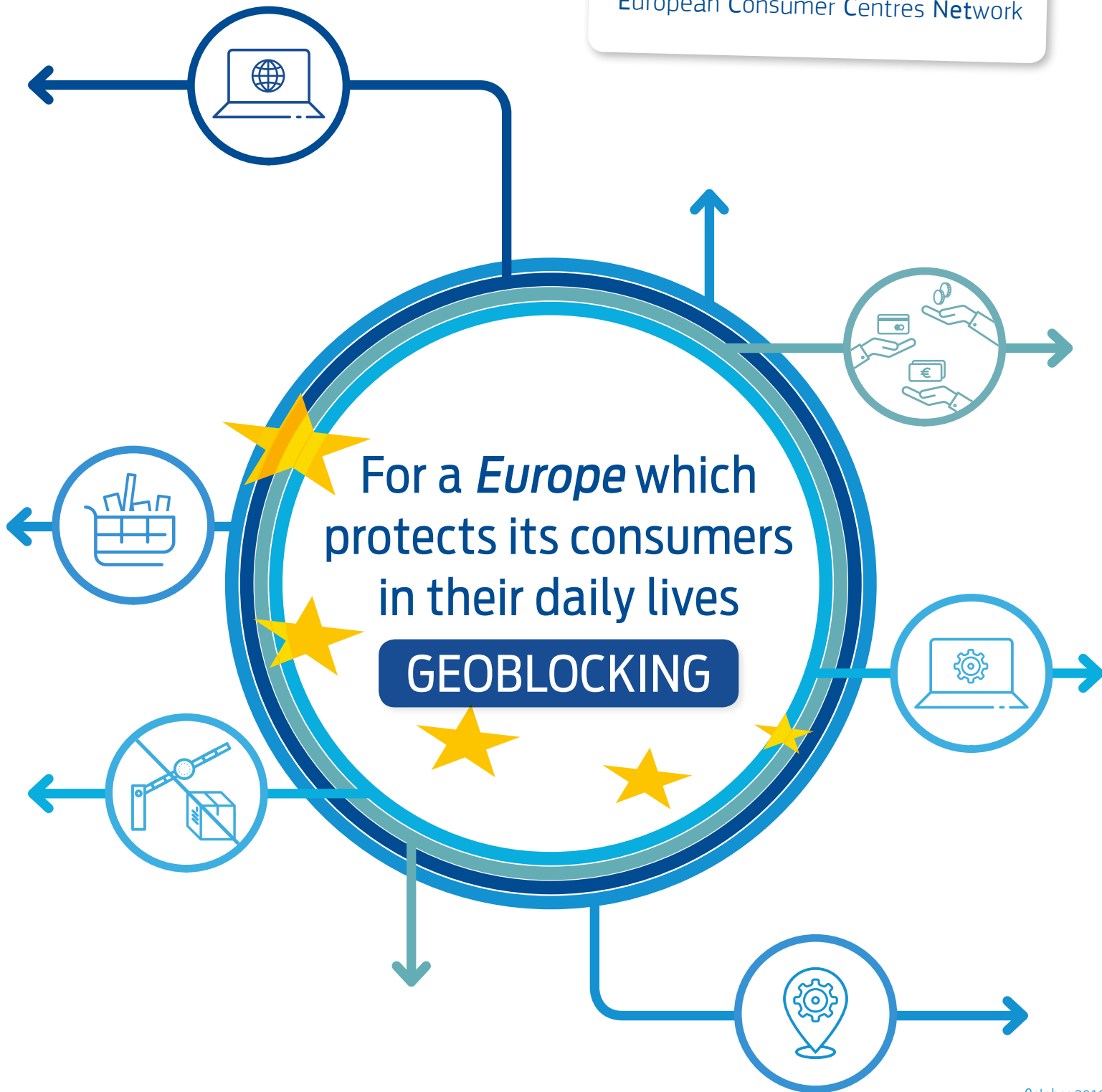


Help and advice
for consumers
in Europe



European Consumer Centres Network



October 2019

The ECC-Net offers its expertise
on cross-border consumer topics



Co-funded by
the European Union



ECCs are experts on consumer issues in the EU

30 centres across all EU Member States, Norway and Iceland, work closely together to **resolve consumer disputes in an amicable manner**. Each centre is co-funded by the European Union and national governments. By **providing a full and centralised service**, ECC-Net is committed to empowering consumers and enabling them to take full advantage of the Single Market.

