

LAW SOCIETY SUBMISSION



**PUBLIC CONSULTATION ON THE DRAFT EU DIRECTIVE ON
REPRESENTATIVE ACTIONS FOR THE PROTECTION OF THE
COLLECTIVE INTERESTS OF CONSUMERS (COM (2018) 184 FINAL)**

DEPARTMENT OF BUSINESS, ENTERPRISE AND INNOVATION (DBEI)

JUNE 2018

ABOUT THE LAW SOCIETY OF IRELAND

The Law Society of Ireland is the educational, representative and regulatory body of the solicitors' profession in Ireland.

The Law Society exercises statutory functions under the Solicitors Acts 1954 to 2011 in relation to the education, admission, enrolment, discipline and regulation of the solicitors' profession. It is the professional body for its solicitor members, to whom it also provides services and support.

The headquarters of the organisation are in Blackhall Place, Dublin 7.

1. Introduction

- 1.1 The Law Society of Ireland welcomes the Department of Business, Enterprise and Innovation's ("DBEI") *Call for views in response to Draft EU Directive on Representative Actions for the Protection of the Collective Interests of Consumers (COM (2018) 184 Final)*, (the "**draft Directive**") and is pleased to submit the following comments.¹

2. Initial comments

- 2.1 The draft Directive provides for representative actions for breaches of identified consumer law, though these actions may only be taken by "qualified entities" and not by consumers themselves, or lawyers acting for consumers who might blunt the Directive's effectiveness. Commentators have noted that the Commission is keen to avoid US-style class actions and so only approved not-for-profit bodies, such as consumer groups, will be able to avail of the proposed representative action procedure². The draft Directive replaces the Injunctions Directive under which, to our knowledge, no proceedings were ever taken by the Irish authorities.
- 2.2 The draft Directive does not include any mechanism to calculate and quantify damages suffered by individual consumers. This is a vexed issue in competition law private actions and the courts deserve guidance in this regard if a proper system of redress is to work.
- 2.3 It is not clear whether the draft Directive will create an opt-in or opt-out system of collective redress. This is something that should be addressed in the Directive so that the scope and number of consumers likely to benefit in each case is clear.

3. Summary of proposals

- 3.1 The draft Directive proposes to empower so-called "*qualified entities*" (such as, in Ireland, the Competition & Consumer Protection Commission or CCPC) to take representative actions on behalf of groups of consumers, including to obtain damages for those consumers.
- 3.2 The draft Directive has application to a wide range of laws, breaches of which may permit a representative action (a list of those laws is set out in Annex I to the Directive and reproduced in Annex I to this document). These include EU consumer protection rules in sectors such as financial services, energy, telecommunications, health and the environment.
- 3.3 Under the proposed Directive, representative actions could be brought by a national agency (in all likelihood, the CCPC in Ireland) against a business (or "trader" to use the language of the proposal) for infringements of Annex I laws.³ The new rules will

¹ <https://dbei.gov.ie/en/Consultations/Call-for-views-Draft-EU-Directive-Representative-Actions-Protection-Collective-Interests-Consumers.html>

² Bourke, *Class Actions for EU Consumers, but not US-style* <https://www.mccannfitzgerald.com/knowledge/disputes/class-actions-for-eu-consumers-but-not-us-style>

³ A trader is defined as any natural or legal person, irrespective of whether privately or publicly owned, who is acting, including through any other person acting in their name or on their behalf, for purposes relating to their trade, business, craft or profession.

apply to domestic and cross-border infringements alike, including infringements ceased before the representative action has started or been concluded.⁴

- 3.4 Crucial for the draft Directive's success is ensuring consumers are informed about taking a representative action or that an action is being considered or in being⁵ But the Directive is vague on how consumers will be alerted to representative actions that might concern them.
- 3.5 The new scheme seeks to amend and replace the much criticised Injunctions Directive.⁶ The Injunctions Directive endeavoured to defend the collective interests of consumers by providing for two possible forms of injunction proceedings. A key criticism of the Injunctions Directive was that it did not explicitly provide for damages as a remedy (rather it allowed for injunctive relief, or cease and desist-type orders only).⁷
- 3.6 We are not aware of any Irish cases taken by the CCPC or, its relevant predecessor, the National Consumer Agency, under the Injunctions Directive, even if the rules as implemented in Ireland allowed for cases to be heard in the Circuit Court (rather than the High Court).⁸
- 3.7 Under the new proposals, so-called "qualified entities" (*i.e.*, the CCPC in Ireland) will be able to apply for a redress order that obliges the trader to provide for, *inter alia*, compensation, repair, replacement, price reduction, contract termination or reimbursement of the price paid, as appropriate.⁹
- 3.8 The burden and standard of proof of the qualified entity's case is not detailed in the draft, this seems to be left to each Member State to decide according to its own requirements. Also, no guidance on the difficult question of how to quantify individual consumer harm is provided in the proposed Directive. As a general principle, the draft Directive states (in Recital 17) that compensation awarded to consumers harmed by an infringement should be limited to the actual harm suffered. Punitive damages, leading to overcompensation in favour of the claimant party of the damage suffered, should be avoided.
- 3.9 Draft Article 6(2) would also allow national courts to issue, instead of a redress order, a declaratory decision on liability where, due to the characteristics of the individual harm to the consumers concerned, the quantification of individual redress is complex. This is the sole reference to quantification of damages in the draft Directive.

