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POSITION PAPER

Contribution to the Call for Evidence for Evaluating the Geo-Blocking Regulation

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EXECUTIVE SUMMARY

Around **€276 billion** worth of consumer goods is **traded within the EU annually.**

- This represents **61%** of all EU-produced consumer products, meaning most goods produced in the EU stay within the EU. The remaining **39%** is exported globally, accounting for **33%** of the EU's overall trade surplus.
- Consumer products trade accounts for **6.5%** of total intra-EU27 trade, making it a significant contributor to internal European commerce.
- This thriving sector also reinvests over **€81 billion** into innovation, sustainability, and growth.

The purpose and scope of the Regulation are such that it is ill-suited to the treatment of B2B relationships

- The Regulation was designed to prevent unjustified **B2C** geo-blocking in e-commerce, ensuring that **end users** can benefit from the Single Market and access goods and services online, regardless of nationality or place of residence.
- The Regulation explicitly **excludes** B2B purchases intended for resale, transformation, or processing, meaning so-called **territorial supply constraints** ("TSCs") — which concern wholesale distribution — fall **outside** its remit.

TSCs are a B2B issue governed by competition law

- Articles 101 and 102 TFEU already address any anticompetitive practices, such as **unlawful refusals to supply** or **territorial restrictions**.
- **No evidence** suggests significant "TSC-like" behavior occurs **outside** the scope of these rules.

No hard evidence of widespread "TSCs"

- Studies commissioned by the Commission — along with a critical review by NERA — found **no credible data** showing systematic territorial restrictions imposed by manufacturers.
- Often, what retailers label as "TSC" reflects **normal commercial adaptations**, such as variations in **tax, logistics, local demand**, or **retailers' own pricing strategies**.

Wholesale prices vs. retail prices

- **Manufacturers of consumer products negotiate** wholesale terms, **retailers set** final consumer prices.
- Claims of "unjustified higher prices" overlook the retailer's **own** role in setting markups, promotions, and shelf prices, which explains much of the **cross-border price variation**.

A single EU-wide wholesale price is neither realistic nor desirable

Attempting to enforce one uniform wholesale price could **raise prices** in Member States where prices are relatively lower, reduce investment, and **stifle innovation** or product availability — counter to Single Market ideals.

Extending Geo-blocking rules to B2B would harm innovation and create unintended effects

- **Selective/exclusive distribution** fosters brand reputation and market entry; imposing forced supply obligations disrupts normal B2B negotiations and can inflate compliance costs, especially for **smaller** retailers.
- A "geo-blocking style" approach in B2B markets risks limiting **consumer choice** and **raising retail prices**.

Focus on real Single Market barriers

- **Fragmented** VAT, labelling, and packaging rules cause genuine frictions. Addressing these divergences would yield **greater benefits** — driving competition, innovation, and consumer welfare more effectively than forcing a B2B extension of consumer-protection regulations.
- The Commission's **Competitiveness Compass** underscores the need to remove remaining Single Market barriers — estimated to equate to a **'tax' of around 45%** for manufacturing — rather than imposing new obligations on B2B transactions.

Conclusion

The **Geo-blocking Regulation** was created to protect **consumers** against geographically motivated discrimination in online sales. So-called **TSCs** relate to **B2B** distribution, an area **better governed by competition law** and **contractual freedom**. Seeking to expand the Regulation's scope to cover wholesale supply constraints would risk duplicating or undermining existing legal frameworks. We encourage policymakers to focus on **genuine Single Market hurdles** — like **regulatory fragmentation** — rather than rewriting consumer rules for B2B scenarios.

Introduction

AIM, the European Brands Association, welcomes the opportunity to contribute to the public stakeholder consultation on the evaluation of Regulation (EU) 2018/302 (herein "the Regulation"), which was adopted as part of the e-commerce measures under the Digital Single Market (DSM) Strategy to ensure better access conditions to goods and services for end users across the EU, enabling them to take full advantage of the opportunities offered by the internet and digital technologies and to benefit from the Single Market when shopping online.

