

Priority paper



Main priorities for the European Digital Commerce sector 2021

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Introduction

The COVID-19 outbreak has had a significant impact on the retail sector. In these difficult past months, e-commerce has proven to be crucial for the continuation of economic activities in Europe. Consumers have turned to e-commerce to continue safely accessing products while their countries implemented very strict, vital lockdown measures. With a greater need for e-commerce services came a greater demand, leading to increased sales in some sectors and strains on the supply chain and delivery channels. The e-commerce sector has proven resilient, and this crisis has definitely accelerated the digital transformation of many businesses, change in consumer behaviour and the development of new seamless commerce solutions, such as digital payment and omnichannel logistics solutions (e.g. contactless click-and-collect, etc.). E-commerce has also been proven to be essential for the functioning of society during the pandemic through sale and delivery of e.g. food and pharmaceutical products to risk groups.

The COVID-19 outbreak has highlighted the importance of digitalisation across all areas of the economy and society. It is expected that, in the long run, the pandemic will have triggered permanent social and economic changes. It has become imperative for businesses and governments to invest in digital tools and literacy. The investment in digitalisation is also increasingly linked to a transition to a sustainable economy. These twin transitions to a more digital and greener Europe are reflected in the European Commission's plans, which stress that investing in digital and sustainable infrastructure is required in order to rebuild a strong European economy.

However, while the COVID-19 crisis has revealed the strengths of the Single Market, it has also highlighted its weaknesses. Given the increasingly cross-border nature of digital commerce, European businesses have struggled to implement new solutions across the Union due to regulatory fragmentation and diverging approaches towards the crisis.

Creating a framework for European companies to flourish

To allow innovation and stimulate digital and sustainable development, the EU should **continue to remove the remaining barriers** for European businesses to expand cross-border. Now more than ever, companies in Europe need the support of the European Union to be able to compete on an increasingly competitive global market. Digital commerce is exceptionally characterised by the cross-border opportunities it offers. It enables connections between consumers and businesses from different countries and cultures, contributing to increased diversity in European societies and markets. Ecommerce Europe's members are based across Europe and believe in the value of international cooperation and open trade as the basis for a flourishing digital commerce sector. At the same time, as the Union has been weakened during the crisis, it is crucial for the industry to express the importance of a **strong European business climate** and think about how the industry itself can support Europe.

The recent crisis has also strengthened the need to **alleviate unnecessary regulatory burdens** at a time when Europe is set to kick-start its economy. Therefore, in these times more than ever, Ecommerce Europe will continue advocating for simpler, more harmonised EU rules and better enforcement especially vis-à-vis

non-EU based players active in the EU, in order to prevent unfair competition from third-country based players. **Enforcement of EU rules**, such as consumer protection or product safety, against companies based outside the Union proves to be very challenging, while national market surveillance authorities are often under-resourced and unable to block unsafe goods from entering the EU. European legislators should thus ensure that the rules they create are enforceable globally and that competition rules are fit the digital economy.

The capacity of adapting rapidly to new, and sometimes competing, consumer expectations is a crucial element for digital commerce. The challenge will be to push for **clear and principle-based rules** that, while protecting consumers, are also **balanced and proportionate** for businesses. Any new rules should leave enough room for digital retailers to create an as seamless as possible shopping experience, for example, by striking the right balance between security and convenience in payments, or by balancing speed of delivery with sustainable delivery solutions.

Innovative technologies such as Artificial Intelligence and blockchain structurally revolutionise digital commerce, for instance by making e-merchants increasingly competitive and capable of providing even more targeted offers to consumers. Unfortunately, the EU is still behind compared to its competitors in the development and uptake of these technologies. Therefore, the Union needs to deliver on its objective to **boost financial support** for companies developing these technologies as well as facilitate innovation and development by avoiding an overly burdensome regulatory framework that would hinder European companies from competing with other markets.

