

Ecommerce Europe Monthly Monitoring Report

July 2021

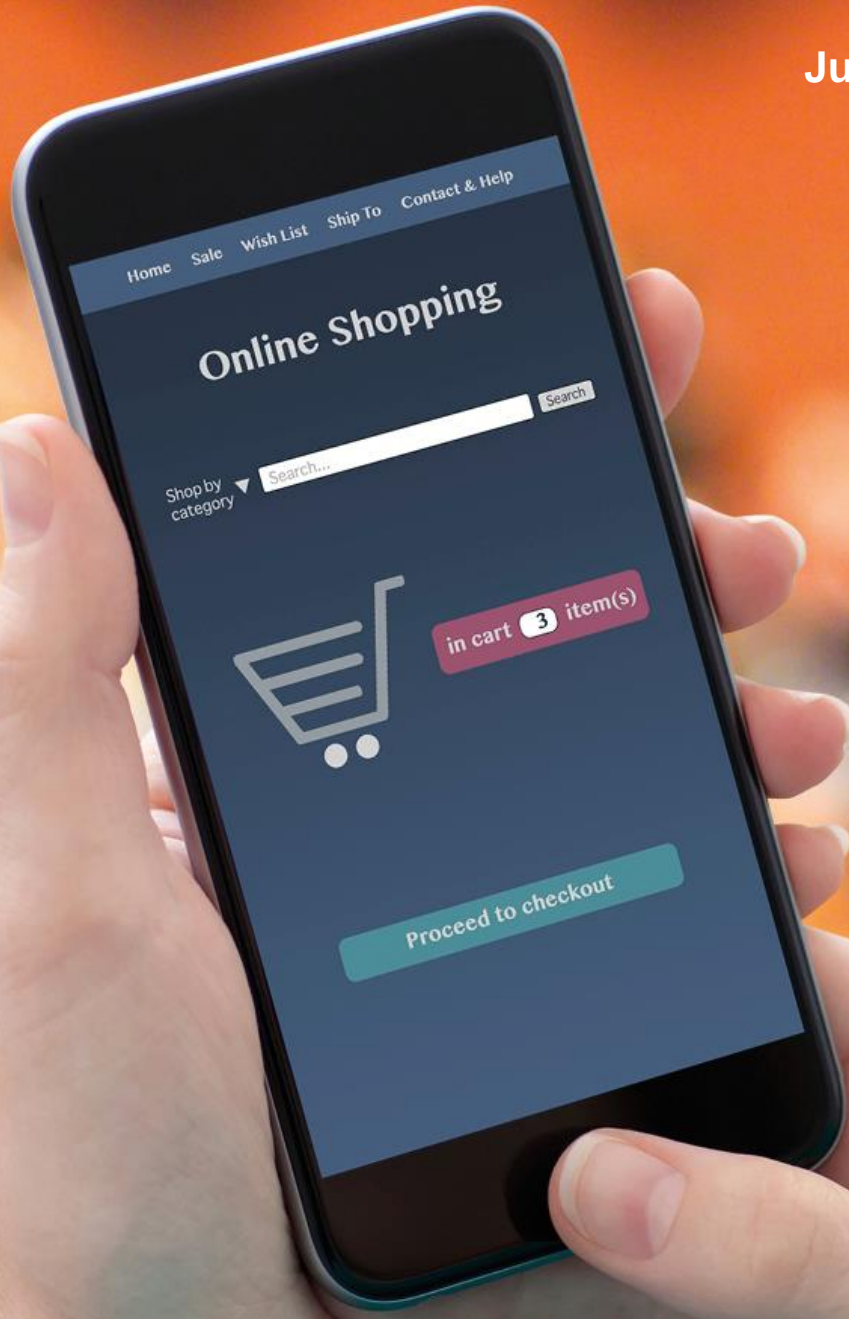


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EU INSTITUTIONAL DEVELOPMENTS

UPDATE

European Commission's tech agenda for autumn

On 17 July, the European Commission issued its official [calendar](#) for fall including expected dates of publication for its upcoming proposals. Here is an overview of the Commission's digital and sustainability plans until the end of the year:

- 14 September: Policy programme on Europe's Digital Decade.
- 13 October: Roadmap on security and defence technologies; connectivity communication
- 19 October: Commission work program for 2022.
- 27 October: Supervisory Data Strategy; review of competition policy; sustainable corporate governance.
- 10 November:
- 23 November: Proposal for greater transparency in paid political advertising.
- 1 December: Data Act, Legislation to tackle child sexual abuse online.
- 8 December: Initiative to improve the working conditions in platform work; initiative to extend the list of EU crimes to all forms of hate crime and hate speech.
- 14 December: Sustainable products policy initiative, including a revision of the Ecodesign Directive; initiative to empower the consumer for the green transition.

Other policy developments

European Commission publishes draft revised VBER

On 9 July, the European Commission [published](#) its draft revised Vertical Block Exemption Regulation (VBER) and the corresponding Vertical Guidelines. The new text is meant to replace the current regime, which expires on 31 May 2022. The VBER concerns vertical agreements between companies operating at a different level (e.g., producer, distributor) about the conditions under which they are allowed to purchase, sell or resell products. The draft includes an updated definition of 'active sales', changes in the rules on dual distribution, an extension of the scope to certain situation for active sales restrictions, guidance on specific questions regarding indirect measures restricting online sales (dual pricing and platform bans), and a clarification on how to assess platforms as market players. Finally, the Commission aimed to reduce compliance costs for businesses, in particular SMEs, by simplifying and clarifying the rules. The documents are open for public consultation until 17 September 2021.

E-REGULATIONS: DIGITAL SERVICES ACT

UPDATE

Latest Developments on the DSA

Council

Member States have been discussing the latest compromise text on the DSA [proposed](#) by the Portuguese Presidency of the Council of the EU. With regards to the orders, the Danish representatives reported concerns over the derogations to the country-of-origin principle, which they consider should be limited to "areas with harmonised rules". Furthermore, they expressed fears of excessive withdrawals and required clarifications on the obligations of intermediary service providers and on the "territorial scope" of an injunction. Concerning the enhanced supervision of very large platforms, Denmark opposed the deletion in the text of the possibility for the coordinator of the country of establishment to request an independent audit. On Article 25, it asked for further explanations on the definition of active users, for the calculation of the threshold for the designation of a very large platform. The Spanish and the Dutch representatives stressed that orders should not interfere with national criminal proceedings. In addition, the Netherlands put an emphasis on the duty of care, but it is still debating on the procedures.

European Parliament

The MEPs in the the Committee on the Internal Market and Consumer Protection (IMCO) submitted 2297 [amendments](#) on the DSA. The rapporteur MEP Christel Schaldemose (Denmark, S&D) proposed adding new obligations such as making online marketplaces legally responsible for ensuring they are not selling dangerous products, and forcing platforms to remove illegal content within 24 hours in some cases. Within the IMCO Committee, the first consideration of the amendments is scheduled for 27 September and the vote on 8 November. The exact date of the plenary in December has not yet been confirmed.

In the Committee on Legal Affairs (JURI), the Shadow Rapporteur on the DSA, MEP Tiemo Wölken (Germany, S&D), [proposed](#) that whistle-blowers be able to submit complaints against tech platforms directly to their national regulators. Moreover, he aims to enhance privacy and fundamental rights safeguards under the DSA. For instance, when national courts order tech platforms to remove content and to give them information about their users, each order should have an "explicit reference to the legal basis" for it and platforms should not face obligations to "introduce new tracking of profiling techniques for recipients of the service in order to comply with orders to provide information." The Rapporteur for opinion in the JURI committee, MEP Geoffroy Didier (France, EPP), [wants](#) tech companies to "refrain from removing, suspending or disabling access" to content from news outlets, even if their posts contradict the platform's own policies. In addition, MEP Karen Melchior (Denmark, Renew) ([here](#)) and MEP Patrick Breyer (Germany, Greens) ([here](#) and [here](#)) also submitted amendments to the DSA.

On 14 July, the Committee on Civil Liberties, Justice and Home Affairs (LIBE) adopted its opinion on the DSA voting on the [compromise amendments](#). The MEPs voted to ban political targeted advertising and, more broadly, any advertising targeted at children. They also proposed to force tech companies to let users choose to opt in to commercial targeted advertising. They added further measures to protect fundamental rights, for instance, the opinion asserts that online platforms should only have to give public authorities their users' personal data if there are investigations into serious crimes or serious threats to public safety.

