Upcoming change in unfair competition law

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On 1 January 2022, an explicit ban on geo-blocking will enter into force under the new Art. 3a Unfair Competition Act (UCA). The new provision aims to ensure non-discriminatory online commerce for Swiss customers. Accordingly, online sellers in future act unfairly if they discriminate against customers in Switzerland in terms of price or payment conditions, restrict their access to an online portal or redirect them to a Swiss website without their consent.

The background of the new provision is the so-called "Fair Price Initiative", which sought to ensure Swiss customers could purchase goods abroad at the same prices as customers from neighboring countries. In March 2021, Parliament adapted the Federal Council's indirect counter proposal and effectively implemented the initiative by introducing the concept of relative market power to the Swiss Cartel Act (CartA) and the ban on geo-blocking to the UCA.

The new regulation allows some exceptions to the ban of geo-blocking, provided there is an "objective justification". Also, it does not introduce an obligation to contract with Swiss customers, but merely prohibits different treatments in the case of offers to Swiss customers.

Considering that violations of Art. 3a UCA will be enforced before civil courts only, it is still questionable how significant the new regulation will be in practice. Nevertheless, undertakings active in e-commerce are well advised to ensure the implementation of the geo-blocking ban on their distribution channels in Switzerland.

For further information on the introduction of relative market power, we kindly refer you to the Legal Update of 31 March 2021.

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No legal or tax advice

This legal update provides a high-level overview and does not claim to be comprehensive. It does not represent legal or tax advice. If you have any questions relating to this legal update or would like to have advice concerning your particular circumstances, please get in touch with your contact at Pestalozzi Attorneys at Law Ltd. or one of the contact persons mentioned in

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