



Department for
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Lord Prior of Brampton
Parliamentary Under-Secretary of State

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27 June 2017

Dear Chair,

RE: 9611/16: Proposal for a Regulation of the European Parliament and of the European Council on addressing geoblocking 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

Thank you for your letter dated 27 January 2017 on the above proposal. I am writing to answer questions from your previous correspondence, update you on progress made and ask that this file be cleared by the House of Commons European Scrutiny Committee.

The Maltese Presidency has identified geo-blocking as one of their main priorities during their Presidency. There have already been two trilogue meetings (29 May & 13 June) to discuss the Regulation, with the next meeting planned on the 27 June. Depending on how quickly a compromise can be reached by the Presidency and the Commission, an agreement may be finalised before the end of the Maltese Presidency (the end of June).

The major substantial issue left to be resolved involves the scope of the regulation; the European Parliament have made it clear that they want digital services which provide access to copyright protected works to be included in the Regulation.

Your committee raised a number of questions and points in your last response letter. Please find the answers to each of these, and additional information, below.

When the UK leaves the EU, to what extent will UK businesses continue to be constrained by each of the main provisions in the Regulation in the same way as when the UK was a Member State?

The proposed geo-blocking Regulation includes a third country provision, whereby, a trader, based in a third country, who 'directs activities' to consumers based in the European Economic Area (EEA), will be bound by this Regulation. Therefore the Regulation will apply equally to all traders (whether established in a Member State or those established in a third country) operating within the European Union.

If the Government chooses to retain the Regulation in domestic legislation following Brexit, will this provide UK consumers seeking to purchase goods or services from EEA businesses with the same protections against unjustified geo-blocking as that those the Regulation will provide customers in EU Member States? Would a bilateral agreement with the EU be necessary to ensure that these protections against unjustified geo-blocking obtained, or not?

The Government will consider whether an agreement between the UK and EU is needed for this Regulation to benefit UK consumers.

If the Government's answers to the previous questions are that (i) UK businesses will have to comply with the Regulation when selling to EEA consumers, whereas (ii) EEA businesses will be free to engage in unjustified geo-blocking of UK consumers even if the Government retains the Regulation in domestic legislation, we ask the Minister to explain the basis of this discrepancy. How can the EU require UK businesses to comply with the geo-blocking Regulation but the UK not be able through domestic legislation to require EU businesses to do the same?

The Regulation will only apply to UK businesses to the extent they operate within the European Union. During exit negotiations we will work to achieve the best possible deal for the UK. The UK has a strong track record of protecting consumers, and this will continue.

Due to the ambitious timetable set out by the Maltese Presidency, it is possible there may be an agreement on the file before the end of their Presidency (31 June). I therefore ask the Committee to clear this file, which will allow us to vote on any final agreement.

I will of course keep you updated on any further progress on this file.

I am copying this letter to Lord Boswell, Chair of the House of Lords European Union Committee, Les Saunders (DExEU) and Briony Thompson (BEIS).

A handwritten signature in black ink that reads "David Prior". The signature is written in a cursive style with a horizontal line underneath the name.

DAVID PRIOR