At the end of June, the European Parliament [published](#) a study requested by the IMCO Committee on the impact of targeted advertising on advertisers, market access and consumer choice. The paper argues that EU tech legislation would not protect people from this practice. Researchers noted that none of the bills on the table at the moment, namely the DSA, the DMA and the Artificial Intelligence Act, fully

address “dark patterns” (defined as manipulative designs to get consent) and algorithmic discrimination. Therefore, they encourage lawmakers to strengthen transparency measures and force tech platforms to let users opt-out of targeted advertising.

The Parliament’s DSA draft reports are available: IMCO’s Christel Schaldemose’s report [here](#), ITRE’s Henna Virkunnen [here](#), LIBE’s Patrick Breyer [here](#), JURI’s Geoffroy Didier [here](#).

Member States

On 23 July, the French parliament approved new [rules](#) on content moderation that set obligations for tech companies on how to how they should police their platforms. The new legislation echoes the EU’s DSA, which is still under discussion in the Council and the Parliament. In particular, the bill requires platforms to take measures to prevent the spread of illegal content, publish yearly risk assessments, allow regulators greater access to their data, and be more cooperative with judicial authorities. In addition, it includes duty-of-care and transparency obligations for tech companies and the requirements of setting up easy-to-use channels for users to flag unlawful material. In June, the European Commission [commented](#) on the French proposal warning that some of the provisions could breach EU law. Despite some of the recommendations being taken into account, the overall text has been largely left intact.

Ecommerce Europe co-signed a letter on targeted advertising

On 16 July, Ecommerce Europe co-signed a letter on targeted advertising on the Digital Services Act (DSA). Ecommerce Europe fully support requirements in the DSA proposal that seek to improve the overall B2B and B2C transparency of digital advertising. However, Ecommerce Europe is very concerned about a potential ban on targeted advertising, as proposed in the European Parliament by some political groups. A ban on targeted advertising would strip businesses of critical revenue, undercut market entry opportunities for start-ups and SMEs, create legal uncertainty as well as compliance and enforcement issues. You can read the full letter [here](#).

Copenhagen Economics published research note on DSA advertisement rules

In June 2021, Copenhagen Economics [prepared](#) a research note for Google on the DSA titled “Disproportionate regulation of personalised ads could have significant unintended consequences.” The publication analyses the effects of the DSA personalised advertisement rules on the EU economy. In particular, it studies the potential risks associated with constraining the ability or incentive of EU firms to use personalised advertising. The findings provide information on the reduction of personalised advertising that would “drastically change the way the internet works today (for publishers, consumers and advertisers) and would have far-reaching impacts across the EU economy (on all markets served by firms that buy personalised ads to most efficiently reach their target audience).”

Impact	<p>We can estimate that the DSA might have an impact on the e-commerce sector in the following areas:</p> <ul style="list-style-type: none"> • Liability of e-commerce marketplaces, notice-and-action framework for content flagged by users • Illegal content online and preventive actions/obligations • Transparency of algorithms • Enforcement/oversight: creation of an EU-wide "platform regulator" • Information obligations for digital retailers • Digital collaborative economy services • Rules on online advertising services in the EU (but the focus seems to be on political advertising and disinformation)
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Status: Commission proposal published

Next steps: Ongoing negotiations within the European Parliament and Council on the DSA proposal.

TIMETABLE

Date	Event	Ecommerce Europe activities
27 September 2021	First consideration amendments IMCO Committee	Analyse amendments to map position MEPs
ongoing	Negotiations within the European Parliament and Council on the DSA proposal	Outreach to the institutions based on finalised position paper and proposed amendments

E-REGULATIONS: DIGITAL MARKETS ACT

UPDATE

Latest Developments on the Digital Markets Act (DMA)

Council

In the Council, the discussion is ongoing. In particular, some Member States, such as Germany and France, oppose a wider scope of the act that would include more companies in the DMA.

European Parliament

At the beginning of July, the IMCO Committee submitted its amendments to the DMA. They are available [here](#), [here](#), [here](#) and [here](#). Rapporteur Andreas Schwab (Germany, EPP) proposed to target only companies with a market capitalization of more than €100 billion narrowing the current Commission's proposal of €65 billion. In contrast, the MEPs from S&D aim at enlarging the scope of the DMA.

MEPs Axel Voss (Germany, EPP) and Andrzej Halicki (Poland, EPP) filed an amendment in the JURI Committee to narrow the scope for designating gatekeepers, the large unavoidable platforms that are targeted by the DMA. The amendments are available [here](#) and [here](#).

The Rapporteur for opinion in the European Parliament's Committee on Industry, Research and Energy (ITRE), MEP Carlos Zorrinho (Portugal, S&D), published his [draft opinion](#) on the DMA. In the opinion, he proposes to include subscription video on demand (SVOD), voice assistants, browsers and payment services in the core businesses targeted by the DMA, without the list being exclusive. He argues that the definition of core platform services should also take better account of Internet of Things (IoT). Moreover, the MEP supports "high standards of interoperability" for core messaging and media services. The amendments highlights also that gatekeepers must comply with rules that "do not jeopardise diversity in Europe's digital environment or stifle an economic ecosystem in which SMEs play a key role". Targeted advertising should also be banned, as should "dark patterns" and the bundling of services. In addition, the gatekeeper should give the user the choice of their own app shop. On the procedural side, MEP Zorrinho pushes for greater involvement of national regulatory authorities.

Impact	<p>We can estimate that the DMA will have a particular impact on those platforms in the e-commerce sector that will be considered a 'gatekeeper', as well as on their interaction with business users. Gatekeepers would for instance:</p> <ul style="list-style-type: none"> • Have to provide business users access to the data generated by their activities; • Have to allow business users to promote their offers and conclude contracts outside of the platform; • Have to provide advertising companies access to performance measuring tools; • Not be allowed to use data from business users to compete with them;
Status: Commission Proposal published	Next steps: Ongoing negotiations within the European Parliament and Council on the DMA proposal.

TIMETABLE

Date	Event	Ecommerce Europe activities
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ongoing	Negotiations within the European Parliament and Council on the DMA proposal	Ongoing work on position paper
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E-REGULATIONS: PRODUCT SAFETY AND LIABILITY

UPDATE

Updates on the proposal for a General Product Safety Regulation

On 30 June, the European Commission published its proposal for a [General Product Safety Regulation](#). The initiative aims to revise the General Product Safety Directive (GPSD) with new provisions related to new technologies and online sales; ensuring better enforcement of the rules and more efficient and even market surveillance; simplifying the standardisation process; improving the recall of dangerous products in the hands of consumers. On 1 July 2021, the Commission opened the [feedback period](#) on the proposal's adoption. The deadline to provide feedback is 17 September.

Some of the key features of the proposal are:

- The new rules would empower national regulators to order e-commerce companies to remove dangerous products across their websites, to disable access to them or to display an “explicit warning” to consumers if they are still accessible.
- The obligations imposed by this Regulation on online marketplaces do not include a general obligation to monitor the information which they transmit or store, or to actively seek facts or circumstances indicating illegal activity, such as the sale of dangerous products online.
- Marketplaces should act on the order to ensure that dangerous products on their sites are removed “without undue delay” or within two working days.
- The proposal includes guidance for EU countries on what penalties they should impose if companies do not comply, while leaving it up to member states to decide what those will be. The Commission wants countries’ maximum fines to be at least 4 % of the company’s annual turnover in the EU country.
- The rules will require sellers to provide specific information about the product offered, such as the manufacturer’s name, registered trade name and registered trademark. The provision, the Commission said, “builds on” the DSA, which also includes requirements on the traceability of online traders. Online marketplaces would not be responsible for verifying the information given.

Further information is available in the [factsheet](#).

On 13 July, the Justice Commissioner Didier Reynders joined the IMCO Committee to present the proposals for a GPSR. The video of the meeting is available [here](#).

Commission launched Roadmap on civil liability

On 30 June, the European Commission [launched](#) an inception impact assessment (roadmap) on Civil liability – adapting liability rules to the digital age and artificial intelligence, which was open for feedback until 28 July. In the EU, the current liability framework [consists](#) of the Product Liability Directive and the national rules. However, the Commission finds that the liability rules are not fit for the digital age and circular economy. Already in February 2020, the Commission [identified](#) several of these issues in its Report on the safety and liability implications of Artificial Intelligence (AI), the Internet of Things and robotics.