AIM represents 2,500 brand manufacturers directly or indirectly through its corporate and national association members. These range from SMEs to leading European brand manufacturers in the food, beverages, personal care, home care, luxury, toy and apparel categories. As AIM's 2024-2029 manifesto states, **€276.1 billion of consumer goods were traded in the EU in 2022**,[1] with the sector representing €174 billion in EU exports, comprising 33% of the EU's trade surplus, with over €81 billion reinvested into innovation, sustainability and growth; 61% of all FMCG products manufactured in the EU were traded within the EU, accounting for 6.5% of total intra-EU27 trade, while the remaining 39% were exported, accounting for 6.8% of the total extra-EU27 trade.[2]

Every year, cross-border trade enables the consumer goods industry, Europe's third largest manufacturing industry, to deliver a vast range of innovative products and services to consumers, **creating value for both consumers and EU governments**.

1. The rationale, purpose and scope of the Regulation

The Regulation was adopted to address **unjustified restrictions faced by consumers when shopping across borders**, particularly in B2C e-commerce transactions. The Regulation specifically targets situations where online traders block or redirect consumers **based on their nationality, place of residence, establishment or location**, in both online and off-line transactions — for example, by preventing access to a website, refusing to accept an order, or applying different conditions purely based on the consumer's location.

The objective was to enhance consumer access to goods and services within the Digital Single Market, ensuring consumers could take advantage of cross-border offers as end users. Importantly, this focus on consumer-facing restrictions reflects the Regulation's purpose as a **consumer protection measure**, not a tool to intervene in business-to-business supply arrangements.

Under Article 2(13) of the Regulation, "*customer*" means a consumer or an undertaking buying "***for the sole purpose of end use***". Territorial supply constraints, by contrast, typically involve businesses acquiring goods for resale, which does not qualify as "end use." Recital 16 of the Regulation explicitly states that customers purchasing goods "*for subsequent resale, transformation, processing, renting or subcontracting*" fall **outside** the Regulation. This means that business-to-business purchases intended for onward distribution are excluded. Recital 16 explicitly notes that distribution arrangements in a B2B environment (*e.g.*, exclusive or selective distribution) are **typically negotiated bilaterally**, subject to competition rules. Applying Regulation's B2C-style obligations would indeed conflict with these established frameworks.

[1] Euromonitor based on Eurostat using HS codes, Trade by commodity
[2] Eurostat, trade by commodity and NACE Rev.2 activity

Additionally, **the Regulation only applies to "general conditions of access,"** meaning the standard terms offered to the public at large rather than **individually negotiated contracts**. In line with its consumer-protection purpose, the Regulation does **not** oblige traders to **deliver across borders** or to **harmonise prices** throughout the EU. Rather, it simply requires that traders refrain from discriminating based on customers' location, ensuring that end users can access goods or services under the same conditions offered to local consumers.

The European Commission's recent Staff Working Document 2024 196 final ("SWD") makes clear that the Regulation only covers transactions involving end users: "***the Geo-blocking Regulation explicitly excludes from its protection customers purchasing a good or a service for subsequent resale, transformation, processing, renting or subcontracting.*** *The Geo-blocking Regulation covers business-to-consumer and business-to-business transactions, the latter only in so far as they are intended for end use.*" (emphasis added)

Indeed, the Regulation applies to scenarios where end users (essentially consumers) face discriminatory barriers when seeking to purchase goods or services online within the EU. Examples include:

- A consumer in Belgium being automatically redirected to the Belgian version of a website, with higher prices than available on the same retailer's German site.
- An Italian tourist trying to book a rental car from a provider's website, only to find that the rate is higher when entering an Italian billing address compared to a Spanish one.
- An Austrian consumer being refused the option to purchase electronics from a French online store, simply because the delivery address is in Austria (even when the consumer offers to arrange their own collection).

Such cases concern **access to online interfaces and discriminatory terms imposed on individual consumers based on their nationality or location** — they have nothing to do with wholesale supply terms between manufacturers and retailers.

Finally, it bears recalling that this Regulation emerged as part of the EU's **Digital Single Market** strategy, initially focusing on **online transactions** — including the prospective treatment of **audiovisual content**. Yet, audiovisual services were **explicitly carved out** due to their unique licensing and cultural considerations, underscoring the **complex distinction** between purely digital content and tangible goods or services. The Regulation's main rationale was to **address unjustified geo-blocking of consumers** in virtual marketplaces, not to impose a uniform pricing or distribution model across **offline B2B** supply chains. Any step to reinterpret or extend its scope beyond these consumer-protection intentions would represent a departure from that original justification.

