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#### 'I/A' ITEM NOTE

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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Subject: Draft Regulation of the European Parliament and of the Council 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 and amending Regulations (EC) No 2006/2004 and (EU) 2017/2394 and Directive 2009/22/EC  
**(first reading)**  
- Adoption of the legislative act  
- Statements

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#### Statement by Luxembourg

"In order to create a fully functioning Digital Single Market, there is a need to remove the current legal fragmentation. Otherwise businesses, in particular SMEs and micro-enterprises, will not sell throughout the Single Market because of legal uncertainty and disproportionate compliance costs. As a result, consumers will not have access to the goods and services they want to buy.

Luxembourg remains skeptical as to the added value of the Regulation, which does not provide for legal certainty and which confirms, rather than removes, existing barriers. It obliges traders to sell everywhere in the EU without providing for any improvements and clarifications as regards the determination of the applicable law and the competent court. Businesses will not be able to protect themselves against legal and economic risks by restricting their sales to their domestic market or a limited number of markets, as they can today.

However, Luxembourg appreciates the efforts of the Estonian Presidency to provide for more clarity, in particular through new provisions in the Regulation's review clause. Two years after the entry into force of the Regulation, the Commission will have to assess the additional costs faced by businesses when selling across borders and which are due to legal fragmentation, including with respect to the existing rules on applicable law.

The review clause also invites the Commission to consider ways of facilitating consumers' access to electronic services protected by copyright – the “geoblocking” of which is a major issue for consumers today.

Therefore, Luxembourg can support the compromise text resulting from the trilogues with the European Parliament. Luxembourg hopes that the review of the Regulation will provide for ambitious and concrete results as soon as possible."

### Statement by Germany

Nach Auffassung der Deutschen Bundesregierung sollte es eine Selbstverständlichkeit sein, dass jede Überprüfung des Anwendungsbereichs stets von einer umfassenden Folgenabschätzung der Europäischen Kommission begleitet wird. Dies gilt umso mehr vor dem Hintergrund, dass die Europäische Kommission in ihrer Erklärung auch die Überprüfung in Bezug auf audiovisuelle Dienstleistungen zusagt. Wir bitten daher um die Aufnahme einer Protokollerklärung in Bezug auf Art. 9 „Überprüfungsklausel“ mit folgendem Wortlaut:

„Jeder Überprüfung des Anwendungsbereichs dieser Verordnung gemäß Art. 9 geht eine umfassende Folgenabschätzung der Europäischen Kommission voraus.“

### **Statement by France**

Les autorités françaises se joignent à la déclaration des autorités allemandes sur le règlement visant à contrer le blocage géographique injustifié d'autres formes de discrimination fondée sur la nationalité, le lieu de résidence ou le lieu d'établissement des clients dans le marché intérieur, et modifiant le règlement (CE) n°2016/2004 et la directive 2009/22/CE.

En effet, pour les autorités françaises il est indispensable que toute proposition de modification du champ d'application du règlement soit étayée préalablement par une étude d'impact approfondie.

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