With regards to digital technologies, the Commission addresses the intangibility of digital products, risks related to connectivity and cybersecurity and the complexity of digital technologies. It also adds changes related to online marketplaces and artificial intelligence. In terms of circular economy, the roadmap refers to new circular business models dealing with

repaired, recycled, refurbished or upgraded products. The Commission also finds that there are significant obstacles to getting compensation and obstacles in the internal market.

According to the roadmap, these challenges lead to legal uncertainty for businesses and difficulties in getting compensation for consumers and other injured parties. To address this, several policy options are presented, although it is stated that the preferred policy option will be a combination of the various options and sub-options.

Potential policy options range from extending strict liability to cover intangible products that cause physical/material damage, to also extending it to non-material damages (e.g. data loss, privacy infringements, environmental damage). With regards to harmonising the existing strict liability schemes of operators/users that apply to AI-equipped products and providers of AI-based services, the roadmap proposed various levels of harmonisation (general strict liability, risk-based, targeted and risk-based, or only a recommendation to Member States). The Commission also proposes different policy options to reduce obstacles to getting compensation under the Directive, and to address proof-related challenges posed by AI to national liability rules.

Impact	<p>We can estimate that the Commission’s proposal for a General Product Safety Regulation might have an impact on the e-commerce sector in (among others) the following areas:</p> <ul style="list-style-type: none"> • New traceability obligations for products offered (in line with Art. 22 of the DSA) • Specific obligations for online marketplaces • Align with Market Surveillance Regulation in terms of role of economic operator, extend to non-harmonised products • More specific deadlines/obligations with regards to Safety Gate rapid alert system • A new system for penalties
Status: Commission proposal for a General Product Safety Regulation published.	Next steps: Monitoring developments in Parliament & Council.

TIMETABLE
(TBC DUE TO CORONAVIRUS OUTBREAK)

Date	Event	Ecommerce Europe activities
		Analysing the legislative proposal, starting the process of drafting an update of the position paper.

E-REGULATIONS: GENERAL DATA PROTECTION REGULATION

UPDATE

US aims to find an agreement on the new EU-US data privacy deal

Last year, the European Court of Justice [overturned](#) the EU-US deal on data transfers, arguing that the agreement did not offer sufficient protections against US government surveillance and that US laws did not adequately safeguard EU citizens' personal data. Against this background, the Biden administration aims to finalise the negotiations with the EU and find a quick resolution making sure that the deal is legally defensible and ensure safe, secure, and trusted cross-border data flows. There appear to be two points of discussion: the first one on the circumstances under which governments can have access to data and the second one on how individuals can seek redress when they feel their privacy rights have been violated.

On 14 July, Ecommerce Europe [co-signed](#) a letter on EU-US data flows sent to US. The signatories urge the US and the EU to swiftly ensure an agreement for secure transatlantic data flows that in turn will strengthen trade, investment, technological cooperation, and reinvigorate the transatlantic partnership.

EDPB Guidelines on the application of the General Data Protection Regulation

The European Data Protection Board (EDPB) [published](#) the Guidelines on codes of conduct as tools for transfers. The guidelines aim at specifying the application of General Data Protection Regulation (GDPR) with regard to the codes of conduct to transfer personal data to third countries. In addition, the publication aims to provide practical guidance including on the content, their adoption process, the actors involved, the requirements to be met and guarantees to be provided by a code of conduct for transfers. In this regard, on 14 July, the EDPB launched a public consultation open until 1 October 2021 to collect feedback and comments on the Guidelines. Stakeholders can submit their feedback [here](#).

The EDPB [published](#) the Guidelines on virtual voice assistants (VVA). These Guidelines aim to provide recommendations to relevant stakeholders on how to address some of the most relevant compliance challenges for VVAs in the application of GDPR. For instance, the Guidelines address the issue of processing personal data, ensuring transparency requirements, limiting the additional purpose of VVAs, safeguarding the security of data and minimizing the amount of data collected. You can find Ecommerce Europe's feedback [here](#).

The EDPB [published](#) the Guidelines on the concepts of controller and processor in the GDPR. The Guidelines aim to provide clarifications concerning fundamental concepts such as (joint) controller and processor. The publication includes updated wording, for instance on the definition of controller, joint controller, processor and party. It adds further clarifications to the relationship between controller and processor, and the consequences of joint controllership. You can find Ecommerce Europe's feedback [here](#).

Impact

This Regulation applies to the processing of personal data wholly or partly by automated means and to the processing other than by automated means of personal data which form part of a filing system or are intended to form part of a filing system.

Status: Procedure completed

TIMETABLE

Date	Event	Ecommerce Europe activities
		Ongoing work at EDPB level.

STRATEGY OF ECOMMERCE EUROPE

Ecommerce Europe has been gathering concrete cases of issues experienced by online merchants after the implementation of the GDPR. This information has been shared in a written report with the European Commission and is available [here](#).

E-REGULATIONS: PRIVACY AND ELECTRONIC COMMUNICATIONS

UPDATE

CNIL warned 40 organisations over cookie rules

On 19 July, the French privacy regulator, the *Commission nationale de l'informatique et des libertés* (CNIL), [sent](#) letters of formal notice to 40 organisations for lack of compliance with cookies rules. The CNIL argued that the websites of these organisations do not allow users to refuse cookies as easily as to accept them. The letters follow the announcement made in April according to which the CNIL said it would start checks to see if companies are compliant with cookies rules. In May, the regulator had already issued formal warnings to 20 organisations for the same reasons, and they have all become compliant in the meantime. The current list of organisations includes “four major platforms of the digital economy,” six electronic devices and software manufacturers, six e-commerce platforms, two companies from the tourism sector, two public service websites and two local authorities, among others. The 40 organisations have until 6 September to change their websites or face fines up to 2% of their turnover.

Impact	The European Commission's objective is to increase the protection of people's private life and open up new opportunities for business.
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Status: triologue negotiations ongoing	Next steps: ongoing triologues negotiations of the ePrivacy Regulation.
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TIMETABLE

Date	Event	Ecommerce Europe activities
		Ongoing outreach to the institutions based on recently adopted position paper.

STRATEGY OF ECOMMERCE EUROPE

Lobbying goals	Ecommerce Europe sees a clear need to upgrade and cover the existing rules on confidentiality of electronic communications, on access to the terminal equipment of the end-user and the information on it and on unsolicited commercial communications. However, Ecommerce Europe does not see any need to introduce new rules for the processing of data or personal data in the course of electronic communications, as this subject is sufficiently covered by the provisions of the well-balanced GDPR. In our view, there is absolutely no evidence for a need for special rules on data processing and privacy in electronic communications diverging from the GDPR and giving either less or more protection to data subjects than the level already provided by the GDPR. Such diverging rules are not only obsolete, but they also make the legal framework on the processing of personal data unnecessarily complex. Click here for the Position Paper of Ecommerce Europe for more details.
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E-REGULATIONS: ARTIFICIAL INTELLIGENCE ACT

UPDATE

Developments on the Artificial Intelligence Act

Council

According to the [Programme](#) of the Slovenian Presidency of the Council of the EU, one of the key topics of the presidency would be the “strong emphasis on the debate about different aspects of digitalisation”. It would thus prioritise the proposal on the Artificial Intelligence (AI) Act. In September, the presidency is planning to organise a high-level conference on AI and joint activities to facilitate the dialogue on AI and discuss the potential effects such as on education and public government.

On 20 July, the Slovenian Presidency [hosted](#) a virtual conference on how to regulate AI in order to protect fundamental rights. During the conference, Christian Kastrop, Germany’s state secretary at the Federal Ministry of Justice and Consumer Protection, said he wants the AI Act to strengthen the position of consumers and civil society, by for example adding the right to access information about algorithmic decisions, or collective redress mechanisms. He argued that the scope of the AI Act, which regulates only high-risk AI systems, should be extended to provide minimum regulatory requirements for non-risky AI. Furthermore, he proposed to include social scoring conducted by businesses in the AI ban. Kastrop added that the ban on facial recognition should be extended in the scope “in particular regarding the use by private actors, and beyond the narrow purpose of law enforcement.” In contrast, countries, such as France, are willing to increase the use of biometric recognition in their security apparatus.