2. Why so-called "TSCs" are outside the scope of the Regulation

So-called "territorial supply constraintst ("TSCs") — as alleged restrictions on cross-border B2B sourcing — fall completely outside the consumer-focused scope of the Geo-blocking Regulation. **The Regulation explicitly excludes purchases made for resale, transformation, or processing**, which are precisely the situations at the heart of TSC claims. This exclusion is not incidental: it reflects the clear legislative intention to avoid interference with normal commercial negotiations between businesses, which are governed by competition law, not consumer protection rules.

It is therefore difficult to understand why this evaluation considers the issue of territorial restrictions in business-to-business relationships, whereas these practices are governed by competition law and already excluded explicitly from the scope of the Regulation. This deliberate exclusion was reaffirmed in the SWD, which acknowledges that "TSCs" relate to business-to-business relationships in wholesale markets, while recognising that "***not every difference of treatment necessarily constitutes a discrimination and the suppliers' freedom to organise their business strategy needs to be acknowledged*** **(since p)*****roduct and price differentiation do not automatically constitute TSCs and sometimes have objective justifications***".

3. The European Commission's SWD includes a series of unsupported claims on so-called "TSCs"

Alongside the above relevant points made by the SWD, its section discussing TSCs otherwise appears one-sided as to their alleged prevalence in the EU in that it tacitly dismisses from the outset that relevant details applicable to each individual case of territorial restriction could justify practices that might at first sight be perceived as exclusionary.

- **Claim 1**: TSCs would "*contribute to a wide range of retail prices charged across the EU by manufacturers*"

3.1. Manufacturers do not "charge" retail prices

Contrary to the claim that so-called TSCs lead manufacturers to "*charge*" "*a wide range of retail prices*" across the EU, it is **retailers** who set and charge final consumer prices. By definition, manufacturers negotiate **wholesale** terms with retailers, typically under intense bargaining. These negotiated amounts are **not** the same as the shelf prices consumers ultimately pay.

Moreover, the sweeping suggestion that "manufacturers" (in general, rather than specific instances) uniformly impose a broad spectrum of prices EU-wide is **unsubstantiated**. No hard evidence shows that brand producers in aggregate singlehandedly create such disparities. Research and enforcement practice consistently confirm that **retailers' pricing decisions** — including markups, promotions, loyalty programs, and cost structures — play the dominant role in explaining why retail prices vary by region, including for identical goods.

- **Claim 2**: "*TSCs seem more prevalent in a certain range of products (branded products with high brand loyalty with consumers) and in some Member States.*"

3.2. There is no hard evidence of widespread and/or systematic TSCs in the Single Market

The evidence base for TSCs is extremely weak. Multiple studies, including in particular the 2020 study commissioned by the European Commission and its critical review by NERA, have **failed to find hard evidence** of widespread and/or systematic territorial restrictions imposed by manufacturers in Europe. This is because what some retailers term "TSC" typically turns out to be a **normal, commercially justified practice**, reflecting differences in consumer demand, regulatory requirements, logistics costs or retailers' own sourcing strategies. The 2020 study relies almost entirely on **unverified statements** from a small group of **34 large retailers** — 0.0006% of all EU retailers and wholesalers — and **lacks objective or cross-checked data**. Even the study's authors acknowledged in their study that their econometric model was not reliable.

- **Claim 3**: "*These differences cannot be fully explained by the factors traditionally affecting price differences, such as different taxation regimes (including VAT), labour costs, raw material costs, production costs (e.g., related to volumes/economies of scale) or pricing of logistics*":

3.3. So-called "TSCs" commonly reflect legitimate commercial or legal considerations

That claim is **overly broad**. In reality, each market's price dynamics result from a **combination of unique factors**, which can only be fully assessed **on a case by case basis**. Even small variations in local tax rules, packaging or labelling laws, deposit or waste disposal systems, and language requirements may force manufacturers to **customise products and supply arrangements** by Member State. These tailored approaches reflect **legitimate commercial or legal considerations**, not geo-blocking of individual consumers.

Additionally, **B2B distribution agreements are inherently negotiated** based on the mutual interests and relative bargaining power of the parties. Any cross-border price differences at retail typically **stem from retailers' own strategies** — for instance, focusing on private-label competition or scheduling local promotions — as well as national differences in **taxation**, **labour**, and **regulatory compliance**. Trying to generalise or label such normal market practices as "TSCs" overlooks the complexity of how businesses actually operate and compete in different EU markets.

