



EUROPEAN COMMISSION

*Brussels, 7.7.2016
C(2016) 4025 final*

Dear President,

The Commission would like to thank the Senat for its Opinion on the Proposal for a Directive of the European Parliament and the Council on certain aspects concerning contracts for the supply of digital content {COM(2015) 634 final} and the Proposal for a Directive of the European Parliament and the Council on certain aspects concerning contracts for the online and other distance sales of goods {COM(2015) 635 final}.

These proposals are a substantial element of the Commission's Digital Single Market Strategy, which is among President Juncker's priorities. They form part of a broader package of ambitious measures designed to unleash the full potential of the Digital Single Market.

The Commission is pleased that the Senat considers it necessary and mandatory to close the current legal gaps at EU level in the field of consumer contract law and to harmonise certain aspects of the rules for the sales of goods guaranteeing a high level of consumer protection. The Commission fully shares this view. The proposal on contracts for the supply of digital content fills in the current EU legislative gap regarding remedies for non-conforming digital content whilst the proposal on online and distance sales of goods provides for the full harmonisation of key contract law rules throughout the EU. Both proposals ensure a very high level of consumer protection. The Commission is confident that this set of clear uniform rules for businesses and consumers throughout the EU will encourage more traders to sell online, especially across the border, and will increase consumers' trust in the Digital Single Market.

The Commission also welcomes the fact that the Senat takes note of the targeted approach that the Commission has opted for in the proposals. Indeed, by learning from past experience, focusing on the real-life problems and closely listening to the suggestions and expertise of both Member States and stakeholders, the Commission has put forward a package of targeted measures that aim to address directly those contract law areas where obstacles have been identified.

*Mr Călin POPESCU-TĂRICEANU
President of the Senat
Calea 13 Septembrie nr. 1-3, sector 5
RO – 050711 BUCHAREST*

The Commission is pleased that the Senat takes note of the fact that the Proposal for a Directive on certain aspects concerning contracts for the supply of digital content covers digital content supplied not only against money but also in exchange for personal and other data provided by the consumer¹. The Commission believes that such a broad scope is in line with the fast-evolving market of digital content and ensures a high level of protection for all consumers, regardless of the means of payment.

Furthermore, the Commission would like to assure the Senat that it fully agrees with the view that there should be a coherent legal framework for both online/distance and face-to-face sales. This issue will be addressed in the ongoing "Fitness Check" of EU consumer and marketing law, which covers six directives, including the Consumer Sales and Guarantees Directive. The Commission has made efforts to ensure that first preliminary results of the Fitness Check on the alignment of the sales rules for distance and face-to-face contracts are available as soon as possible.

The Commission also takes note of the fact that the Senat considers a high level of consumer protection as a necessary element of the proposed rules. The Commission fully shares this conviction, since it firmly believes that clear and strong consumer rights enhance consumers' confidence and can thereby significantly contribute to the growth of the Digital Single Market. The approach followed by the Commission indeed strengthens the level of consumer protection at the EU level, while at the same time significantly increasing the national level of consumer protection in many Member States.

The Commission notes the recommendation of the Senat that particular attention should be paid to the complementarity and consistency with EU legislation also touching on other important fields, such as data protection, security of online payments, quality standards and technical regulations. The Commission would like to assure the Senat that the two proposals are fully consistent with the recently adopted General Data Protection Regulation and have been designed to complement the existing consumer acquis. Furthermore, the proposal on contracts for the supply of digital content considers European and international standards, open technical specifications, good practices and codes of conduct among the criteria for ascertaining the conformity of digital content supplied to consumers.

Combined with the other actions announced in the Commission's Digital Market Strategy², these proposals thus form a consistent package of measures designed to deliver maximum impact and address long-standing obstacles to a truly integrated market.

The co-legislators are now discussing both proposals.

¹ As regards the drafting error in Article 3(2) of the proposal on the supply of digital content (COM(2015) 634 final), please note that the term "digital products" will be replaced by "digital content".

² COM(2015) 192 final.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Senat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Věra Jourová
Member of the Commission*