European Parliament

MEP Brando Benifei (Italy, S&D) has been appointed as rapporteur on the file from the IMCO Committee. However, there is an ongoing debate among parliamentary committees, such as the LIBE Committee, JURI Committee and ITRE Committee with the IMCO Committee, over who should lead negotiations. Therefore, the negotiations about the substance of the bill will start in early autumn. Benifei aims to have a Parliament’s position by next year. In an interview, MEP Benifei addressed the main priorities for the Parliament. In particular, he claimed that there is growing support for a full ban on facial recognition in the Parliament. With regard to the self-assessment for companies selling high-risk AI systems, Benifei argued that the framework is not sufficient to prevent damages and harm people’s lives. He added that civil society and social partners should be involved in the regulation to develop a culture of safeness, for instance in workplaces. MEP Benifei has the support of his co-negotiators from other political groups to ban facial recognition, for instance, Kateřina Konečná (Czechia , GUE/NGL), Svenja Hahn (Germany, Renew), and Kim van Sparrentak (Netherlands, Greens/EFA). Only the Shadow Rapporteur Deirdre Clune (Ireland, EPP) opposes a ban.

In July, the Policy Department for Economic, Scientific and Quality of Life Policies (IPOL) [published](#) a briefing on AI and the public services requested by the Special Committee on Artificial Intelligence in a Digital Age (AIDA). The briefing discusses how AI systems could be used to improve the services in the public sector, how public investments can stimulate responsible AI developments in the private sector, and what benefits and challenges of using Open Data for AI are. The briefing suggests promoting human rights impact assessment for AI, using regulatory sandboxing to develop a trustworthy AI, educating within the public sector on AI, taking into account the impact of AI on people’s life, and implementing a dynamic monitoring on AI applications.

Member States

Spain [offered](#) to set up a sandbox or a safe testing environment to test the AI Act in practice. The Spanish government aims to analyse the social impact of the AI systems before the Act becomes operational. To do so, it would assess the risks posed by the application of AI algorithms and test audit mechanisms to spot algorithmic discrimination. The negotiations with the Spanish government and the European Commission are advanced and the scheme should be officially announced in autumn.

Impact:	To be defined.	
Status: Legislative proposal published	Next steps: Monitoring developments in Parliament & Council.	
TIMETABLE		
Date	Event	Ecommerce Europe activities
		Analysing the legislative proposal, starting the process of drafting a position paper.
STRATEGY OF ECOMMERCE EUROPE		
Lobbying goals	Ecommerce Europe believes that it is crucial to ensure access to general and practical knowledge on AI, but also strong cooperation so that the EU would have the necessary capacity to develop state of the art but also accessible AI solutions. Ecommerce Europe points out to the fact that the existing EU framework is sufficient to tackle concerns arising from the development and use of AI solutions when it comes to safety and liability and that particular attention should be paid to full harmonization of national legal framework and legal certainty.	

E-REGULATIONS: DATA STRATEGY

UPDATE

Data Act

On 3 June, the European Commission [launched](#) a public consultation on the upcoming Data Act. The deadline to provide feedback is 3 September. This initiative aims to create a fair data economy by ensuring access to and use of data for legitimate purposes, including in business-to-business and business-to-government situations. The Commission is expected to publish the Data Act on 1 December 2021.

Data Governance Act

Council

In the Council, some Member States, namely Austria, Denmark, Finland and the Netherlands, [complained](#) about the “burdensome” privacy safeguards planned in the proposal of the Data Governance Act (DGA). The countries are against enhancing privacy safeguards due to a fear of increased administrative workload that would impede data sharing. The countries propose to make any organisations buying and re-using data from a European public body regularly verify if individuals can be re-identified in the data. They stated, “we consider the requirement for re-users to assess the risk of re-identification on an ongoing basis as quite burdensome [...] Furthermore, it is unclear to us what is meant by risks of re-identification of anonymized data. If such risks exist, the data is considered personal data regulated by the GDPR and relevant national regulation. This notion should thus be clarified or omitted.” The Council is expecting to finalise its position by September.

On 22 June, the Portuguese Presidency of the EU Council [presented](#) its compromise text on the DGA. In particular, the text highlights that the DGA does not affect other EU and national rules on access to and disclosure of public documents. Moreover, it clarifies the relationship between the DGA and the GDPR and adds references to national law ensuring that the laws in force in the Member States can override what the data governance provision provides in case of conflict. The text also states that entities on the register of data altruism organisations (the provision of data without remuneration, for strictly non-commercial use and for the benefit of the community) and stakeholders should “be encouraged to develop self-regulatory codes of conduct at EU level”. According to the compromise text, the European Commission would verify whether adherence to the codes of conduct should become a prerequisite for the entry of these organisations in the register. Finally, the text provides that these entities are required to notify the competent authority of any breach of the rules after correction and these authorities must notify the Commission.

European Parliament

On 16 July, ITRE Committee [adopted](#) the draft report on the DGA after agreeing on the [compromise amendments](#). “The vision is a ‘Schengen for data’, in which data can circulate without barriers and in accordance with European rules,” said the Rapporteur MEP Angelika Niebler (Germany, EPP). “I am very pleased with this result because I am convinced that the EP position turns the DGA from a somewhat confusing mix of soft policy tools into an effective and visionary law, which would fundamentally shape future markets for data sharing in the European Union,” said the Shadow Rapporteur MEP Damian Boeselager (Germany, Greens/EFA). The Parliament would vote on the text in September.

After publishing its [draft report](#) on 24 June, the IMCO Committee reached an informal agreement on its Opinion on the DGA, aimed to promote data sharing within the EU. MEPs agreed to enhance the

role of the data innovation board, which would assist and advise the European Commission in the data strategy. In particular, MEPs called for a gender balanced board with subgroups in charge of establishing guidelines for data spaces (exchanges where companies in a similar sector can share, buy and sell data). In this regard, MEP Miapetra Kumpula-Natri (Finland, S&D) added amendments to regulate data spaces, which were not addressed by the Commission’s proposal. Moreover, MEPs submitted amendments to sharpen rules for data brokers, to prevent tech giants from entering in the market, and to introduce safeguards to prevent insurance companies to access public health data and discriminate consumers.

The LIBE Committee under its Rapporteur Sergey Lagondisky (Germany, Greens/EFA) has exclusive competence over the DGA, which is part of the data legislation that is related to the GDPR. On 28 June, the MEPs in the LIBE Committee [voted](#) on their draft opinion for the DGA, which would ensure that data that can identify people when combined with other datasets should fall under the GDPR. The tightening of the data protection is in line with the European Data Protection Board’s warning that the DGA should not create a “parallel set of rules” that could threaten people’s privacy. In this regard, MEP Angelika Niebler (Germany, EPP), who is the lead on the file, argued that while the GDPR was to be respected, the DGA was not “primarily a data protection tool but also a regulation that should make it easier, not harder, to share data in the Union.” The [JURI](#) Committee also published their draft opinion on the DGA.

<p>Status: Proposal for the Data Governance Act published on 25 November. Ongoing public consultation on the Data Act.</p>	<p>Next steps: Monitor developments</p>
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TIMETABLE		
Date	Event	Ecommerce Europe activities
3 September 2021	Deadline public consultation Data Act	Collect feedback members, submit consultation reply.
27 October 2021	Supervisory Data Strategy	
1 December 2021	Publication of Data Act Proposal	

E-REGULATIONS: FAIR TAXATION OF THE DIGITAL ECONOMY

UPDATE

Latest developments on the Global Digital Tax Deal

OECD

On Saturday 10 July, in Venice, the G20 [agreed](#) on the plan for a global tax reform, negotiated by the Organization of Economic Cooperation and Development (OECD). The deal is a two-pillar solution. Pillar One aims to ensure a fairer distribution of profits and taxing rights among countries with respect to the largest MNEs, including digital companies. It would re-allocate some taxing rights over MNEs from their home countries to the markets where they have business activities and earn profits, regardless of whether firms have a physical presence there. Pillar Two seeks to introduce a global minimum corporate tax rate of 15% which countries can use to protect their tax bases. Earlier on 1 July, OECD/G20 Base Erosion and Profit Shifting Project agreed to the [deal](#) and 130 countries signed the global tax agreement. The countries set the deadline for finalising the remaining technical details on the two-pillar approach in October 2021 and a plan for the effective implementation of the package in 2023.

European Union

The European Commissioner for Economy, Paolo Gentiloni, welcomed the deal and showed optimism on reaching the consensus among all Member States. However, countries like Hungary, Estonia and Ireland, oppose the deal, in particular, the corporate tax rate. The fragmentation in the Council could potentially cause difficulties for the EU policymakers as tax proposals can be approved only unanimously. Ahead of the G20 meeting, Ecommerce Europe published a [press release](#) strongly advocating for a global tax reform deal.