Taking the example of taxes, it is worth noting that **VAT rates vary widely across the EU**, which has to be taken into account when comparing consumer prices. Indeed, for the same good costing €1, Hungarian consumers will pay €1.27, Greek consumers €1.24, German consumers €1.19 and Luxembourg consumers €1.17. These VAT rate differences lead to **significant price variations for a similar basket of goods**: just because of them, Greek consumers pays on average 4.2% more than German consumers, while Hungarian consumers pay on average 8.5% more than Luxembourg consumers.

The European Commission should carefully assess the **impact that different VAT rates applied by governments within the EU have on consumer prices**, as well as the **impact that harmonised VAT rates across the EU would have on government revenues**. As the below overview shows, VAT rates on food products differ even more substantially from one EU Member State to another, which **directly affects consumer price levels**, contributing to the notable cross-border **price differences** for everyday items. The table below provides a **snapshot of the standard VAT rate** in each Member State, along with any **reduced rate(s)** applicable to food products, plus **comments** on how these reductions typically apply. By illustrating the breadth of national approaches, this overview underscores how **tax variations alone can play a significant role in shaping retail prices across Europe**.

Member State	Standard VAT	Reduced VAT for Food?	Comments (Typical Reduced Rates)
Austria	20%	Yes	10% for most foodstuffs
Belgium	21%	Yes	6% on food
Bulgaria	20%	Generally No	(9% applies to specific sectors, e.g. hotels; food typically taxed at 20%)
Croatia	25%	Yes	5% for basic staples (bread, milk), 13% for certain other foods
Cyprus	19%	Yes (selected items)	5% or 9% for certain essential food products, catering services, etc.
Czech Republic	21%	Yes	Commonly 15% for many food products, 10% for some essentials
Denmark	25%	No	No general VAT reductions; all food taxed at the 25% rate
Estonia	20%	Generally No	9% mainly for books, accommodation, etc.; most food at standard 20%
Finland	24%	Yes	14% for food and animal feed
France	20%	Yes	5.5% on essential foods; 10% for certain “catering” or processed items
Germany	19%	Yes	7% on most foods
Greece	24%	Yes	13% on basic foods (some items at 6%)
Hungary	27%	Yes	5% or 18% for certain staples (e.g. milk, some meats), but many foods at 27%
Ireland	23%	Yes	Many staple foods at 0%; some categories at 13.5%
Italy	22%	Yes	4% or 10% for various foods (milk, vegetables, etc.)
Latvia	21%	Yes (narrow scope)	5% or 12% for certain locally produced staples; many other foods taxed at 21%
Lithuania	21%	Yes (very limited)	Occasional 5% or 9% rates for specific products (e.g. some books, heating)
Luxembourg	17%	Yes	3% for most foodstuffs
Malta	18%	Yes	0% for essential food and pharmaceuticals
Netherlands	21%	Yes	9% on food and non-alcoholic beverages
Poland	23%	Yes	5% or 8% for food, depending on the type
Portugal	23%	Yes	6% or 13% for different food categories
Romania	19%	Yes	9% for most foodstuffs
Slovakia	20%	Yes (limited list)	10% on select basic foods (e.g. bread, milk), with strict definitions
Slovenia	22%	Yes	9.5% for most basic food products
Spain	21%	Yes	10% for most foods, 4% for staples (bread, milk, fruit, veg)
Sweden	25%	Yes	12% on food

- **Claim 4**: "*As a result, consumers in those Member States may be paying unjustified higher prices than they would if retailers could source relevant supplies at the cheapest price offered by the manufacturer in the EU*":

3.4.1. Price convergence in the Single Market entails many complex market realities

Price differences across the EU reflect a combination of **economic conditions**, **purchasing power disparities**, and **competitive market dynamics**, rather than artificial restrictions. **Forcing** price alignment through regulatory intervention, rather than allowing **natural market convergence**, could have unintended consequences that disrupt competition and investment.

Price convergence does not mean uniformly lower prices – it comes with market effects. Lower prices in some Member States would rise, while higher prices may adjust downward, impacting consumers and businesses differently across regions. A **regulated** approach to price convergence could **eliminate localised competitive advantages**, inadvertently raising prices where they are currently more affordable.

Prices are inherently linked to purchasing power, which varies significantly across Member States. Wage levels, living costs and economic conditions drive price-setting in retail markets. Addressing these disparities at their root — through policies that foster economic growth and purchasing power — would be a more effective way to reduce consumer price differences than targeting B2B wholesale pricing mechanisms.