⁴ Article 2(1), draft Directive.

⁵ Recital 31 to the draft Directive.

⁶ Directive 2009/22/EC on injunctions for the protection of consumers' interests, which was transposed into Irish law by the European Communities (Court Orders for the Protection of Consumer Interests) Regulations 2010, SI No 555 of 2010. According to the proposed Directive, "[The Injunctions Directive's] key shortcomings are its limited scope, the limited effects of injunction decisions on redress for harmed consumers and the cost and length of the procedure," (page 2 of the draft Directive). For other criticism of the Injunctions Directive, see Austin *Representative actions, the European Way – new consumer collective redress proposals published*.

⁷ Karsten *Study on the application of Directive 2009/22/EC on injunctions for the protection of consumer interests (former Directive 98/27/EC)*, p. 14. https://ec.europa.eu/info/sites/info/files/study_on_injunctions_directive_final_report-18_12_2011_en.pdf

⁸ Regulations 2(1) and 3(2), European Communities (Court Orders for the Protection of Consumer Interests) Regulations 2010, SI No 555 of 2010.

⁹ Article 6, Draft Directive.

4. The current position on class actions under Irish law

4.1 Irish legislation does not provide for class actions. Analogous procedures under Irish domestic law are (a) representative actions and (b) test cases. The former is provided for under Order 15 rule 9 *Rules of the Superior Courts 1986-2018*:

“Where there are numerous persons having the same interest or matter, one or more such persons may sue or be sued, or may be authorised by the court to defend, in such cause or matter, on behalf or for the benefit of, all persons so interested.”

4.2 An argument can be made that judicial interpretation of Order 15 has limited its effectiveness: remedies are restricted to injunctive and declaratory relief, parties may not seek damages; civil legal aid is not available to parties to such actions¹⁰; and the members of the class must have the same interest. This final requirement has been interpreted strictly.

4.3 In contrast, the test case-approach is the more favoured and more used vehicle for multi-party actions. The Law Reform Commission has noted that “*the nature of the test case does not merit description as a procedure. It is instead the application by analogy of the findings in one case to the facts of others.*”¹¹ This often results in the duplication of work e.g. experts’ reports, with the attendant duplication of costs¹². A further criticism is that damages will be awarded without regard to similar cases heard simultaneously or which will follow subsequently, so an overall sum of total damages of all cases is incalculable until the final case has been decided.

4.4 The European Consumer Organisation noted in its comments on the draft Directive that no collective redress scheme was available to the 160,000 Irish consumers who were mis-sold credit card protection policies, despite damage of between €15 and €30 million having accrued.¹³

4.5 Under provisions of the draft Directive, it appears that infringement of identified EU consumer protection rules alone is sufficient for a qualified entity to take action, as quantification of loss or harm is not required to be proven by the qualified entity.¹⁴

5. What will change in Ireland with the introduction of the draft Directive?

5.1 The draft Directive will introduce a style of class action to Ireland, though only approved qualified entities and not individual consumers may initiate proceedings.¹⁵ It will not be necessary for the qualified entity to identify all the consumers affected by the alleged breach of consumer law.¹⁶

¹⁰ Section 28(9)(a)(ix) Civil Legal Aid Act 1995.

¹¹ Law Reform Commission *Report on Multi-Party Litigation* LRC 76-2005, para 1.21

¹² The Law Reform Commission states that the test case approach encourages the multiplication rather than the division of costs for the generic issue among the members of the group, see *Report on Multi-Party Litigation* LRC 76-2005, para. 1.29 .

¹³ *A New Deal for Consumers – Revision of the Injunctions Directive*, p. 2.

http://www.beuc.eu/publications/beuc-x-2018-004_a_new_deal_for_consumers.pdf

¹⁴ Article 6(2), draft Directive.

¹⁵ Draft Directive, Article 4(1).

¹⁶ *Ibid* Recital 18.