Member States

On 6 July, the French Finance Minister, Bruno Le Maire, revealed that France is willing to withdraw its digital tax on tech giants as soon as a new global taxation deal is in force. He claimed to be “prepared to make a formal, legally binding, commitment in the draft budget law to indicate to our American friends that the day the OECD tax is implemented, the national tax ... disappears.” This pledge follows the US claim that in exchange for the global tax deal, it expects European countries to withdraw any individual digital tax initiatives.

In July, ECIPE [published](#) the policy brief “Taxing Digital Services – Compensating for the Loss of Competitiveness”. The article analyses the reasons why the Digital Services Tax (DST) has been implemented in some European countries (Austria, France, Italy, Spain, and the UK) but not in others. The findings highlight that those countries which implemented the DST suffer from a loss of competitiveness in digital services compared to the others, which are more dynamic and globalised. Therefore, the brief argues that “it is important that the discussion about the DST starts from a better understanding of how such a tax relates to underlying patterns of digital service performance.”

United States

In the US, Democratic and Republican politicians are also arguing over whether to approve the global pact, whereby the Republicans fear that the deal would undermine the US economy and “strips away” the US tax base. To approve and implement the deal, US President Joe Biden would need bipartisan support on the Congress and two-thirds of the Senate, which is evenly divided with the vice-president holding the tie-breaking vote.

EU Digital Levy

European Commission

The European Commission decided to postpone the publication of the EU digital levy proposal to October 2021 and it confirmed that it would prioritise the finalisation of the global tax deal under the OECD before reassessing its digital levy in the fall. According to EU officials informed about the plans, the proposal would include a digital levy of 0.3% for any company in the EU that collects €50 million in sales a year and it would apply to online sales of goods and services. Currently, it is unclear if and when the EU digital levy proposal would be presented, as it is not specifically mentioned in the Commission's [agenda](#) for the rest of 2021. Moreover, it appears the Commission is reassessing which levies it will ultimately propose to fund the recovery instrument. According to insights from a nonpaper sent to EU diplomats, the US government argues that "the EU Digital Levy, even if different from previous digital services taxes, threatens the work undertaken via the OECD/G20 process."

Ahead of the announced delay, Ecommerce Europe published a [press release](#) urging the Commission to postpone the levy. Following the announcement, Ecommerce Europe issued a [statement](#) applauding the Commission for its decision to focus on the global tax reform at this stage.

European Parliament

Following the postponement of the EU digital levy, the European Parliament's President, David Sassoli, urged Commission President Ursula von der Leyen in a [letter](#) to follow up on her promise to propose "in the coming days" new EU-wide taxes known as "own resources" levies. In particular, Sassoli stressed that the Commission undertook "legal commitments" to the Parliament and EU countries to propose the trio of new taxes "by June 2021."

Impact	Please refer to the extensive study published by Copenhagen Economics .
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Status: OECD/G20 Agreement on global tax reform, EU digital levy proposal postponed	Next steps: Discussions on implementation OECD deal and awaiting EU proposal.
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TIMETABLE

Date	Event	Ecommerce Europe lobbying activities
		Ongoing outreach on the basis of adopted position paper
Planned for Q3/Q4 2021	OECD discussions on implementation global tax deal Commission digital levy proposal	Follow developments

STRATEGY OF ECOMMERCE EUROPE

Lobbying goals	Ecommerce Europe strongly lobbied against the introduction the proposed Digital Services Tax in 2018, as it would have impacted in a negative way European SMEs and put European businesses in a position of competitive disadvantage compared to non-EU businesses. Ecommerce Europe has the same concerns regarding the potential plans of the Commission to introduce a new EU digital levy. Since the taxation of the digital economy is a global issue, Ecommerce Europe keeps
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advocating for a global solution and has engaged with the OECD accordingly. Ecommerce Europe's position paper on the EU digital levy is available [here](#).

E-REGULATIONS: BETTER ENFORCEMENT AND MODERNISATION OF EU CONSUMER PROTECTION RULES

UPDATE

Ecommerce Europe's additional feedback on DG JUST's Omnibus guidance

Ecommerce Europe has been in contact with its e-Regulations Working Committee to gather additional feedback on the European Commission's DG JUST draft guidance documents on the Unfair Commercial Practices Directive, Consumer Rights Directive and Price Indication Directive as amended by the so-called Omnibus Directive. As the original deadline for feedback imposed by the Commission was very short and the documents very extensive, we agreed with the Commission that we would send further comments even after the original deadline of 30 June. Ecommerce Europe's additional feedback on the Omnibus guidance documents can be found [here](#). The previous document that sent to DG JUST can be found [here](#).

Impact	The Directive basically fails in reducing legal fragmentation across the EU, one of the biggest barriers to cross-border e-commerce. Moreover, it introduces new burdensome obligations for businesses.
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Status: Completed. On 18 December, the directive was published in the Official Journal of the EU	Next steps: From adoption, member states have 24 months to adopt the measures necessary for its implementation. These measures will start to apply 6 months later. The Commission is expected to come with guidance open for consultation in summer 2021.
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TIMETABLE

(TBC DUE TO CORONAVIRUS OUTBREAK)

Date	Event	Ecommerce Europe activities
Tbc	Second Commission's transposition meeting for Member States	Monitor / advocate for EE position on price reductions

E-REGULATIONS: COLLECTIVE REPRESENTATIVE ACTIONS

UPDATE

No relevant updates this month.

Impact	The proposal for a Directive on representative actions for the protection of the collective interests of consumers is supposed to repeal the Injunctions Directive 2009/22/EC. The Commission's aim is to improve tools for stopping illegal practices and facilitating redress for consumers where many of them are victims of the same infringement of their rights, in a mass harm situation.
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Status: Published in the Official Journal of the EU	Next steps:
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TIMETABLE

Date	Event	Ecommerce Europe activities
-	-	-

E-REGULATIONS: PLATFORM-TO-BUSINESS RELATIONS

UPDATE

No relevant update this month.

Impact	Promoting fairness and transparency for business users of online intermediation services and online search engines.
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Status: Published in the Official Journal of the EU. Applies from 12 July 2020	Next steps:
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TIMETABLE

(TBC DUE TO CORONAVIRUS OUTBREAK)

Date	Event	Ecommerce Europe activities
-	-	-

E-REGULATIONS: GEO-BLOCKING

UPDATE

No relevant update this month.

Impact	Abolishing discrimination based on nationality or place of residence of consumers.
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Status: Procedure completed.	Next steps:
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TIMETABLE

(TBC DUE TO CORONAVIRUS OUTBREAK)

Date	Event	Ecommerce Europe activities
-	-	-

STRATEGY OF ECOMMERCE EUROPE

Lobbying goals	Continue gathering feedback from e-merchants in relation to difficulties in the implementation of the Geo-blocking Regulation before and after 3 December 2018, report back to the European Commission.
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SUSTAINABILITY: SUSTAINABLE PRODUCT, CONSUMPTION, AND PACKAGING

UPDATE

EC continue works on Digital Product Passport

At the occasion of a webinar on 29 June 2021, the European Commission mentioned a few additional details on their plans for a DPP:

- Use Cases: Clear business cases exist; business prepared to provide data if well justified; gradual and targeted deployment; build on existing data and databases (no duplication); science-based, comparable, clear data; should include static and dynamic data where useful.
- Governance: Open (non-proprietary) and global standard (ISO etc) should be used to ensure interoperability, comparability etc. ; European Commission should set up and manage DPP.
- Technologies: System should be decentralised (“distributed”). Need to ensure public data does not compromise confidentiality. Blockchain is one of several relevant technologies.
- Data Access: Need balance of open access & confidentiality. need to define responsibility for data input and accuracy; changes of ownership & bankruptcy; compliance monitoring; need for neutral management

Concerning the selection of data that would populate the DPP, the European Commission mentioned exploring the following options:

- A plausible option could be to define the « classes of attributes » in the horizontal legislation, empowering the Commission to identify the specific attributes at product group level - in close collaboration with the relevant stakeholders – when drafting the secondary legislation.
- Depending on the product groups, the attributes could refer to the specific product (in that case serialisation will be needed) or at the model.
- Data on social impacts, if relevant and appropriate, may be provided at corporate/manufacturing site level.
- Data already provided will be re-used whenever possible. New data will be required only if necessary to achieve SPI objectives.
- Verification will be needed to ensure compliance.

