



OPEN LETTER

Re: Urgent need for a level playing field and effective enforcement of EU law towards all e-commerce players active in the EU Single Market

Dear Reader,

Digital commerce has become an integral part of the life of EU citizens. Millions of EU consumers around the world surf the Internet to order a wide variety of products and services every day. In the last five years, the sector has largely proven its potential to serve the goals of the EU Single Market. From allowing European businesses to go digital and expand across borders, to avoiding irreversible disruptions for companies and consumers during the COVID-19 pandemic, the sector has contributed to the overall resilience of the EU. Our sector generates a high level of shared value and widely contributes to innovation and the economy of the Union and its Member States, by serving consumers every day and employing millions of people in the EU.

Against this backdrop, in the past years and even more recently, **the EU has witnessed the arrival of new e-commerce players from outside the Union, who are putting a lot of pressure on the Single Market and on the companies that are already established in the EU.** Some of these players possess **exceptional financial resources**, allowing them to grow very rapidly and reach the top-10 best performing players in several countries in just a few months, also thanks to often **very aggressive marketing practices** and ad campaigns that are run globally. Moreover, the governments of the countries where these companies are established (mainly in Asia) often **heavily subsidise their e-commerce market¹**, so that their exports towards other markets like the EU can grow exponentially.

¹ Source: "Party-state Support for Chinese E-commerce Export Development", Author: Łukasz Sarek, Foray China. Published in May 2024 by e-Izba (Polish Chamber of the Digital Economy). Link: https://eizba.pl/wp-content/uploads/2024/05/Foray-China-Report-on-China-Party-State-Support-for-Ecommerce-Export-Development-DOCX_REVISED.pdf

Ecommerce Europe and its national association members have always been in favour of an **open and competitive market**, e-commerce being a global phenomenon as such, allowing consumers to buy literally from anywhere in the world. However, **this competition should be fair**. In this perspective, Ecommerce Europe established the so-called “**level playing field**” as one of its key principles in its **Manifesto for the EU Elections**: **e-commerce players active in the Union but based in non-EU countries should play by the same rules as EU-based businesses**, in order to avoid that EU-based players face a competitive disadvantage. It is important to stress that our approach is not, and will not be, protectionist.

EU-based businesses are subject to several legislations that govern e-commerce and retail in general, with high compliance costs due to the complexity of these rules and lack of harmonisation in several cases. **It is currently very challenging for EU-based players to compete on an equal level with these new players from outside the EU**. As already highlighted by other stakeholders, the commercial practices used by these players raise questions about their compliance with Union legislation, especially in the areas of consumer protection, product safety, data protection, privacy, environmental and taxation legislation. If companies based in the EU violated these or other rules, there would be consequences, with competent authorities potentially imposing sanctions and fines on them.

However, as also highlighted in Ecommerce Europe’s Manifesto, while the EU has rules in place that should guarantee a more equal treatment, **the enforcement of these EU rules towards non-EU based players has proven to be very challenging**. National authorities are often under-resourced, under-staffed and lack coordination, both between countries and between national competent authorities themselves. This gives those non-EU based players that do not play by the rules an **unfair competitive advantage**. Despite the challenges in enforcing these rules against non-EU based players, some stakeholders, including Ecommerce Europe’s national association members but also consumer organisations, have started taking actions, also in the form of official complaints to national authorities.

Our call for a level playing field and efficient enforcement of EU law

Ecommerce Europe and its national association members urge the European Commission, Member States and competent authorities to **ensure all necessary means to control the activities of these non-EU based actors with the same thoroughness as applied in the scrutiny of companies already established and operating in the Union**. If compliance issues were to be identified by the enforcement authorities, these players should be sanctioned with the same determination that is applied to EU-based players in case of infringements, to ensure a fair competition for all players operating in the EU Single Market. Besides the business-related level playing field argument, **implementing strong, effective and efficient enforcement mechanisms of EU legislation towards all actors operating in the Union is also paramount to ensure the safety of EU consumers**, and should therefore be prioritised by decision-makers.

Furthermore, since we identified the lack of coordination among national enforcement authorities as a serious threat to effective enforcement of EU rules, **we call on decision-makers to promote and facilitate deeper cooperation and coordination among EU Members States and their authorities, to ensure a consistent application of regulations, thus enabling a real level playing field in the EU**.

Ecommerce Europe and its national association members are counting on the determination of EU and national decision-makers to swiftly act on the important matters highlighted in this letter, and we remain at their full disposal to further discuss and work together to ensure a level playing field.

Yours faithfully,

Ecommerce Europe

Adigital (Spain)

APEK - Asociace pro elektronickou komerci (Czechia)

ARMO (Romania)

Becom (Belgium)

BEA - Bulgarian E-commerce Association (Bulgaria)

bevh - Bundesverband E-Commerce und Versandhandel Deutschland e.V. (Germany)

Chamber of Digital Economy (Poland)

Dansk Erhverv (Denmark)

FEVAD (France)

Finnish Commerce Federation (Finland)

GR.E.CA (Greece)

Handelsverband (Austria)

HANDELSVERBAND.swiss (Switzerland)

Netcomm (Italy)

Swedish Commerce (Sweden)

Thuiswinkel.org (Netherlands)

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