It is also important to note that any form of **TSC regulation would affect businesses in every sector**, not just fast-moving consumer goods. From **automotive** and **pharmaceuticals** to **electronics** and **industrial equipment**, many industries exhibit significant cross-border price variations. These discrepancies reflect an array of **local market conditions** — tax regimes, consumer demand, regulatory costs, and logistics — rather than any intent to artificially restrict supply. Forcing a uniform B2B price structure or "TSC fix" would risk **stifling competition**, **reducing incentives to invest**, and ultimately **undermining** the freedom of businesses to tailor products and services to diverse national needs.

The bottom line is that the 27 Member States of the European Union have **distinct cost structures** (labour, logistics, energy) and **varying regulatory obligations** (packaging, labelling, recycling), which manufacturers need to take into account when setting their wholesale prices. To minimise consumer price variations across the EU, policymakers should focus on **reducing economic inequalities and legal differences between Member States**, rather than attempting to regulate pricing outcomes. **A holistic approach aimed at aligning economic fundamentals**, rather than imposing rigid B2B pricing rules, is the more sustainable and market-friendly solution.

Moreover, the **Single Market** is about ensuring **freedom of trade** and **non-discrimination** between Member States – not uniform pricing. Trying to legislate a "one price fits all" scenario would ignore **local demand**, **consumer preferences** and **marketing strategies**, all of which are essential to healthy, market-driven competition. Ultimately, such a system could lead to **fewer incentives to innovate**, less capacity to serve niche or remote regions, and even **reduced product choice** for consumers.

3.4.2. Retailers fix consumer prices — not manufacturers

Even if there were a single wholesale price, **consumers pay the retail price**, which is **exclusively set by retailers** based on their business models, local promotions and competitive positioning. Retailers decide how to **mark up** or **discount** products, manage in-store logistics, and factor in their unique overhead costs and service levels. In reality, **brands do not dictate retail prices**: they negotiate wholesale terms, but the ultimate shelf price depends on the **retailer's strategy** — including promotions, loyalty programs and private-label competition.

Hence, it is **incorrect to claim** that consumers are paying "*unjustified higher prices*" simply because a retailer cannot purchase stock at the cheapest wholesale rate in the EU. Retailers' **own pricing tactics** are a far more significant driver of retail price differences than any theoretical "cheapest" manufacturer's rate. Promoting a Single Market does not mean forcing **identical end prices**; rather, it provides **freedom of movement and fair competition**, allowing both suppliers and retailers to **adapt locally** and **meet diverse consumer needs** across Europe.

- **Claim 5**: "*TSCs also prevent retailers' access to sufficient supplies and a broader variety of products which, in turn, deprive consumers of a wider choice and access to products.*"

3.5. There is no evidence that so-called "TSCs" restrict or negatively impact product variety or availability

There is no evidence to support the assertion that so-called "TSCs" restrict or negatively impact product variety or availability. In fact, the opposite is true: **product ranges vary** precisely because **manufacturers and retailers adapt offerings** to **local consumer demand** and **market competition**. European markets are inherently **local** — shaped by historical, cultural, and socio-economic differences — so assortments differ not only across countries but also **within** the same country, region, or even city, reflecting local consumer preferences, rather than a uniform, one-size-fits-all catalogue.

Retailers themselves **choose which products to stock and promote**, including private-label goods — accounting for nearly 50% of grocery sales in many national markets.[3] Their **differentiation and positioning** strategies drive these decisions, reflecting factors such as **store format**, the **competitive environment** and **consumer demographics**. Even within a single retailer's banner, products and **prices** can vary from street to street, illustrating how **localised** these assortments truly are.

Additionally, **retailers set consumer prices** based on their business model, service offerings and competitive pressures, using **price** as a strategic tool to attract shoppers and stand out from rivals. Some focus on **lowest possible prices**, while others emphasise **premium quality** or **value-added services**, all of which influence the products that they choose to carry. By **constantly monitoring competitor prices and market trends**, retailers update their product mix and promotional activity frequently, ensuring **dynamic assortments** that reflect shifting consumer needs.

[3] Per PLMA/Nielsen, "Private Label Today", private label market shares in Europe went from a mean average of 33.4% in 2012 to 37% in 2022 in a group of 17 EU countries.

Put simply, **market-driven variation** is at the heart of retail practice and leads to **extensive choice** for consumers — not an artificial restriction of supply or product availability.