The Commission is currently discussing the content of the DPP as well, and presented during the workshop and informal list of information that could be considered in the discussions:

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|---|---|
| <ul style="list-style-type: none"> • Name of the model • Producer • Size, color, picture of the model • Location manufacturing plant • Origin raw materials • Environmental impact indicators (PEF profile if calculated) • Circularity indicators | <ul style="list-style-type: none"> • Social indicators/ due diligence compliance • Chemical content • Recycled content • Recycling/Use/ Dimantability instructions • Other labels & green claims |
|---|---|

National initiatives

E-commerce companies signed green commitment with French government

On 28 July, a group of e-commerce companies signed a charter with the French government committing to reduce their environmental footprint. In particular, they pledge to reduce the volume of

packaging for at least 75% of their products by 2024. In addition, they commit to only use reusable, recycled or recyclable packaging. Moreover, by 2023, they pledged to better inform consumers about the link between greenhouse gas emissions and deliveries to highlight the lowest environmental footprint, as well as “systematically group together the shipment of products ordered at the same time by the same consumer.” The group also aims to promote good practices by encouraging buyers to reduce returns.

Impact	To be defined.	
Status: Awaiting proposals	Next steps: -	
TIMETABLE		
Date	Event	Ecommerce Europe activities
14 December 2021	Proposal on Empowering consumers in the green transition	Outreach to EU decision-makers ahead of publication
14 December 2021	Proposal on Substantiating green claims	Outreach to EU decision-makers ahead of publication
14 December 2021	Proposal on Sustainability Product Initiative	Outreach to EU decision-makers ahead of publication
Q4 2021 (tbd)	Proposal on Reducing packaging waste	Outreach to EU decision-makers ahead of publication/ contribution to impact assessment study
STRATEGY OF ECOMMERCE EUROPE		
Lobbying goals	To be defined	

SUSTAINABILITY: SUSTAINABLE CORPORATE GOVERNANCE

UPDATE

Publication Sustainable corporate governance proposal expected in October

The European Commission is expected to [publish](#) its proposal for sustainable corporate governance on 27 October. The proposal, which Vice-President Věra Jourová will present, is likely to include new due diligence rules to curb environmental and labour abuses in corporate supply chains as well as new corporate directors' duties to integrate mandatory sustainability criteria into their decision-making. The proposal was supposed to come out in June, but the Commission pushed back the publication because its internal auditors — the Regulatory Scrutiny Board — gave the future law's impact assessment a red light.

Impact	To be defined.
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Status: Awaiting proposal	Next steps: -
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TIMETABLE

Date	Event	Ecommerce Europe activities
27 October 2021	Proposal on sustainable corporate governance	

STRATEGY OF ECOMMERCE EUROPE

Lobbying goals	To be defined.
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SUSTAINABILITY: CLIMATE ACTION, TRANSPORT AND MOBILITY

UPDATE

Ecommerce Europe published a report on the Fit for 55 Package

On 14 July, the European Commission adopted its [Fit for 55 Package](#), a set of proposals to make the EU's climate, energy, land use, transport and taxation policies fit for reducing net greenhouse gas emissions by at least 55% by 2030, compared to 1990 levels and for being the first climate neutral continent by 2050. Ecommerce Europe published its [report](#) providing a high-level summary of (most of) the Fit for 55 Package.

Commission welcomes feedback on proposal CO2 emissions for cars and vans

On 15 July, the European Commission opened the [feedback period](#) on the Commission's [proposal for a Regulation](#) on CO2 Emissions for Cars and Vans in view of a Revision of Performance Standards. Stakeholders can submit feedback on the proposed incentive scheme for zero- and low-emission vehicles and the design elements of the regulatory system to possibly take into account contributions of renewable and low carbon fuels. The Commission allows for feedback until 20 September. The input to the proposed legislation will feed into the Parliament and Council's debate.

European Commission publishes public consultation on sustainable transport

The European Commission has published a new public consultation on [sustainable transport – new urban mobility framework](#). The aim of the consultation is to hear stakeholders' views on how to best address transport pollution and congestion, and draw lessons from COVID-19's effect on public transport to help with the transition to a climate-neutral economy and emission-free transport at local level. The consultation's responses will feed into a legislative initiative that the Commission will publish in Q3 2021. The consultation is open until 23 September 2021. All members of Ecommerce Europe are invited to reply to the consultation individually.

National initiatives

French parliament adopts new climate bill

On 20 July, the French parliament signed off on the new [climate law](#) aimed at cutting down CO2 emissions by 40% by 2030. The National Assembly voted in favour of the bill with 233 in favour and 35 against. The Senate adopted the legislation earlier in the day. The law would require large cities to create low-emission zones to curb air pollution and ban the sale of the most polluting vehicles from 2030. It also places a prohibition on the advertising of fossil fuels and sets up a mandatory system for companies to display the environmental impact of goods and services as of 2025. Furthermore, it creates a new offense of ecocide to punish the worst environmental damages, a ban on the leasing of the least energy-efficient homes from 2028 and a plan to tax nitrogen fertilizers from 2025 if no similar EU mechanism is put in place beforehand.

Impact	To be defined.	
Status: -	Next steps: -	
TIMETABLE		
Date	Event	Ecommerce Europe activities

STRATEGY OF ECOMMERCE EUROPE	
Lobbying goals	To be defined.

DIGITAL TRANSACTIONS: CONSUMER CREDIT DIRECTIVE

UPDATE

European Commission publishes revision of Consumer Credit Directive

On 30 June, the European Commission published a new [proposal](#) for a Directive on consumer credits repealing and replacing the existing Consumer Credit Directive (2008/48/EC).

With the proposal, the Commission aims to increase consumer protection for consumer credits. The Commission recognises that consumer credits help consumers finance all sorts of projects and goods. However, it argues that digitalisation has changed the lending sector, and that consequently, new ways of disclosing information digitally and of assessing the creditworthiness of consumers using automated decision-making systems and non-traditional data need to be addressed. Moreover, the Commission also finds that the COVID-19 crisis and the resulting confinement measures have also disrupted the EU economy and had a major impact on the credit market and consumers, making many EU households more financially vulnerable.

To address this, the Commission announced a review of the Consumer Credit Directive in its Work Programme for 2020. Concretely, the revised rules aim to broaden the scope of products that will have to comply with stricter lending obligations. This includes small loans below €200, loans offered through crowd-lending platforms (online financing that connects people willing to loan money to others) and 'buy-now-pay-later' products increasingly offered to consumers online. To avoid over-indebtedness, the Directive will also amend the rules with which creditworthiness of consumers is assessed.

The European Commission is revising the existing EU rules on consumer credit to:

1. Expand the scope of current rules. Several credit agreements that did previously not fall within the scope of the Directive, will no longer be excluded. The Commission identifies these credit agreements as potentially detrimental due to high costs or high fees in case of missed payments. This includes:
 - Consumer credit agreements below the amount of EUR 200;
 - Leasing agreements;
 - Crowdlending platforms;
 - Credit agreements in the form of an overdraft facility and where the credit has to be repaid within one month;
 - **Credit agreements where the credit is granted free of interest and without any other charges, including Buy Now Pay Later schemes, i.e. new digital financial tools that let consumers make purchases and pay them off over time;**
 - Credit agreements under the terms of which the credit has to be repaid within three months and only insignificant charges are payable;
 - All credit agreement up until EUR 100.000 (increased from EUR 75.000)
2. Adapt information requirements to make sure they cater for digital devices.
3. Make information related to credit offers clearer and avoid information overload for consumers.
4. Address practices that are seen to be exploiting consumer behaviour:
 - A ban on tying practices: as a general rule, tying practices will not be allowed unless the financial service or product offered together with the credit agreement or crowdfunding credit services could not be offered separately as it is a fully integrated part of the credit, for example in the event of an overdraft facility. While creditors or providers of crowdfunding credit services should be able to require the consumer to have a relevant insurance policy in order to guarantee repayment of the credit or to insure the value of the security, the consumer should have the opportunity to choose his or her own insurance provider.