The ECC-Net : 30 centres across Europe with 15 years of experience and unique expertise

The primary role of ECC-Net is to **enhance consumer** confidence when engaging in cross-border transactions by providing **free information and advice** to the public on their rights as consumers, as well as assistance in the resolution of cross-border consumer disputes.

Recently, it was also decided that the ECC- Net will contribute even more to the cooperation between national authorities responsible for the enforcement of consumer protection laws (CPC-Network), as an **external alert mechanism**.



The ECC-Net is vital for consumers who are experiencing difficulties with traders from another EU-country, and the Consumer Conditions Scoreboard 2017 shows that the ECC-Net receives more cross-border complaints than alternative dispute resolution bodies or The European Small Claims Procedure. Thus, the ECCs are in a unique position to **document the cross-border problems consumers face when shopping within the EU**.

Working group for this position paper: ECCs AT, BE, BG, CY, DE, DK, FR, HU, LV, LU, MT, NL, PL, PT, SI, SE, UK.

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Regulation (EU) 2018/302

Regulation (EU) 2018/302 addresses unjustified online sales discrimination based on customers' nationality, place of residence or place of establishment within the Internal market.

The Regulation entered into force on 22 March 2018 in all EU Member states and applies since 3 December 2018.

According to Article 8 of the Regulation, each Member state shall designate a body or bodies responsible for providing practical assistance to consumers in the case of a dispute between a consumer and a trader arising from the application of this Regulation.

Several Member states have designated the European Consumer Centres as assistance bodies under the Regulation. Several have already previously been designated as contact point under the services directive also. The centres, which together form a well-functioning EU-wide network, have well-established and elaborated procedures, and the necessary experience and expertise to efficiently handle cross-border consumer claims.

Our assistance could consist of explaining the consumer rights, helping consumers to settle a complaint with a trader based in another Member state, and explaining to consumers whom to contact or what to do if the assistance body itself cannot help.

In unjustified geo-blocking cases, or in other forms of discrimination cases based on consumers' nationality or place of residence, the cross-border element is often a key issue. European Consumer Centers are experts in handling cross-border complaints, and based on complaints received by consumers, ECC-Net can report on practical consumer issues, and illustrate the difficulties encountered by consumers.

Aim of the regulation

- > **Increasing** the potential of the internal market
- > **Broadening consumer choice** throughout the internal market
- > **Clarifying situations** in which differential treatment is unjustified
- > **Enabling the application** and effective implementation of non-discrimination rules throughout the internal market

Discriminations prohibited by the „geo-blocking“ regulation?

The regulation covers both direct and indirect discrimination mainly based on:

- > The nationality
- > The place of residence
- > The place of establishment of the customers
- > The physical location of the customers identified for example by the IP address of their connection
- > The delivery address
- > The language chosen
- > The customer's bank domiciliation or the country of issue of the means of payment

The entry into force of the geo-blocking regulation has raised many expectations on consumer side, hoping to finally have access to goods and services at better prices throughout the EU.

Many consumers incorrectly assume that companies have an EU-wide obligation to deliver packages across borders, and when this is refused many feel that the Internal market still bears more freedom for companies than it does for consumers. Businesses can freely sell their services, create companies or subsidiaries in another Member state, but consumers are dependent on traders accepting to deliver to their country.

Consumer testimonial

"I am not an expert in this field, but it seems to me that the limitations that exist in geo-blocking (and which are very similar to geo-blocking, at first glance) call into question the notion of a single European market."



Main conclusion

- **The exact scope of application** of the geoblocking regulation is **unclear** to consumers. Consumers complain about services not covered by this legislation as for example financial services, insurances, copyright protected works, etc.
- **The absence of obligation to deliver** to the consumer's country of residence makes it, in practice, difficult or impossible to have access to all offers.
- The **possibility of redirection to national websites and price differences still exist** and frustrate consumers, especially when dealing with major retailers delivering all over the EU but not accepting that consumers shop from the website targeting consumers from another country where they propose at a lower price. It appears from the comments received by the ECCs that consumers would accept to pay for higher delivery charges but are expecting to be able to buy goods from the website they choose. Consumers feel that the ban on automatic rerouting has been replaced by the necessity to have a delivery address in the country of the national website.

