



European
Commission

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DIGITAL CONTRACTS FOR EUROPE



What is the untapped potential of cross-border e-commerce in Portugal?

Businesses

Despite the rapid growth of e-commerce, most businesses in Portugal do not yet make the most of the Digital Single Market.

Only 14% of Portuguese retailers sell online to consumers in other EU countries, while 35% sell online in their own country.



Differences in national contract laws are a significant obstacle for cross-border sales for **more than half of Portuguese retailers** (56%) currently selling online.

If the same rules for e-commerce applied across the EU, **70% of Portuguese businesses** that are either active or interested in online cross-border trade would 'definitely' or 'to some extent' start or increase their online cross-border sales.



Consumers

Consumers in Portugal also miss out on the potential of broader choice of products and better prices. **Only 12%** of Portuguese consumers buy online from other EU countries.



Low confidence plays a key role: **only 34% of Portuguese consumers feel confident** buying online from another EU country.

Three out of ten consumers' top concerns about buying online from other EU countries are related to key contract law rights, such as non-delivery of their order, delivery of a wrong or damaged product, or repair and replacement of a faulty product.

At least **70 million consumers in the EU have experienced one or more problems** with just four popular types

of digital content (music, anti-virus, games and cloud storage) over the last 12 months. However, only **10%** of consumers experiencing problems received remedies. As a result of those unresolved problems, consumers in the EU have suffered a financial and non-financial detriment estimated in the range of €9-11 billion.



10%

What solution is the European Commission proposing?

The Commission is proposing two Directives: one for digital content and another for goods. Together they will ensure that the same key contract law rules apply across the EU for online purchases of goods and the supply of digital content.

Businesses

How will these Directives improve life for businesses in Portugal?

Businesses in Portugal will be able to supply digital content and sell goods online to consumers throughout the EU, based on the same set of contract law rules. This will increase legal certainty and create a business friendly environment.



When supplying digital content, Portuguese businesses will avoid the cost of legal fragmentation which is emerging due to the lack of EU wide rules and the fact that some Member

States are starting to put into place specific national legislations. When selling goods, businesses will save the costs of adapting to the contract law rules of every Member State they wish to sell in.



Common rules across the EU will reduce contract law-related consumer concerns. More **consumers** will be encouraged **to start buying online from other EU countries**, thus creating a market of up to **70 million** online cross-border buyers. This will open up new markets and will be particularly beneficial for small and medium enterprises (SMEs), who need to build their customer-base and often need to go beyond their home market.



Consumers

How will these Directives improve life for consumers in Portugal?

Consumers in Portugal will have access to offers from more traders across the EU and will therefore benefit from a **wider choice of products**, at **more competitive prices**.

Consumers will have specific rights with a high level of protection when accessing digital content and buying

goods online. For digital content, the rules will apply regardless of whether consumers pay with money or give their personal data to the supplier in order to access the content (e.g. by simply registering).

DIGITAL CONTENT:



Supplier's liability for defects: If the digital content is defective, the consumer can ask for a remedy. There will be no time limit to the supplier's liability for such defects, because – unlike goods – digital content is not subject to wear and tear.



Reversal of burden of proof: If the digital content is defective, it will not be up to the consumer to prove that the defect existed at the time of supply, but rather for the supplier to prove that this is not the case. This is important considering the technical nature of digital content where it can be especially difficult for consumers to prove the cause of a problem.



Right to end a contract: Consumers will have the right to terminate long-term contracts, and contracts to which the supplier makes major changes.

GOODS:



No notification duty: Consumers will not lose their rights if they do not inform the seller of a defect within a certain period of time, as is currently the case in Portugal.

Second-hand goods: For second-hand goods purchased online, consumers will now have the possibility to exercise their rights within a two-year period, as is the case with new goods, instead of the one-year period that currently applies in Portugal.

How will these Directives contribute to economic growth?

Removing contract law-related obstacles will facilitate cross-border trade.



The increased economic activity is expected to **increase EU GDP by €4 billion** from its current level.



Portugal's GDP in particular is expected to increase by about **€52 million**.



Increased competition will drive consumer prices down throughout the EU. This will lead to additional consumer welfare and is estimated to increase household consumption in the EU by **€18 billion** from its current level.



In **Portugal**, the decrease of consumer prices is estimated to increase household consumption by €251 million.

SOURCES:

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- *Eurobarometer 397 'Consumer attitudes towards cross-border trade and consumer protection' (2014)*
- *'Consumer surveys identifying the main cross-border obstacles to the Digital Single Market and where they matter most', GfK (2015)*
- *'Economic Study on Consumer Digital Content Products', ICF International (2015)*
- *'The Macro-economic Impact of e-Commerce in the EU Digital Single Market' (2015)*

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