



Combatting consumer discrimination in the Digital Single Market: Preventing geo-blocking and other forms of geo-discrimination

CEPS, 05 October 2016

A Digital Single Market for Europe

A DSM for Europe

One territory, one market

“A Digital Single Market is one in which the free movement of goods, persons, services and capital is ensured and where individuals and businesses can seamlessly access and exercise online activities [...], irrespective of their nationality or place of residence.”

(DSM strategy, 2015)

- **Efficiency gains: €415bn/y**
- **Consumer welfare gains: €154bn/y**



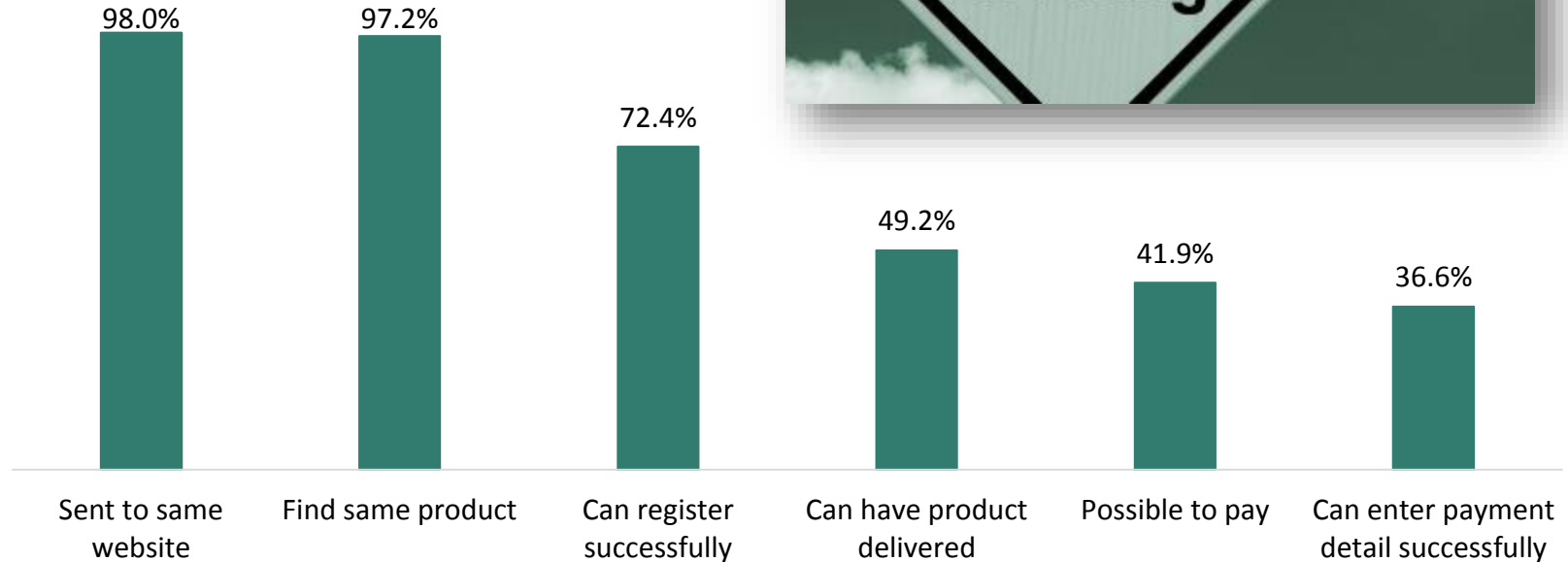
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A long way to go

- Business
 - Online sales 26% of total sales
 - **10% from other EU MS**
 - 4% from outside the EU
 - 41% of EU retailers sell online
 - **12% to other EU MS**
 - 14% to third countries
- Consumers
 - 53% buy online
 - **16% from other EU MS**
 - 9% from third countries



A DSM for Europe Geo-blocking



- **90% of consumers experienced some types of geo-blocking**
- 63% of companies experienced some types of geo-blocking
- 45% of companies confirmed put in place geo-blocking

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Justified restrictions: a slippery slope?