- Pre-ticked boxes cannot be considered an agreement. Ancillary services have to be presented in a transparency and clear manner and consumers' agreement to such services needs to be a clear affirmative act establishing a freely given, specific, informed and unambiguous indication of the consumer's approval. In this context, silence, pre-ticked boxes or inactivity should not constitute agreement.
 - A ban on unsolicited sale of credit, including non-requested pre-approved credit cards sent to the consumers, or the unilateral increase of a consumers' overdraft or credit card limit.
- 5. Improve rules on the assessment of consumer creditworthiness: creditors or providers of crowdfunding credit services are responsible for checking individually the creditworthiness of the consumer. Member States can issue additional guidance on additional criteria and methods to assess a consumer's creditworthiness, for example by setting limits on loan-to-value or loan-to-income ratios. Credits can only be available if the creditworthiness assessment is positive.**
- AI systems used for creditworthiness assessments are classified as high-risk AI systems.
 - If assessments involve profiling or automated processing of personal data, consumers will have a right to demand human intervention and to contest the decision.
6. Cap interest rates and/or the total cost of the credit to the consumer, similar to practices already present in several Member States.
7. Support consumers who experience financial difficulties through forbearance measures and debt advice services.
- For instance, extending the term of the credit agreement; changing the type of the credit agreement; deferring payment of all or part of the instalment repayment for a period; changing the interest rate; offering a payment holiday; partial repayments; currency conversion; and partial forgiveness and debt consolidation.
8. Introduce requirements for businesses to put consumers' needs first and act ethically while ensuring that their staff have appropriate knowledge and competence on credit.
9. Ask Member States to promote financial education and to ensure debt advice is made available to consumers.

European Parliament

On 13 July, in the IMCO Committee, Justice Commissioner Didier Reynders presented the proposal on the revision of the CCD. The proposal extends the scope of the current CCD to cover a wider range of products, which - in the view of the Commission - are potentially risky for consumers, and aims to reduce the amount of information in advertising. In addition, the proposal focuses on the pre-contractual information offered to consumers, improves the rules with which creditworthiness is assessed and asks Member States to promote financial education and to ensure that debt advice is made available to consumers. The video of the meeting is available [here](#).

EP IMCO Committee appointed as lead on Consumer credits

On 14 July, MEP Katerina Konecna (Czechia, GUE/NGL) has been [appointed](#) as Rapporteur for the EP IMCO Committee for the negotiation on the revision of the Consumer credit Directive. The EP ECON Committee will be Committee for Opinion.

Impact

Considering the growth of Buy Now Pay Later solutions in e-commerce, these new rules might have an impact on certain merchants providing these services, or their service providers.

Credit worthiness assessment provisions could also impact merchants offering payment facilities or small loans. If AI systems are used for creditworthiness

assessments, they will be classified as high-risk AI systems – and therefore will be further regulated.

Status: Proposal published

Next steps: Awaiting discussions in European Parliament and Council

TIMETABLE

Date	Event	Ecommerce Europe lobbying activities
		Drafting position paper

STRATEGY OF ECOMMERCE EUROPE

Lobbying goals

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DIGITAL TRANSACTIONS: PAYMENT SERVICES DIRECTIVE II / RTS ON STRONG CUSTOMER AUTHENTICATION

UPDATE

New CMSPI data on SCA implementation

CMSPI [published](#) its economic impact assessment on the Strong Customer Authentication (SCA). The report for the month of June highlights a European average failure rate of 25%, which is the result of “continuing fundamental issues occurring within the payments supply chain.” Hence, the data shows the significant issue faced by merchants and consumers with regard to SCA. As most of the European countries reached their deadline for enforcing smaller value transactions, “retailers will likely start seeing the impact of this failure on sales” and merchants would risk losing a considerable number of sales due to failed transactions.

Impact	A review of the existing Payment Services Directive: The new rules form part of the European Commission’s broader aim to promote a single European Payments Area (SEPA) and will seek to create a more competitive payments card market that reflects the explosion in the use of online and mobile payments.
Status: The Directive and the Regulatory Technical Standards on Strong Customer Authentication have been officially published in the Official Journal of the European Union.	Next steps:

TIMETABLE

Date	Event	Ecommerce Europe activities

STRATEGY OF ECOMMERCE EUROPE

Lobbying goals	<p>For online merchants, successful and interoperable e-payment innovations pay attention to three basic principles: reach, conversion, and cost. Too strong securitization and too high authentication requirements only pay attention to the risk for the banks and are detrimental to the merchant’s reach and conversion.</p> <p>Ecommerce Europe fully supports the PSD2 and its aim to improve the security of online payment services, open the online payments landscape up to new innovative solutions and reduce online fraud. However, Ecommerce Europe is voicing its concerns at the lack of harmonisation in the implementation of the RTS.</p>
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DIGITAL TRANSACTIONS: INTERCHANGE FEES REGULATION

UPDATE

No relevant update this month.

Impact	The IFR's objective was to ensure more transparency and lower retail costs. There is evidence that the objective of the IFR have not entirely been reached.
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Status: Expecting publication of Implementation report	Next steps: Publication of Ecommerce Europe's position paper
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TIMETABLE

Date	Event	Ecommerce Europe lobbying activities
-	-	Outreach to decision-makers with Payment Priority Paper

STRATEGY OF ECOMMERCE EUROPE

Lobbying goals	Work with other retail organisations to push the European Commission to investigate the evolution of the payment market since the entry into force of the IFR, notably the evolution of scheme fees, to ensure more transparency and fairer prices.
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DIGITAL TRANSACTIONS: EU RETAIL PAYMENT STRATEGY / INSTANT PAYMENT

UPDATE

ECB to launch digital euro experiment

On 14 July, the European Central Bank (ECB) [announced](#) that it would launch an investigation phase of a digital euro project lasting 24 months. The decision follows the experimentation [work](#) done by the ECB and the national central banks started in September 2020. The findings show that a digital euro infrastructure would be environmentally friendly and that there are not major technological restrictions.

The investigation aims to examine the design of the digital currency to minimize financial crime and to assess its potential impact on the EU market, banks, financial stability, and monetary policy. It would also define a business model for supervised intermediaries within the digital euro ecosystem and address the potential changes to the EU legislative framework.

European Payments Initiative launched survey on a new and robust European payment scheme

Upon request of the European Commission and its shareholders, the European Payments Initiative (EPI) launched a [survey](#) targeting merchants from some specific countries to gather information about their expectations and requirements to create a new and robust European payment scheme. In this regard, EPI asks merchants to provide feedback to obtain a comprehensive overview about the various important aspects in payments that are important and the potential issues. The deadline to fill in the survey was Thursday 22 July.

Impact	The development of pan-European instant payment solutions is key to foster cross-border e-commerce and competition between payment solutions in the EU. The European Union and groups such as the Euro Retail Payment Board are currently identifying obstacles and engaging in a broad discussion on necessary next steps.
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Status: The European Commission has recently closed a public consultation on Instant payment and will possibly address some regulatory shortcomings through the revision of PSD2 in Q4	Next steps: Ecommerce Europe is monitoring the regulatory and business development in the field of instant payment. Ecommerce Europe is also endorsing and contributing to the development of the business initiative “European Payment Layer”.
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TIMETABLE

Date	Event	Ecommerce Europe lobbying activities
Q4 2021	Revision of the PSD2	Outreach to decision-makers with Payment Priority Paper

STRATEGY OF ECOMMERCE EUROPE

Lobbying goals	Contribute to the discussion on key requirements for the development of pan-European instant payment solutions that fit the need of merchants and consumers in the EU.
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DIGITAL TRANSACTIONS: EUROPEAN DIGITAL IDENTITY

UPDATE

European Commission’s proposal for a European Digital Identity

The European Commission published its awaited [proposal for a Regulation on establishing a framework for a European Digital Identity](#). This proposal has the ambition to address some of the shortcomings of the eIDAS Regulation and set the right conditions for a clear uptake of digital identity in the EU. The objective is indeed to create the right framework to ensure access to highly secure and trustworthy electronic identity solutions that could be leveraged by private and public services.

In its proposal, the European Commission insists early on the need to support the shift between previous use of “rigid digital identities” to the “provision and reliance on specific attributes related to these identities”. This also fits into the ambition to provide individuals with more control over their digital identities and, for example, allow users to limit the sharing of identity data to what is necessary for the provision of a service.

Digital identity will still be issued by national authorities, based on common standards to ensure seamless interoperability across borders.

The objective for the European Commission is twofold: ensuring rapid and maximum coverage (the ambition being 80% of Europeans able to access key public services digitally by 2030), but also expanding the scope of solutions and use-cases proposed for digital identity and trust services.

Digital identity offers new opportunities to facilitate identification and secure transactions online. To ensure its uptake, the European Commission specifies that “private relying parties” providing services in the areas of transport, energy, banking and financial services, social security, health, drinking water, postal services, digital infrastructure, education or telecommunications should accept the use of European Digital Identity Wallets for the provision of services where strong user authentication for online identification is required. The European Commission also envisaged (pending the evolution of the discussion on the Digital Services Act) to require very large online platforms to propose Digital Identity Wallets as an option for authentication, upon voluntary request of the user.