- 5.2 The remedies to a successful action are non-exhaustive but include injunctions, compensation, repair, replacement or a declaration that consumers' rights have been infringed.¹⁷ Where consumers have suffered a small amount of loss, redress shall be directed to a public purpose serving the collective interests of the consumer.¹⁸ Under current Irish law, damages are available through the test case mechanism though not through the representative action.
- 5.3 To ensure certainty and consistency in application of the provisions, the final decision in one Member State will be presumed to be correct in an equivalent action in another Member State, if the facts and law arising in the latter are similar¹⁹. Member States must ensure procedural costs are not a financial obstacle for qualified entities to effectively exercise their rights²⁰; though the recitals state that the Directive should not affect national rules concerning the allocation of procedural costs²¹. Considering there is almost no civil legal aid available to litigants in Ireland, this may be a significant development.
- 5.4 A trader subject to a case may be obliged to present to the qualified entity evidence that is within the trader's control²². Similar requirements under Irish discovery rules will be familiar to Irish litigators.

The Law Society hopes that the Department will find the above comments constructive and helpful and is available to engage further with the Department if required.

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¹⁷ *Ibid* Article 6.

¹⁸ *Ibid* Article 6 (3)(b).

¹⁹ *Ibid* Article 10.

²⁰ *Ibid* Article 15.

²¹ *Ibid* Recital 4.

²² *Ibid* Article 13.

Annex I

LIST OF PROVISIONS OF UNION LAW REFERRED TO IN ARTICLE 2(1)

- (1) Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ L 210 , 07.08.1985, p. 29 –33).
- (2) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ L 95, 21.4.1993, p. 29).
- (3) Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers (OJ L 80, 18.3.1998, p. 27).
- (4) Directive 1999/44/EC of the European Parliament and of the Council of 25 May 1999 on certain aspects of the sale of consumer goods and associated guarantees (OJ L 171, 7.7.1999, p. 12).
- (5) Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects on information society services, in particular electronic commerce, in the internal market (Directive on electronic commerce) (OJ L 178, 17.7.2000, p. 1).
- (6) Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use: Articles 86 to 100 (OJ L 311, 28.11.2001, p. 67).
- (7) Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive) (OJ L 108, 24.4.2002, p. 51–77).
- (8) Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications) (OJ L 201, 31.7.2002, p. 37): Article 13.
- (9) Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services (OJ L 271, 9.10.2002, p. 16).
- (10) Regulation (EC) No 261/2004 of the European Parliament and of the Council of 11 February 2004 establishing common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or long delay of flights, and repealing Regulation (EEC) No 295/91 (OJ L 46, 17.2.2004²³, p. 1).
- (11) Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market (OJ L 149, 11.6.2005, p. 22).

²³ The said Directive was amended by Directive 1999/34/EC of the European Parliament and of the Council of 10 May 1999 amending Council Directive 85/374/EEC on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (OJ L 141, 04.06.1999, p. 20 - 21).

- (12) Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (OJ L 204, 26.7.2006, p. 1).
- (13) Directive 2006/114/EC of the European Parliament and of the Council of 12 December 2006 concerning misleading and comparative advertising (OJ L 376, 27.12.2006, p. 21): Article 1, point (c) of Article 2 and Articles 4 to 8.
- (14) Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (OJ L 376, 27.12.2006, p. 36).
- (15) Regulation (EC) No 1371/2007 of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations (OJ L 315, 3.12.2007, p. 14).
- (16) Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC (OJ L 133, 22.5.2008, p. 66).
- (17) Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (OJ L 293, 31.10.2008, p. 3): Articles 22, 23 and 24.
- (18) Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1–1355).
- (19) Directive 2008/122/EC of the European Parliament and of the Council of 14 January 2009 on the protection of consumers in respect of certain aspects of timeshare, long-term holiday product, resale and exchange contracts (OJ L 33, 3.2.2009, p. 10).
- (20) Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ L 211, 14.8.2009, p. 55–93).
- (21) Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC (OJ L 211, 14.8.2009, p. 94–136).
- (22) Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (OJ L 302, 17.11.2009, p. 32–96).
- (23) Regulation (EC) No 924/2009 of the European Parliament and of the Council of 16 September 2009 on cross-border payments in the Community and repealing Regulation (EC) No 2560/2001 (OJ L 266, 9.10.2009, p. 11–18).
- (24) Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7–17).