The Digital Commerce Sector Priorities

1. Seamless shopping: Adopt a channel-neutral approach

Online and offline commerce are often treated separately, in particular from a regulatory perspective, although in practice many retailers and consumers have already moved beyond this distinction. Of course, some minor exceptions should continue to exist, for instance by allowing a right of withdrawal to a consumer who purchased a product at distance and thus was not able to see the good before buying it. During the national confinement measures, many retailers had to close their physical stores and developed an online presence to stay afloat, making use of seamless commerce solutions to accommodate consumer needs throughout this period, and this trend is set to accelerate. Ecommerce Europe advocates for a shift in the perception of “digital commerce” to ensure that online and offline channels are basically treated equally. This would ensure that businesses can grow both their online and brick-and-mortar presence and provide for a seamless shopping experience to the benefit of the consumer, while reducing regulatory burdens. Aligning rules at EU level for all B2C sales channels is a form of better regulation and should be a key priority for policymakers to ensure legal certainty for businesses.

2. Role of platforms: Safeguard their innovation potential while supporting EU companies

The platform economy is redefining the way retailers sell goods or services online. This process has been intensified by the COVID-19 outbreak when more and more brick-and-mortar shops had to start using online platforms such as e-commerce marketplaces to be able to continue selling their products. Also, more and more e-shops are using platforms to maximise their sales, for instance by reaching markets that otherwise would be too complex to directly target. In general, this trend is creating intense new competition within and beyond European borders. Issues such as responsibility and liability of the various actors in the value chain, consumer trust and loyalty, how SMEs can thrive and compete in an increasingly competitive world, role of

data and so on will become even more important. In this context, Ecommerce Europe calls on EU policymakers to always strike the right balance between fostering innovation and growth in the sector and strengthening the competitiveness of the diverse online retail landscape.

3. Globalisation: Restore the level playing field between EU-based and non-EU-based players

In the last years, globalisation has had a two-fold impact on the e-commerce sector. On the one hand, it has rapidly accelerated its cross-border nature. On the other hand, the possibilities for consumers to purchase products from all around the world have increased tremendously. In light of the COVID-19 crisis, a shorter supply chain has been perceived as safer and healthier, providing seemingly more guarantees in terms of quality control and exposure to risks. While, among others, such sentiments have driven consumers to buy more local and regional, consumers are also continuously attracted by the offers available from third country-based players. In this perspective, one of the main concerns of European e-commerce players is the increased flow of non-compliant products (e.g. unsafe or counterfeited products, which represent a major problem in terms of EU consumers' health, security and environment) coming from non-EU countries, either when a consumer orders directly from a seller based outside the EU or via an intermediary facilitating the sales. This situation undermines the level playing field by creating unfair competition between European- and non-European-based online sellers, as the former have higher compliance costs than the latter. While EU-based players must comply with EU and national rules and standards, not all non-EU operators that offer or facilitate the sales of goods to EU consumers do or have to, especially those located outside the Union. Ecommerce Europe thus calls on the European Commission and the Member States to ensure effective and efficient enforcement and removal of illegal content and products placed on the EU market. More information on how to address the issue of the unlevel playing field can be found in our [Position Paper on the Digital Services Act](#).

4. Embrace the opportunities digital commerce offers for a more sustainable economy

The e-commerce sector is a bridge between the digitalisation of our society and the transition to a more sustainable economy. It is a sector in constant and rapid evolution, shaped by new technologies, new ambitions and ideas, new demands, making it a sector capable of spearheading innovative sustainable solutions. The growth of e-commerce should be considered as an opportunity to structurally shift to more sustainable retail and consumption practices, as well as an opportunity to use the digitalisation of our society to make the transition to a more sustainable economy. When discussing how policymaking can contribute to this transition, the e-commerce sector has a lot to bring to the table. Sustainability and digitalisation have been put at the heart of the EU policy agenda, with a renewed, holistic approach through the European Green Deal. EU policymakers have a unique opportunity to put the continent at the forefront of the transition to a sustainable economy and a digitalised and inclusive society, as these evolutions cannot and should not be treated as separate challenges. It is crucial that sustainability policies recognise the role of SMEs and support their contribution to a sustainable economy. To support SMEs within the EU and strengthen the Single Market in an omni-channel commerce environment, Ecommerce Europe advocates for an overhaul of the current requirements in the spirit of more harmonization and simplification of EPR rules.

