

Contracts for the supply of digital content

2015/0287(COD) - 22/05/2019 - Final act

PURPOSE: to introduce new rules to make it easier and safer for consumers and businesses to buy and sell digital content across borders.

LEGISLATIVE ACT: Directive (EU) 2019/770 of the European Parliament and of the Council on certain aspects concerning contracts for the supply of digital content and digital services.

CONTENT: the Directive establishes common rules on certain requirements concerning contracts concluded between professionals and consumers for the provision of digital content or services, including rules on:

- the conformity of digital content or a digital service with the contract,
- remedies in the event of lack of conformity or lack of supply and the procedures for exercising such remedies, and
- the modification of digital content or a digital service.

This Digital Content Directive is part of a package of measures which also includes a [Directive](#) on contracts for the sale of goods (Directive on the sale of goods). The objective is to ensure a high level of protection and legal certainty for European consumers, in particular when making cross-border purchases, and to facilitate EU-wide sales operations by businesses, in particular small and medium-sized enterprises (SMEs).

Scope The Directive introduces a high level of protection for consumers who pay for a service, but also for those who provide data in exchange for that service.

It covers, *inter alia*, computer programmes, applications, video files, audio files, music files, digital games, e-books or other e-publications, as well as digital services that allow the creation of, processing of, accessing or storage of data in digital form, including software-as-a-service, such as video and audio sharing and other file hosting, word processing or games offered in the cloud computing environment and social media.

Liability of the trader

Under the new rules, the trader shall be liable for any failure to provide the digital content or service. The supplier's period of responsibility in the event of lack of conformity may not be less than two years. Where the contract provides for a continuous supply for a certain period of time, the trader shall be liable for any lack of conformity that occurs during the period during which the digital content or service is provided under the contract.

The burden of proof shall be on the trader in the case of a lack of conformity which becomes apparent within a period of one year from the date of supply of the digital content. This rule shall not apply where the trader demonstrates that the consumer's digital environment is not compatible with the technical requirements of the digital content or service and the trader has clearly informed the consumer of these requirements before the conclusion of the contract.

Remedies for lack of conformity

In the case of lack of conformity, the consumer shall be entitled to have the digital content or service brought into conformity, to benefit from a proportional reduction in the price, or to terminate the contract. He shall have the right to obtain compliance of digital content, unless this is impossible or would impose disproportionate costs on the trader.

In the event of termination of the contract, the trader shall reimburse the consumer for all sums received under the contract. Any reimbursement to which the trader is liable to the consumer as a result of a price reduction or termination of the contract shall in any event be made within 14 days of the day on which the trader is informed of the consumer's decision to exercise his right to a price reduction or termination of the contract. There shall be no charge to the consumer for the refund.

Modification of digital content or service

For a subscription to digital content for a given period of time, the buyer could modify such content only if the contract so permits, and if the consumer is given reasonable advance notice and is given the opportunity to cancel the contract within at least 30 days of notification.

Review

The Commission shall report on the application of the Directive by 12 June 2024 at the latest. The report shall assess, *inter alia*, the need to harmonise the rules applicable to contracts for the provision of digital content or digital services other than those covered by the Directive, including the provision in exchange for advertising.

ENTRY INTO FORCE: 11.6.2019.

TRANSPOSITION: no later than 1.7.2021.

APPLICATION: from 1.7.2022.