- **Unjustified** geo-blocking
 - No objective justifications
 - Purely commercial reasons
- **Justified** geo-blocking
 - Legal obligations (copyright law, gambling and alcohol, advertising, protection of minors, etc.)
 - Adaptation costs due to regulatory constraints and other obstacles
 - Business freedom (stay small)

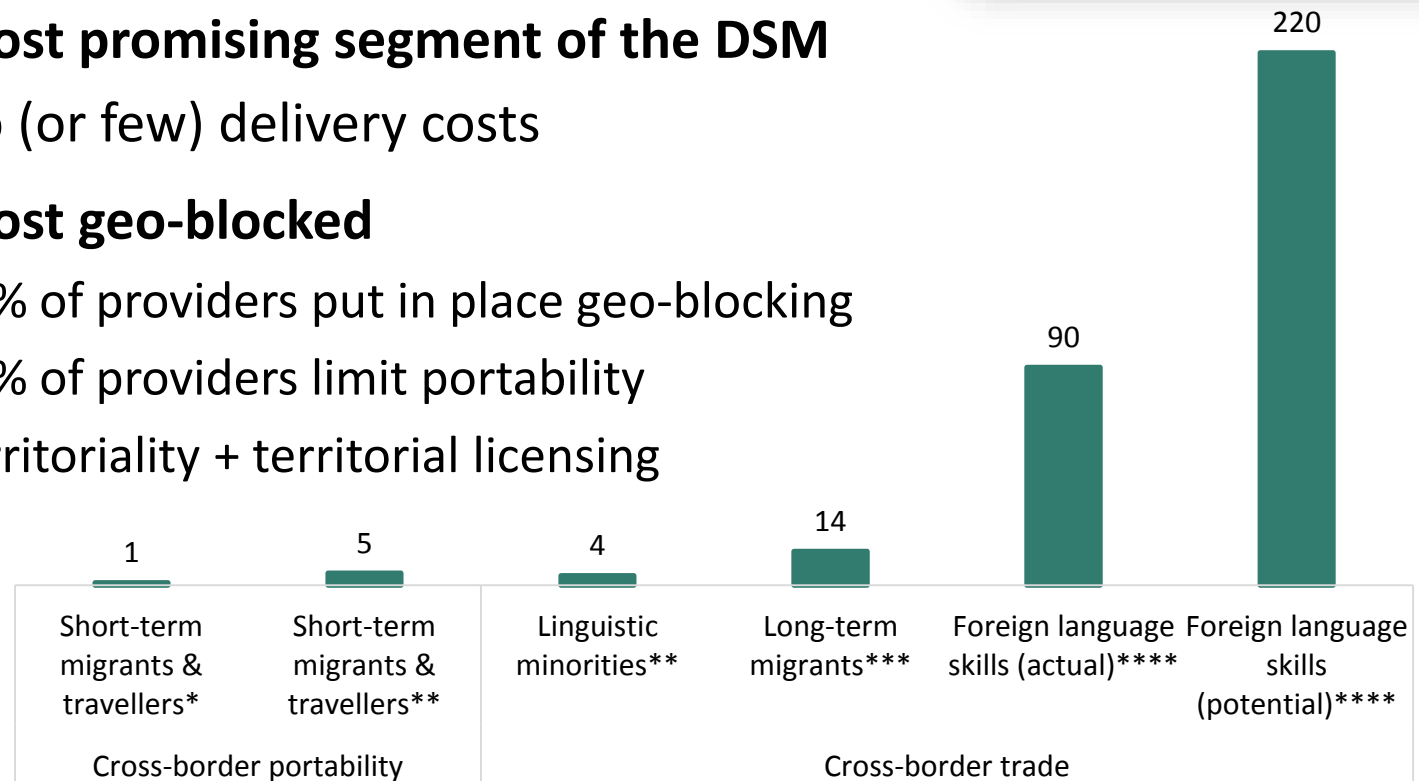


The DSM for copyrighted content

The DSM for copyrighted content

The elephant in the room

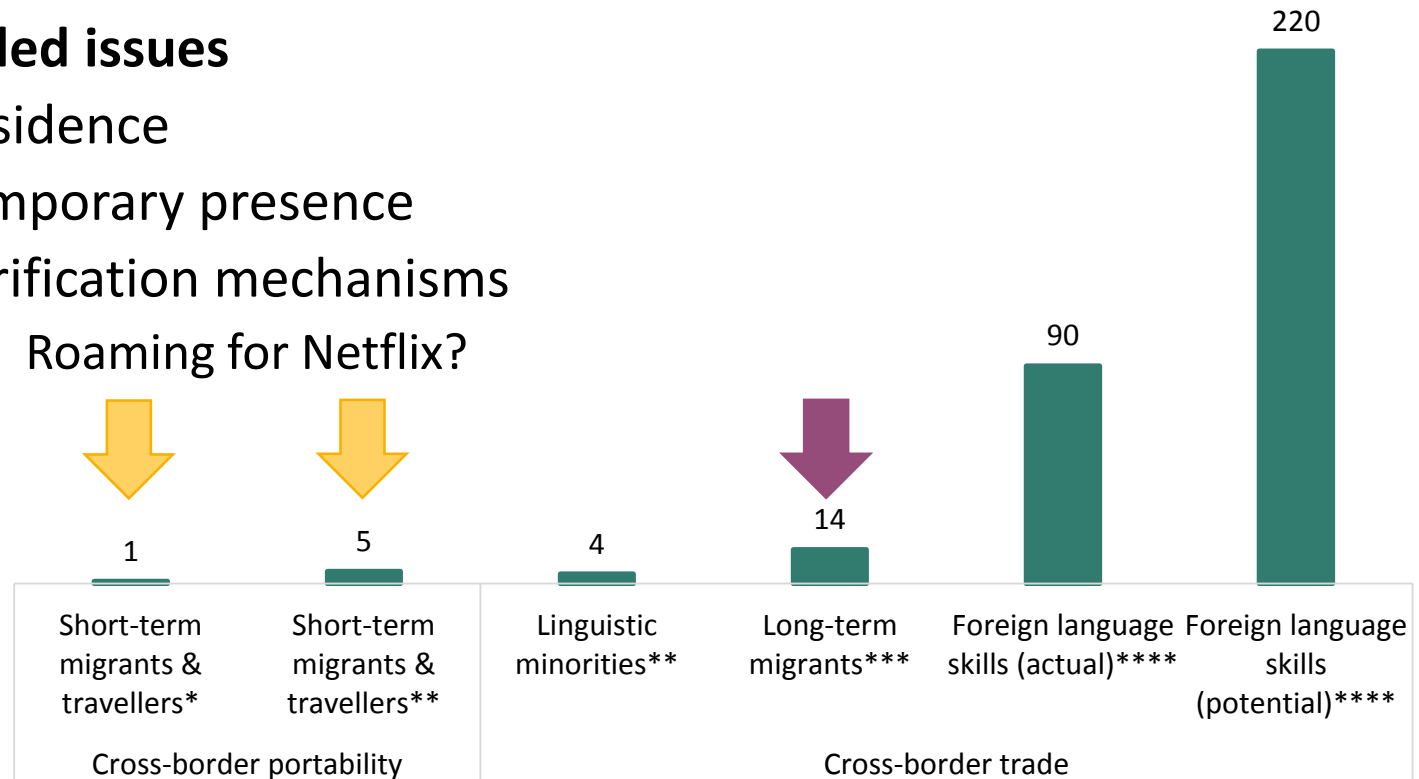
- **The largest e-commerce sectors in the EU**
 - 33% of online trade by individuals in 2014
- **The most promising segment of the DSM**
 - No (or few) delivery costs
- **The most geo-blocked**
 - 70% of providers put in place geo-blocking
 - 72% of providers limit portability
 - Territoriality + territorial licensing



The DSM for copyrighted content

Portability Proposal

- Enable consumers having lawful access to online content services in their country of residence to use the same services also **when they are in another Member State for a limited period of time**
- **Unsettled issues**
 - Residence
 - Temporary presence
 - Verification mechanisms
 - Roaming for Netflix?



The DSM for copyrighted content

Interplay between competition and copyright

- **Formal antitrust investigation**
- **Statement of Objections** to Sky UK and six major US film studios
 - Contractual limitations to passive sales and absolute territorial exclusivity

CANAL+

SKY

SONY PICTURES

Disney
Media Distribution



NBC UNIVERSAL



The DSM for copyrighted content

Copyright reform

- Directive on copyright in the DSM
 - **Audiovisual works on VoD platforms**
 - Assistance of an impartial body to negotiate and reach agreements
- Regulation for online transmission of broadcasting and retransmissions of television and radio programmes
 - Broadcasters: Country of origin
 - Retransmission: Collective management organisations





Thank you for your attention.

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