"I want to book a cruise in France. The announced price is 41% higher than that of the same cruise operator in Spanish, for exactly the same product (same cabin, same date and city of departure, same cruise, same service). Prices are also different for the same cruise booked from Italy or Germany. It is not possible for a French consumer to book on the site of another country (the call center refuses or the site is blocked when finalizing the reservation, which must correspond to the country of the passport). In the final stage of the booking process, they also ask for an address that must correspond with the website's country (and the corresponding Club card). The country of the website is the default option for the residence country. It is impossible to change. Travel packages and linked travel arrangements, as defined in Directive 2015/2302, are covered by the Regulation."

- The same applies to **sales**: consumers who want to go bargain hunting are excluded from sales as traders can limit delivery to a certain territory, or even apply sales only to certain products in certain territories.
- Marketplaces and platforms refuse to deliver specific products cross-border due to **selective distribution** imposed by manufacturers, despite the fine imposed by the Commission for anticompetitive agreements to block cross-border sales.¹ The idea of **"shopping like a local"** is only interesting in border regions where distances are short. For longer distances, one option could be to have the purchases delivered to a transport company specialising in cross-border delivery of parcels. This option already existed prior to the entry into force of the geoblocking regulation. However, many traders do not foresee self-collection or self-organisation of the delivery by the consumer in their terms and conditions or refuse to ship to such professional transport addresses.



- > **A consumer from Austria** wanted to order a Pixel 3 smartphone in the Google Play Store Germany. The consumer has a German delivery address via a transport company, nevertheless the order was refused on the grounds of «suspicious activity». After reference to the **Geoblocking Regulation**, the company changed its business practice and now also accepts orders for the delivery address to such transport companies.

- The problem of geo-blocking also seems, in certain countries, to be linked to the **"SEPA issues"** as consumers are refused to sign contracts based on the domiciliation of their bank account. Since 5 August 2014, European consumers should be able to open an account with the bank of their choosing in the EU (Directive 2014/92/EU). And, according to Article 9 of Regulation (EU) No. 260/2012 establishing technical and commercial requirements for credit transfers and direct debits in euros, traders may not refuse payment by direct debit or transfer in euros, on the grounds that the consumer's bank account is located in another EU Member state within the Euro zone. Nevertheless, ECCs receive numerous complaints from consumers who have been denied access to products and services due to their bank account being located in another Member State. In Case C-28/18, the CJEU recently concluded that "The option to pay by SEPA direct debit cannot be subject to a condition of residence in the national territory".
- Also some online traders only accept specific payment methods related to certain countries. For example the Dutch payment service iDeal is based on a link to mainly Dutch financial institutions. If a web shop offers iDeal as the only payment method it discriminates customers not having a Dutch bank account. The Belgian system Payconig is similar.
- Difference in treatment may also be linked to specific national rules of **citizen identification schemes**. For example, ECC Sweden regularly receives complaints about traders refusing to provide services due to the consumer lacking a Swedish «person number» (~social security number).



While it is evident that not all traders have transposed the geo-blocking regulation in their commercial practices yet, the **ECC-Net is already alarmed by reports from consumers stating that traders who previously shipped across borders suddenly do not accept orders from other or specific Member States.**

⁽¹⁾ http://europa.eu/rapid/press-release_IP-18-6844_en.htm?locale=EN



Consumers testimonials

It should be highlighted that the following examples concern not only specific trader's web-shops, but also online platforms and marketplaces.

They show that for consumers, and for some traders, the exact extent of the ban on geo-blocking is not yet entirely clear.



- ECC Austria and France received complaints with regards to the **German Consumer Foundation** which issues a consumer magazine in paper and online including comparative testings of product and services. Consumers want to download articles and testing results. Austrian and French consumers were denied access to the articles. The first reason given was the new Regulation on VAT to be calculated and paid in the buyer's Country of residence. Then they referred to Article 4 (1) (b) and access to copyright protected works. The contents sold online are all copyrighted.