Sustainability should also be at the centre of Business-to-Business (B2B) relationships and corporate governance. Cooperation throughout the supply chain and sustainable B2B is the key to deliver sustainable options to consumers in Europe. Ecommerce Europe believes that our transition to a sustainable economy will require strong cooperation among all relevant stakeholders, and ambitious and innovative policy solutions that are based on more than perceptions of an issue.

5. Ensure alignment between ePrivacy and data protection regulations

In an increasingly digitalised retail landscape, the role of data is growing in importance, both in terms of fostering innovation and building a strong European data economy, as well as with regards to the protection and processing of data. Ecommerce Europe is actively engaged in shaping the EU data protection landscape, through ongoing work on the GDPR at the level of the European Data Protection Board, responsible for the publication of new guidelines, which are often worryingly going beyond or reinterpreting the GDPR itself. At the same time, negotiations in Council on the ePrivacy Regulation are not making much progress, thus leaving digital retailers and consumers with an outdated EU privacy framework. Retailers respect the privacy of their consumers and want to give them the best digital shopping experience possible. Nevertheless, progress on this file has been limited and too many important issues have not been properly addressed, thus creating more confusion rather than bringing essential legal clarity. The European Commission should consider a fresh restart of the debate on this important file, which can only happen if the proposal is fundamentally reassessed in light of the many outstanding concerns, the new legislative landscape and technology development, and keeping in mind that the GDPR already provides for balanced lawful grounds for processing data, and EU institutions should ensure alignment of the ePrivacy proposal with the EU data protection regulation, especially for processing personal metadata gained in the course of electronic communications.

6. Step up efforts for a global solution for the taxation of the fast-digitalising economy

Current international corporate tax rules are not fit for the realities of the modern global economy. The taxation of the fast-digitalising economy is a global issue, which ultimately requires a global solution, not unilateral ones, neither at EU nor at Member State level. Such actions can negatively impact European SMEs and consumers, while risking creating trade wars with non-EU countries. The new taxation framework must be global and ensure a level-playing field so that companies are taxed in a fair, non-discriminatory and channel-neutral way. Despite recent news that the target date for a potential OECD agreement on the establishment of a global digital tax will be postponed to June 2021, Ecommerce Europe urges leaders to continue their push in favour of international efforts at OECD level and end the discussions around the introduction of unilateral solutions at EU or national level.

7. Facilitate a more harmonised parcel delivery regulatory framework

Efficient and reliable delivery of parcels is an essential element of e-commerce. Digital commerce itself is fundamentally changing postal and parcel markets. Through e-commerce and the growth of commercial delivery services, the creation of an internal market of postal services has further developed. Data generated at the point of sale now drives the delivery process. E-commerce has played an especially positive force for postal service providers, driving parcel volumes across their networks at a time of decline in letter volumes. Ecommerce Europe believes that the postal channel will continue to be a valuable asset for e-commerce merchants and their consumers, particularly those selling/receiving goods in peripheral regions. New rules, such as the VAT e-Commerce Package, which enters into application on 1 July 2021, will help to prevent VAT and customs fraud, provide legal certainty for businesses and improve the level playing field between EU and non-EU companies selling cross border. Given the increasing cross-border character of e-commerce, both e-commerce players and consumers would benefit from more reliable and fully interoperable track-&-trace solutions for parcels. Ecommerce Europe encourages EU policymakers to work on a more harmonised EU parcel delivery legislative framework, to ensure that it will be fit for the current and future challenges of the digital commerce sector.

