

LEGAL BASIS OF DEVELOPMENT OF E-COMMERCE BASED ON INTERNATIONAL E-COMMERCE STANDARDS

Dusmatov Fazliddin Dusmat o'g'li
(TUIT master)

Abstract: *This study presents an overview of the current state of play in the area of e-commerce. It discusses the existing legislative framework of the Digital Single Market as well as the technology driven changes of market and economy that have taken place over the last twenty years. The analysis identifies areas prone to producing a positive reaction to legislative intervention. This document was provided by the Policy Department for Economic, Scientific and Quality of Life Policies at the request of the committee on the Internal Market and Consumer Protection.*

Key Findings: *The E-commerce Directive was adopted in the year 2000. The technological advancements that have taken place in the twenty years since then have redefined the economic and societal circumstances in which the E-commerce Directive functions. The aim of this report is to present the current legislative environment for the Digital Single Market, give an overview of the market developments since the adoption of the Directive, relevant from the point of view of the E-commerce Directive, and map the potential changes that could be considered in the future Digital Services Act. This chapter presents the aims of the study, gives an overview of its content and the methodology on which the report is based on.*

The meaning of e-commerce for the Internal Market It is difficult to overestimate the meaning of e-commerce for the European Union. In the past, turning commerce into e-commerce allowed technology to be exploited in order to boost the economic advancements of the European Union. By creating a legislative structure for information society services without internal frontiers, appropriate at the time of its creation, the E-commerce Directive allowed e-commerce to expand throughout the EU Member States, initiating the development of the digital single market. The E-commerce Directive made it possible to bypass the geographical obstacles for developing economic ties among the members of the EU, by cutting virtually the distance between European traders and consumers (providers and customers). This study is being finalised at the time of the COVID-19 pandemic, which has already redefined the understanding of the properly functioning EU market, and expectations that the EU citizens might have in this regard. The significance of e-commerce for the entire market will only be strengthened, as the possibilities offered by the off-line world will be limited for a period of time that is difficult to foresee at the moment.

Changes that redefined the market: 2000-2020 The last twenty years of technological advancements have had a redefining meaning for the EU (and the global) society and

economy. Technology has pushed both the economy and society into new development paths, creating new possibilities, expectations and threats. The technology-driven concept of the platform economy, as well as the ever-expanding use of Artificial Intelligence based on data harvesting in all market sectors, feeds on the ever-growing data economy. The societal consequences of the rapid technological advancements include the need to ensure access to the internet and information society services for people to function normally. At the same time, switching off-line to online might dehumanise contacts between people. The growing concerns with relation to the climate change fuel the ever-increasing concerns about the sustainability of the market. 1.3. The aims of the study The IMCO committee requested the analysis as a part of an exercise aimed at examining the need to reform the regime of the E-commerce Directive and start a discussion on the shape of the future Digital Services Act.

**THIS REPORT IS PART OF A BROADER PROJECT CONTAINING SEVEN OTHER
RESEARCH PAPERS COVERING THE FOLLOWING ISSUES**

how to fully reap all the benefits of the Internal Market for e-commerce. New economic opportunities and challenges for digital services 20 years after the adoption of the E-commerce Directive;

the functioning of the Internal Market for digital services: the responsibility and duty of care of providers of digital services. Challenges and opportunities;

new developments and innovations brought by Artificial Intelligence applied to e-commerce: challenges to the functioning of the Internal Market;

enforcement and cooperation between Member States;

possible new aspects and challenges in the field of consumer protection; and

new developments of digital services. The aim of the research was to provide indications on whether or not the E-commerce Directive needs to be reformed, and to provide specific recommendations on the key elements of such a reform.

THE STRUCTURE OF THE ANALYSIS

The study begins by presenting the legislative state of play, developed in the European Union between 2000 and 2020, in which the e-commerce constitutes the backbone of the regulation. Briefly presents the E-commerce Directive, alongside the General Data Protection Regulation of 2016, the Geo Blocking Regulation of 2018, the Copyright in the Digital Single Market Directive of 2019, the Directive for the Supply of Digital Content and Digital Services of 2019, and the Regulation on Promoting Fairness and Transparency for Business Users of Online Intermediation Services of 2019. Focuses on the current market challenges. It presents the development of the platform economy, which redefined the construction of the digital market not only in the EU, but also in the global context and the social dimension of e-commerce in the broad understanding of information society services. Next it discusses the broad spectrum of issues that arise in relation to the inevitable penetration of the market operation by AI. The two last discussion points include a broader look at the internet in the context of human rights and

inscribing the digital market into the concept of sustainable market development. Identifies the areas prone to improve the current market situation, focusing on the need to create the legislative structure that will accommodate the multi-dimensional nature of e-activities, the re-defined position of the market players and will allow the proper attribution of liability that will consider the new position of the market players. It also puts the analysis in a broader context of control of the market standards by institutions with democratic legitimacy.

While the E-commerce Directive is undoubtedly one of the most successful pieces of EU legislation, the technological, economic and societal developments of the last 20 years have profoundly changed the circumstances in which the directive's provisions function. The aims for which the E-commerce Directive was enacted have either been met, or they need to be redefined in the new socio-economic reality. While the E-commerce Directive succeeded in creating a single legal frame work for the reality it was tailored to, in over 20 years, this area of legislation became fragmented again. Therefore, it is clear that the Commission's plans to propose a Digital Services Act that will address the market challenges in a new perspective should be applauded. At the same time, since the E-commerce Directive has so far proven its ability to effectively address such challenges, it should be carefully reviewed which of the directive's current rules could be used in any future legislation and which phenomena require new legislative impulses that would address the market failures.

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