



European  
Commission

## EU FACTSHEET

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# DIGITAL CONTRACTS FOR EUROPE



## What is the untapped potential?

### Businesses

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

Only 12% of EU retailers **sell online to consumers in other EU countries**, while more than three times as many (37%) **sell online in their own country**.



**Differences in national contract laws are a significant obstacle for cross-border sales for four out of ten EU retailers (39%)**

currently selling online. The additional one-off cost for businesses to adapt to different consumer contract laws when selling cross-border is around €9000 for each Member State they wish to sell to.

If the same rules for e-commerce applied across the EU, 57% of EU 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

European consumers also miss out on the potential of broader choice of products and better prices. Only 15% of EU consumers **buy online from other EU countries**, while almost three times as many (44%) **buy online in their own country**.



Low confidence plays a key role: only 38% of EU consumers **feel confident buying online from another EU country**.

**Three out of 10 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** 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 financial and non-financial detriment estimated at around €9-11 billion.



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## 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 the life of businesses in the EU?

Businesses 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, 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 legislation. 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 the life of consumers in the EU?

Consumers 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 when consumers pay for their content with money or if they give

their data to access the content (e.g. by registering to an online service/ social media). This will be relevant for a big share of EU consumers: during the last 12 months, the share of EU internet users who downloaded or accessed digital content without paying with money was 82% for sport events, 80% for audio-visual content (films, series, video clips, TV content), 77% for music, 76% for games and 64% for e-books.

## 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.

**Contract established in exchange for data:** If the consumer has obtained digital content or a service in exchange for their personal data, the new rules clarify that the supplier should stop using the personal data if the contract is ended.

## GOODS:



**Reversal of the burden of proof for two years:** In the EU, it is already the case that for a certain period of time a consumer asking for a remedy for a defective product does not have to prove that the defect existed at the time of delivery; it is up to the seller to prove the opposite. Currently, the time period during which the seller has this burden of proof varies by Member State; now it will be extended to two years throughout the EU.



**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 some Member States.



**Minor defects:** If the seller is unable or fails to repair or replace a defective product, consumers will have the right to terminate the contract and be reimbursed also in cases of minor defects.

**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 some Member States.

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## How will these Directives contribute to economic growth?

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

It is estimated that:



- At least **122 000 more businesses** will start selling online to other EU countries.



- Between **8 and 13 million additional consumers** will start buying online from other EU countries.



- **EU GDP** will increase by **€4 billion** from its current level.



- 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.

**SOURCES:**

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- *Eurostat Survey on Internet purchases by individuals (2015)*
- *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)*

**Věra Jourová, Commissioner for Justice, Consumers and Gender Equality**  #VeraJourova

**Directorate-General for Justice and Consumers**  #EU\_consumer  EUJustice  EUJustice

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