- **A consumer from Austria** wanted to order a Powerbreather (snorkel set) from an Marketplace dealer based in Germany. The order was refused on the grounds that the item cannot be delivered to Austria. After intervention by ECC Germany, the company confirmed this was a mistake by the marketplace platform, especially since the entire EU is released for shipping in their platform account.

- **A consumer from Austria** bought a sofa from a Danish company. The sofa was advertised with the promotion that consumers - if they find the same sofa within other affiliates of the Company Group for a cheaper price - will be credited the difference in price. The consumer then found the sofa cheaper and requested to issue the credit. Because of lack of residence in Germany, the issuance of the credit was denied. After the intervention by ECC Denmark, the consumer was granted the credit.

- **A consumer resident in Austria** wants to pay for airline tickets via bank transfer. She lives in Austria, but has a German bank account. The airline refused the payment on the grounds that the consumer's domicile must be the same as the bank's domicile. After intervention by ECC Germany the trader changed its business practice and now accepts also payments via bank accounts registered in another country than the consumer's place of residence.

- **A Belgian consumer** bought a chain saw in a French store. This brand is sold in many different countries and provides for different commercial warranties depending on the country of purchase (e.g. 1 year for a purchase in France, 6 months in Belgium). However, the web interface for registering products does not take into account cross-border purchases. The residence address of the consumer automatically prompts the country of purchase. Thanks to a close cooperation between ECCs Belgium and France, the Belgian consumer could benefit from the French warranty extension for his product.

- **A Bulgarian consumer** cannot register on a Dutch platform. The services are available for Bulgarian consumers who want to use their services as a buyer but not for consumers who want to register as a private seller. After ECC intervention, the trader decided to make the services available for consumers from Bulgaria who want to use their services as a seller.

- **A Bulgarian consumer** couldn't order from a UK web shop as he has been denied paying with a Bulgarian bank card or with mobile payment method. The trader confirmed that they accept only UK billing addresses. After ECC intervention, the trader changed their policy.

- **A Bulgarian consumer** has purchased a box with cereals with a promotion to win a 50% discount voucher for a 1-day ticket for many theme parks around Europe, e.g. aqua parks, entertaining parks, etc. One of them in Italy, however, restricts to only certain countries' citizens (around 10 EU and 2-3 outside of EU/EEA countries). The consumer doesn't reside in any of them, as she resides in Bulgaria. After ECC intervention, the consumer was properly re-directed to the promoter of the campaign (not the park) and was assured that she can use the voucher (if she wins) at the park and she will not be discriminated based on her country of residence.



- **A French consumer** wanted to purchase a toy online from a German retailer, who also operates as a marketplace. The consumer realised that the trader only delivered to Germany, but he had found a transport company willing to deliver the toy to France. However, when trying to register on the site, he discovered that the site only accepted a postcode based in Germany. The case is still ongoing.

- **A Dutch consumer** cannot order a specific antivirus software from a German trader due to «geographical restrictions». Austrian consumers complained about unequal treatment due to their residence in connection with application (apps) for mobile phones and tablets. Consumers said apps will only be shared with certain countries, so they cannot use the services. According to article 4 (1) b) of the Regulation EU 2018/302, the Regulation does not apply to copyright protected works such as e.g. apps, software or games. The consumers have been informed accordingly.



- **A German consumer** purchased for several years pet supplies from an Irish web trader as prices were more interesting than on the German website. After entry into force of the geo-blocking regulation he was informed that the trader would no longer ship to Germany for "logistical reasons". They continued by explaining that they will not ship to countries for which they have a national web domain.

Consumers testimonials



- **A German consumer** wanted to register for a marathon in Spain via a Danish trader, but only found two possibilities of registration: 1. For (only) Spanish citizen, who can register directly for the marathon and 2. for all «foreigners», who are only allowed to take part, if they book a package that includes five nights, excursions and the marathon itself. The cost is about 690 euros for this package. After ECC intervention the trader agreed to sell the consumer a ticket without the package.