- (25) Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products (OJ L 285, 31.10.2009, p. 10–35).
- (26) Regulation (EC) No 1222/2009 of the European Parliament and of the Council of 25 November 2009 on the labelling of tyres with respect to fuel efficiency and other essential parameters (OJ L 342, 22.12.2009, p. 46–58).
- (27) Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) (OJ L 335, 17.12.2009, p. 1–155): Articles 183, 184, 185 and 186.
- (28) Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services (Audiovisual Media Services Directive) (OJ L 95, 15.4.2010, p. 1): Articles 9, 10, 11 and Articles 19 to 26.
- (29) Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153, 18.6.2010, p. 13–35).
- (30) Regulation (EC) No 66/2010 of the European Parliament and of the Council of 25 November 2009 on the EU Ecolabel (OJ L 27, 30.1.2010, p. 1–19).
- (31) Regulation (EU) No 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004 (OJ L 334, 17.12.2010, p. 1).
- (32) Regulation (EU) No 181/2011 of the European Parliament and of the Council of 16 February 2011 concerning the rights of passengers in bus and coach transport and amending Regulation (EC) No 2006/2004 (OJ L 55, 28.2.2011, p. 1).
- (33) Directive 2011/24/EU of the European Parliament and of the Council of 9 March 2011 on the application of patients' rights in cross-border healthcare (OJ L 88, 4.4.2011, p. 45–65).
- (34) Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (OJ L 174, 1.7.2011, p. 1–73).
- (35) Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, amending Council Directive 93/13/EEC and Directive 1999/44/EC of the European Parliament and of the Council and repealing Council Directive 85/577/EEC and Directive 97/7/EC of the European Parliament and of the Council (OJ L 304, 22.11.2011, p. 64).
- (36) Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers, amending Regulations (EC) No 1924/2006 and (EC) No 1925/2006 of the European Parliament and of the Council, and repealing Commission Directive 87/250/EEC, Council Directive 90/496/EEC, Commission Directive 1999/10/EC, Directive 2000/13/EC of

the European Parliament and of the Council, Commission Directives 2002/67/EC and 2008/5/EC and Commission Regulation (EC) No 608/2004 (OJ L 304, 22.11.2011, p. 18–63).

- (37) Regulation (EU) No 260/2012 of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation (EC) No 924/2009 (OJ L 94, 30.3.2012, p. 22–37).
- (38) Regulation (EU) No 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union (OJ L 172, 30.6.2012, p. 10–35).
- (39) Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1–56).
- (40) Directive 2013/11/EU of the European Parliament and of the Council of 21 May 2013 on alternative dispute resolution for consumer disputes (OJ L 165, 18.6.2013, p. 63): Article 13.
- (41) Regulation (EU) No 524/2013 of the European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes (Regulation on consumer ODR) (OJ L 165, 18.6.2013, p. 1): Article 14.
- (42) Regulation (EU) No 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds (OJ L 115, 25.4.2013, p. 1–17).
- (43) Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds (OJ L 115, 25.4.2013, p. 18–38).
- (44) Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014 on credit agreements for consumers relating to residential immovable property and amending Directives 2008/48/EC and 2013/36/EU and Regulation (EU) No 1093/2010 (OJ L 60, 28.2.2014, p. 34): Articles 10, 11, 13, 14, 15, 16, 17, 18, 21, 22, 23, Chapter 10 and Annexes I and II.
- (45) Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349–496).
- (46) Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014, p. 214): Articles 3 to 18 and Article 20(2).
- (47) Directive (EU) 2015/2302 of the European Parliament and of the Council of 25 November 2015 on package travel and linked travel arrangements, amending Regulation (EC) No 2006/2004 and Directive 2011/83/EU of the European Parliament and of the Council and repealing Council Directive 90/314/EEC (OJ L 326, 11.12.2015, p. 1).

- (48) Regulation (EU) No 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key information documents for packaged retail and insurance-based investment products (PRIIPs) (OJ L 352, 9.12.2014, p. 1–23).
- (49) Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds (OJ L 123, 19.5.2015, p. 98–121).
- (50) Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC (OJ L 337, 23.12.2015, p. 35–127).
- (51) Regulation (EU) 2015/2120 of the European Parliament and of the Council of 25 November 2015 laying down measures concerning open internet access and amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services and Regulation (EU) No 531/2012 on roaming on public mobile communications networks within the Union (OJ L 310, 26.11.2015, p. 1–18).
- (52) Directive (EU) 2016/97 of the European Parliament and of the Council of 20 January 2016 on insurance distribution (recast) (OJ L 26, 2.2.2016, p. 19–59).
- (53) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1–88).
- (54) Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) (OJ L 354, 23.12.2016, p. 37–85).
- (55) Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market (OJ L 168, 30.6.2017, p. 1).
- (56) Regulation (EU) 2017/1129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (OJ L 168, 30.6.2017, p. 12–82).
- (57) Regulation (EU) 2017/1131 of the European Parliament and of the Council of 14 June 2017 on money market funds (OJ L 169, 30.6.2017, p. 8–45).
- (58) Regulation (EU) 2017/1369 of the European Parliament and of the Council of 4 July 2017 setting a framework for energy labelling and repealing Directive 2010/30/EU (OJ L 198, 28.7.2017, p. 1–23).
- (59) Regulation (EU) 2018/302 of the European Parliament and of the Council of 28 February 2018 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 (OJ L 60, 02.03.2018, p. 1).