

Geo-blocking of goods that require cross-border delivery: A preliminary view on EU policy considerations

J. Scott Marcus (Bruegel) and Georgios Petropoulos (Bruegel)

Preliminary and incomplete: We will be further extending the work on the impediments and their potential solutions.

The European Commission has made legislative proposals to address “*unjustified geo-blocking and other forms of discrimination based on customers’ nationality, place of residence or place of establishment ...*”.¹ The Commission’s proposal seeks to address long-standing concerns that relatively few consumers in the EU make e-commerce purchases cross-border within the EU, and that relatively few merchants sell cross-border.

The Commission’s legislative proposal avoids imposing restrictions on geo-blocking (i.e. “conditions of access”) on any goods that require cross-border delivery.² The exclusion is understandable inasmuch as cross-border delivery of goods imposes burdens on the merchant – it is clear that prices to the end-user cannot be the same as in the case of domestic delivery.³ At the same time, this “carve out” means that a large fraction of e-commerce is outside the scope of the key provisions of the proposed legislation.

This paper represents a very preliminary attempt to identify the challenges, and possible responses to them. The challenges regarding shipping costs that initially drew our attention to the problem could potentially be addressed in a fairly straightforward way, but there are numerous additional challenging problems that would need to be addressed, and these are more difficult to gauge.

¹ European Commission (2016), “Proposal for a Regulation of the European Parliament and of the Council on addressing geo-blocking and other forms of discrimination based on customers’ nationality, place of residence or place of establishment within the internal market and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC”, COM(2016) 289 final.

² This is true for Article 4 of the proposed Regulation, which imposes nondiscrimination obligations. Articles 3 (no blocking of websites) and 5 (payment mechanisms) are not so restricted.

³ Whether this price appears as a separate charge, or is included in the price of the goods or services, is not relevant to our analysis. We will focus on the total effective price.