- **A German consumer** wanted to register online with a scooter sharing service in the Netherlands, but during the registration process the trader asked for bank authentication (regardless of payment) as proof of residence in the Netherlands. Upon request, the trader stated that their service is only available to Dutch residents, as they are aware of the local traffic regulations. The consumer has a valid driving license, which is also valid in the Netherlands, and therefore he finds this restriction unjustified and contrary to the European spirit.



- **An Italian consumer** living in a cross-border area (Valle D'Aosta) was used to purchase products at a French supermarket by using the «Drive» service offered by the trader: after placing the order online, he collect the products at the supermarket directly. The payment by credit card is made in advance and to benefit from such a service you need to register providing your address and phone number. The trader changed the contractual terms last autumn and to use their service you must now reside in France and pay by a French credit card. The consumer has contacted the trader twice but the responses he got refer to their contractual terms. A payment by an Italian credit card is requested if you want use the same service in Italy but nothing is said about the residence of the consumer. Case still ongoing.



- **A German consumer** wanted to pay online the bill issued by an Italian TLC provider but he couldn't since he holds a German credit card and only Italian credit card are accepted. The Italian Antitrust Authority issued a statement and fined almost all the Italian TLC providers for such a discrimination.

- **A Latvian consumer** living in Italy would like to place an order from an Italian online shop: To create a customer account a mobile phone number needs to be indicated to receive the verification code but it is possible to indicate an Italian mobile phone number only. The trader has in the end changed the online registration from.



- **A consumer residing in Malta**, decided to pay for a digital music service which gives him access to millions of songs, using a credit card issued from an online bank registered in Germany. Unfortunately, the consumer experienced an increase in the monthly payment. The consumer argued that he is not a German resident and therefore he should not be charged extra. This argument was not accepted from the trader as their price subscription varies depending on the country and method of payment used.

- In the beginning of 2019, an international vehicle manufacturer informed customers via Twitter that they plan to improve one of their existing models. However, from the improved model will not be available for purchase in all countries (e.g. Poland, Slovakia, Czech Republic, Estonia are excluded). **A Polish consumer** wants to know if this is allowed.

- **A Polish consumer** bought a Pixel 2 phone from an Irish trader to be delivered to a transport and delivery service address in Germany. When the phone stopped working the consumer sent a complaint based on the trader's commercial warranty. The company refused to send the new phone to Poland or to the mailbox address in Germany as it is not a private address (and the warranty conditions state that it must be).

- Frequent flyer programs offer the possibility to buy products from an e-shop with two possibilities of the payment: collected miles or money. But Polish citizens cannot pay with miles. The only possibility for **Polish customers** is traditional payment.



- **Several consumers from Slovenia** wanted to buy the vehicle Tesla Model 3 from a branch office in Austria. They had booked the vehicle several months in advance. Because of a lack of residence in Austria, this was denied for tax reasons. Thanks to the fruitful cooperation of ECCs Slovenia and Austria the purchase of the vehicle and tax refund was made possible.



- **A Swedish consumer** wants to order a book from a bookstore that sells to all the Nordic countries. The store answers that they sell to all the Nordic countries, but not cross border. The consumer was not able to buy the book he wanted to buy.

Don't hesitate to get in touch

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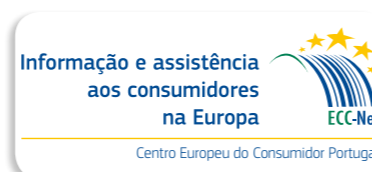
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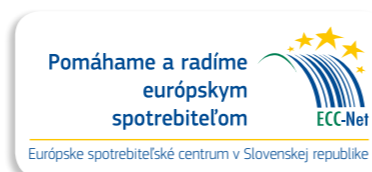
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Help and advice
for consumers
in Europe



European Consumer Centres Network

European Consumer Centres Network (ECC-Net)

30 centres across all EU Member States, Norway and Iceland,
providing free information and advice on your consumer rights
when shopping in or traveling to another Member State.



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Mentions légales

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Cette brochure ne prétend pas être exhaustive mais vise à donner un aperçu des questions et des problèmes posés dans la thématique traitée. Bien que vérifiées, nous ne pouvons garantir l'exactitude des informations contenues dans cette brochure.

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