- <u>**Claim 6**</u>: "*Competition law is an effective tool to fight* ***certain*** *territorial supply constraints.* (…) ***Many*** *territorial supply constraints occur outside the*(…) *scenarios* (covered by competition law. …) *This concerns* ***unilateral practices by non-dominant operators***." (emphasis added):

3.6. So-called "TSCs" are already governed by competition law

B2B relationships fall under Articles 101 and 102 TFEU, which ensure effective enforcement against anticompetitive practices such as unlawful refusals to supply or territorial restrictions. Where suppliers are **dominant** or have formed **anti-competitive agreements**, authorities can — and do — investigate cases of territorial restrictions. Recent high-profile fines (*e.g.*, for **restricting cross-border trade** in certain branded goods) confirm that **existing tools remain effective** for tackling genuinely anticompetitive behavior. Extending the Geo-blocking Regulation to TSCs **would duplicate or overlap with competition law**.

Article 102 TFEU comprehensively covers all **unilateral restrictive practices** that partition the Single Market, including vertical restraints, refusal to supply, and restrictions on parallel trade. No compelling evidence shows that significant "TSC-like" practices occur **outside** existing rules. Moving consumer protection obligations into **B2B wholesale markets** would create **legal confusion** and **unnecessary overlap** with the robust competition enforcement system.

Moreover, **Article 102 TFEU** imposes **stricter obligations** only on firms holding a **dominant** position because they have the **capacity to distort competition** and harm consumers on a larger scale. By contrast, **non-dominant** companies generally lack sufficient market power to exclude rivals or restrict choice: they need **latitude** to decide whom to supply, set differing terms, and adapt strategies to compete, innovate and grow. Holding them to the same standard as dominant firms would be disproportionate, stifling their competitiveness and their ability to challenge larger, more established operators.

In other words, the **most stringent obligations are deliberately reserved for dominant firms because of their ability to leverage market power to impose unfair prices**, limit supply, or impede rivals' entry. The legislative framework should remain **balanced and proportionate**, aligning the severity of rules with the potential harm. Since **non-dominant** firms pose little threat to the competitive process, it is **inappropriate** to impose on them the prohibitions aimed at **dominant** companies.

4. The European Commission should prioritise removing actual Single Market barriers

Rather than focusing on unsupported claims about so-called "TSCs," the Commission would do far more to deepen the Single Market by tackling genuine cross-border obstacles. For instance, the patchwork of **national VAT regimes**, **labelling rules**, **packaging standards**, **deposit systems** and **local advertising regulations** creates tangible frictions that hamper trade. Businesses face significant compliance costs in adapting to these overlapping requirements, which eventually impacts consumers through higher prices or reduced product availability.

Harmonising or reducing these divergences — for example, by standardising certain labelling or tax practices — would deliver far greater benefits for growth, innovation and consumer choice than attempting

to extend consumer-protection rules to cover B2B wholesale transactions. A renewed focus on practical measures that **eliminate red tape** and **simplify cross-border compliance** would strengthen Europe's Single Market and better serve the overarching goal of ensuring a competitive, vibrant Single Market for all.

This perspective is in line with the IMF's findings, reported by the Commission in its Competitiveness Compass for the EU, that "*the ad-valorem equivalent of the remaining barriers constraining intra-EU trade can be compared to* ***a tax of around 45 percent for the manufacturing sector***". This is particularly relevant for consumer goods manufacturers, which account for a significant proportion of the EU's manufacturing output. Accordingly, AIM fully agrees with the European Commission that "*removing remaining barriers and expanding the Single Market will help competitiveness in all its dimensions, by providing bigger markets, lowering energy prices and enhancing access.*" By tackling these **systemic barriers**, the EU can ensure both competitive prices for consumers and a more level playing field for **companies of all sizes**.

5. B2B freedom of contract and free enterprise must continue to prevail

The **right to conduct a business** and **set one's own conditions** (Article 16 of the EU Charter of Fundamental Rights) is crucial. Imposing **B2B non-discrimination obligations** would conflict with this principle by forcing **uniform or "one-size-fits-all"** commercial terms across Europe's diverse markets. The Geo-blocking Regulation was never meant to establish a "**right price**" or mandate **EU-wide B2B price uniformity**. Indeed, EU legislators intentionally **avoided limiting contractual freedom** or restricting companies' ability to **tailor distribution strategies** to local market realities.