8. Build an innovative and competitive cross-border payment landscape

Policymakers and regulators should promote a competitive European payment landscape to ensure the development of innovative, cost effective and secure payment services. It is crucial that the European regulatory framework encourages and enables the development of authentication and identification methods up to date with the most recent technologies and consumer expectations. Policymakers should accompany the uptake of eID and trust services solutions in the private sector to boost for security, convenience, and trust in the European cross-border e-commerce market. Interoperability between national payment systems, as well as efforts to promote pan-European payment solutions, are essential for cross-border trade. Solutions based on instant payments represent a real opportunity to achieve these objectives if the right framework is collectively discussed by all relevant stakeholders.

9. Leverage opportunities offered by big data and new technologies

Flow and access to data and quality data sets, together with the development of new technologies such as AI-based solutions will play a key role in the EU recovery and the twin green and digital transitions. The EU should foster an environment of excellence, combined with opportunities to explore and innovate, notably through the use of regulatory sandboxes. In parallel, digital literacy should be strongly encouraged, and knowledge on new technologies like AI should be widely accessible in order to reinforce trust. Concerning leveraging the opportunities offered by big data and new technologies from a regulatory perspective, the European Union should carefully assess the need for new rules and, if evidence shows it, develop a purpose-led framework that leaves room for innovation, while ensuring conformity and coherence of existing legislation. A future-proof European Data framework should ease data sharing between businesses and make use of standardisation without generating high database reorganisation costs for business. Future discussions on framing the development of AI should take into consideration the variety of solutions and applications that exist and could emerge and reflect on the best way to address high-risk applications without jeopardising the uptake of AI solutions in the EU.

10. Provide SMEs financial support and reduce administrative burdens

Small and medium sized enterprises (SMEs) are the backbone of the European economy. They are diverse in terms of business models, size, and specialisations and together greatly contribute to innovation in the digital and sustainable transition. Unfortunately, many SMEs, in particular brick-and-mortar ones with no digital presence, have been hit hard by the COVID-19 pandemic. Nevertheless, many of these companies have embraced e-commerce as an enabler to survive during lockdowns and developed creative methods to continue serving their consumers. Having an online presence for many businesses became the only way to remain in contact with their local clients during the confinement and now the same clients demand to also have the possibility to order online in their local, proximity shops. The shift to omnichannel commerce has been greatly accelerated by the COVID-19 pandemic and will continue even afterwards. Therefore, decision-makers should focus on providing SMEs financial support and reducing administrative burdens at European and national level. Ecommerce Europe continues to place the interest of SMEs at the centre of its ongoing and future policy work and calls on European policymakers to carefully consider the feasibility of implementation of new rules for SMEs, in order to give them a fair chance to compete in a fast-paced global market.

11. Support companies' digital transformation with more investments in e-skills and infrastructure

The Internet, specifically e-commerce, has been imperative for the functioning of society during the pandemic through sale and delivery of goods such as food and pharmaceutical products to risk groups. In

In addition, e-commerce as a sales channel has been an essential tool for the survival of many brick-and-mortar companies, in particular SMEs, during the pandemic lockdowns implemented across the EU. From a more general perspective, technological progress and digitalisation can enable nearly every “offline” company to go online and, potentially, compete on a bigger scale. For instance, because of COVID-19 confinement measures, many small and local businesses (e.g. proximity shops) also had to move online to survive and continue selling to their “usual” consumers. At the same time, these small players discovered that, thanks to digitalisation, they can reach a much bigger audience, even from across the national borders. To ensure that these growing SMEs can meet the expectations of a larger pool of consumers, it is crucial for them to develop new skills and infrastructure and partner up with new service providers. Digital commerce has the capacity to quickly adapt to complex circumstances such as a global pandemic. While offline shops opened online sales channels during the pandemic, a challenge for them has been to ensure a qualified workforce for e-commerce, to quickly and adequately respond to new consumer needs. Ecommerce Europe thus calls on EU and national decision-makers to invest in sustainable and affordable digital and logistic infrastructures, as well as in digital skills programmes to the benefit of smaller companies.



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