In sectors like **food/grocery**, **manufacturer–retailer negotiations** typically cover supply volumes, logistics, marketing support, discounts, and numerous other **commercial considerations**. Applying **non-discrimination rules** akin to consumer sales would **interfere** with normal B2B contracting and **undermine** the flexibility needed to meet **local market demands** effectively.

To safeguard the **EU's long-term competitiveness**, it would be crucial to understand the potential ramifications if fundamental freedoms for businesses were to be curtailed, edging toward a more "planned economy" environment. We therefore recommend that the European Commission conduct a dedicated impact assessment to explore how any withdrawal of core Treaty freedoms — especially the freedom to operate and set commercial terms — would affect the EU's economic dynamism. Such an assessment should consider:

- **Effects on innovation and investment**: Would businesses remain incentivised to invest in new products, processes, and technologies if commercial freedoms were diminished?
- **Implications for competitive markets**: How might a shift toward uniform pricing or centralised planning reduce competition and erode market-driven efficiency?
- **Consumer welfare**: What would planned-economy approaches mean for choice, affordability and quality of goods within the Single Market in both the short and long term?

By examining these issues proactively, policymakers can better gauge the extent to which preserving contractual freedom and free enterprise underpins not just the smooth functioning of B2B markets, but also the overall competitiveness and prosperity of the EU.

6. Extending the Regulation’s scope to B2B would harm innovation and bring unintended consequences

Broadening the Geo-blocking Regulation **beyond its consumer-protection focus** would **undermine brand investment** and **local distribution models**. Many suppliers rely on **selective or exclusive distribution** arrangements to **protect product quality**, **uphold brand reputation**, and **break into new markets** effectively. Imposing **forced-supply obligations** on these relationships could **reduce incentives to invest**, particularly in smaller or more remote EU regions where **supply-chain logistics** are already challenging.

Furthermore, a **“geo-blocking style”** requirement for cross-border supply would **complicate distribution networks** and **inflate compliance costs**. **Smaller retailers** that depend on **localised, negotiated terms** could be left with **higher prices** or **fewer options**, inadvertently shrinking consumer choice and potentially **driving up retail prices**. Such distortions **conflict** with the Single Market’s goal of **promoting competition**, **spurring innovation**, and **ensuring broad consumer access**.

7. Clarifying the Regulation’s limited application to B2B transactions is necessary

Although the Geo-blocking Regulation **formally** applies to both **B2C and B2B** transactions (provided the latter use **general conditions of access** and involve products for **end use** only), it was **originally drafted** with **consumer transactions** in mind. In practice, extending those provisions to **complex B2B relationships** — where **negotiated contracts**, **long-term arrangements**, or **mixed-use purchases** often apply — remains **highly challenging**. Key issues include:

- **Verifying** whether “general conditions of access” are genuinely relevant in each specific situation;
- **Determining** what counts as “end use” when a broader B2B platform sells goods both for **onward sale** and **internal consumption**;
- **Handling** partial or fully **negotiated terms** — a common occurrence in business dealings — that may not fit neatly under “general conditions”; and
- **Managing** B2B marketplaces that **bundle** multiple sales models, with different **suppliers** and product types.

Accordingly, it would be **prudent** to either **carve out** B2B transactions entirely from the Regulation or **establish explicit, practical rules** for their application — preferably devised through **stakeholder consultation** to ensure clarity and feasibility.

Conclusion

The debate on so-called “**territorial supply constraints**” centers on **B2B distribution arrangements**, while the Geo-blocking Regulation is fundamentally designed to **protect end users** against discrimination based on **residence** or **nationality**. Any territorial restrictions by suppliers should be governed by **competition law** and **contractual freedom**, rather than a consumer-focused framework. Both the **letter** and **spirit** of the Regulation — together with subsequent Commission communications — confirm that so-called **“TSCs” fall outside its scope** and are best addressed through **existing competition law** and **targeted Single Market harmonisation** efforts.

About AIM

AIM (Association des Industries de Marque) is the European Brands Association, which represents manufacturers of branded consumer goods in Europe on key issues that affect their ability to design, distribute and market their brands.

AIM comprises 2500 businesses ranging from SMEs to multinationals, directly or indirectly through its corporate and national association members. Our members are united in their purpose to build strong, evocative brands, placing the consumer at the heart of everything they do.

AIM's mission is to create for brands an environment of fair and vigorous competition, fostering innovation and guaranteeing maximum value to consumers now and for generations to come. Building sustainable and trusted brands drives the investment, creativity and innovation needed to meet and exceed consumer expectations.

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