Finally, the Regulation also proposes a framework for trust services with regards to archiving services, as well as the creation and maintenance of electronic ledgers and qualified electronic ledgers

Impact	Enhance trust in electronic transactions in the internal market and ensure the mutual recognition of electronic identification, authentication, signatures and other trust services across borders. The proposed regulation seeks to enable secure and seamless electronic interactions between businesses, citizens and public authorities, thereby increasing the effectiveness of public and private online services, e-business and electronic commerce in the EU.
Status: The EC has published its proposal on a European Digital Identity on 3 June. The proposal will now be discussed in the European Parliament and the Council.	Next steps:

TIMETABLE

Date	Event	Ecommerce Europe lobbying activities
		Outreach to decision-makers with Payment Priority Paper

STRATEGY OF ECOMMERCE EUROPE

Lobbying goals

Ecommerce Europe advocates a holistic approach to e-identification, authentication and eSignatures for the benefit of both consumers and retailers. A reliable and user-friendly pan-European e-identification mechanism that is business friendly stimulates cross-border trade and is a win-win-win for consumers, retailers, and economic growth.

Specifically on the European Digital Identity Wallets, the scope of “relying parties” and requirements for online merchants should be clarified.

E-LOGISTICS: VALUE ADDED TAX

UPDATE

Updates on VAT E-commerce Package

New VAT rules for e-commerce sales to consumers (B2C) enter into force on 1 July. Ecommerce Europe warmly welcomes such a milestone in the EU efforts to simplify VAT legislation and ensure a level-playing field for the European companies. The most relevant measures of the VAT E-commerce Package are the removal of the existing 'Distance Selling Thresholds' and extension of the VAT One Stop Shop system to e-commerce distance selling, and the removal of the € 22 low-value import VAT exemption and introduction of the Import One Stop Shop (IOSS) system. Marketplaces become the deemed supplier and VAT collector in certain cases. As of 1 April 2021, VAT registration to the One-Stop Shop (OSS) and the parallel Import One-Stop Shop (IOSS) has been possible, but the system has become operational as 1 July 2021. The (I)OSS aims to simplify the VAT obligations for online sellers and electronic interfaces (marketplaces), allowing for electronic VAT registration in just one Member State for all intra-EU distance sales and to declare and pay VAT in a single electronic quarterly return. Furthermore, special provisions and new record keeping requirements are introduced for marketplaces/platforms facilitating the supply of goods.

However, as a consequence of the new changes, some postal operators are likely to introduce new customs handling fees in order to comply with the new responsibilities and duties in clearance and checking of customs. As mentioned by [Walter Trezek](#), the available information on charges is somewhat unclear, with the details given by postal operators in the publicly accessible UPU documents still either not fully updated or not sufficiently precise. Consequently, the e-Logistics Working Committee of Ecommerce Europe has relaunched a survey initiated in May 2021, aiming to shed some light and provide a comprehensive and reliable overview of all the applicable charges, which include dutiable fees, clearance fees and administrative fees. Some postal operators already reacted with clear information and guarantees that they will not apply unneeded handling fees at the expenses of end-users.

Ecommerce Europe's response to UCC consultation

On 19 July, Ecommerce Europe submitted its contribution to the Commission's public consultation on the Union Customs Code (UCC). The consultation aimed to collect the feedback of stakeholders in view of the mid-term evaluation of the UCC, as part of the Customs Union Action Plan published in October 2020. The evaluation will support decisions on whether the UCC and its implementing and delegated acts should be revised. It will in particular consider whether the Code is sufficiently flexible to deal with the management of customs formalities in the light of new business models such as e-commerce and crises like COVID-19. Ecommerce Europe agreed on a response through its e-Logistics Working Committee and highlighted the main issues regarding the needs for updating the UCC, which should also consider the new rules of the VAT E-commerce Package and therefore the changes to customs collection introduced with the Import One-Stop Shop.

Council approves 'buy and donate' VAT exemptions

On 13 July, the Council of the EU has [adopted](#) an amendment to the VAT Directive referred to as the "buy and donate" proposal, which temporarily adds certain goods and services to the list of exempted VAT transactions. The new rules allow the Commission and other EU bodies to make use of the EU budget in a more flexible way and to distribute free-of-charge goods and services to the Member States which needed to combat emergencies such as the COVID-19 pandemic. Therefore, the new exemption will pave the way for more donations to the Member States and their institutions in the context of the COVID-19 public health crisis. However, the exemptions do not apply to purchases for

donations to health authorities or hospitals. Once this emergency situation is over, the applicable VAT rates will be restored.

Commission opens consultation on cross-border tax disputes

As announced in the Fair and Simple Taxation Action Plan, the European Commission has opened a new [consultation on tax disputes for companies](#) in the context of the “[Cooperative Compliance Programme](#)”. The aim of the survey is to collect feedback from companies on their recent experiences with solving tax problems in cross-border situations. The responses aim to increase the capacity of tax administrations to help resolve cross-border tax problems, and refers to corporate income tax but also to VAT, excise duties, transfer pricing, permanent establishment and double taxation conventions. The survey is mostly addressed to companies but can also be filled by associations and experts. The focus is on the role of tax administration – either in the respondent’s country or in other Member States. Deadline for responses is 15 September. Ecommerce Europe’s members are invited to respond individually.

Impact	The European Commission's action plan set out the pathway to the creation of a single EU VAT area. A VAT area that can support a deeper and fairer single market, and help to boost jobs, growth, investment and competitiveness. A VAT area that is fit for purpose in the 21 st century.
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TIMETABLE

Date	Event	Ecommerce Europe activities
Ongoing	-	Participate in VAT Expert Group on the implementation of the VAT E-commerce Reform
Ongoing	22 September 2021	Monitor implementation of VAT E-commerce Package – also through a tracking system delivered to Ecommerce Europe’s members
01/07/2021	Entry into application of the VAT E-commerce Package	

STRATEGY OF ECOMMERCE EUROPE

Lobbying goals	Ecommerce Europe wants to ensure that the EU VAT E-commerce Reform will be properly transposed and implemented by EU Member States.
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E-LOGISTICS: POSTAL AND PARCEL DELIVERY

UPDATE

ERGP opens targeted consultation on sustainability in the postal sector

The European Regulators Group for Postal Services (ERGP) has opened a targeted consultation on the sustainability in the postal sector, with the aim of gathering stakeholders' feedback on the barriers in the current framework to make operators more sustainable, as well as the measures that could be suitable for a reduction of the emissions in the postal sector. Ecommerce Europe has been contacted by the ERGP and kindly asked to participate in this consultation.

ERGP opens two consultations on Work Plan 2022 and consumers in the postal sector

The ERGP has opened two public consultations on the [draft Work Programme 2022](#) and the [Report on the contractual situation of consumers of postal services](#). The deadline for submitting input to the WP 2022 consultation is 1 October 2021, while the deadline for the Report's consultation is 12 September. Ecommerce Europe will assess both documents and develop a response to the relevant parts of the consultation in cooperation with the e-Logistics Working Committee. All members are also invited to respond to both consultations individually. Feedback to the WP 2022 consultation should be sent to ergp2022@cnmc.es and GROW-ERGP@ec.europa.eu, while feedback to the Report's consultation only to GROW-ERGP@ec.europa.eu.

Impact

The objective of European postal policy is to ensure high-quality universal postal services for consumers and businesses at affordable prices, improve the quality of services, in particular relating to routing times, and establish independent national regulatory authorities that have sufficient resources and are entrusted with postal regulation (oversight, statistics, authorisation, tariff control, accounting, complaints procedures)

Status: The consultation on the evaluation of the Postal Services Directive (PSD) closed on 9 November 2020, obtaining more than 120 responses. Results to the PSD consultation will be published in Q2 2021.

Next steps: Publication of the PSD Evaluation in Q2 2021

TIMETABLE

Date	Event	Ecommerce Europe lobbying activities
Ongoing	-	Monitor evaluation of the current PSD framework
Ongoing	-	Continue activities within UPU
Ongoing	-	Continue activities in standardisation + Electronic Advanced Data (EAD)

STRATEGY OF ECOMMERCE EUROPE

Lobbying goals

Ecommerce Europe and its members stand ready to support EU policymakers in their work to ensure that the Postal Services Directive and the surrounding regulatory framework will be fit for the current and future challenges of the digital commerce sector.

As for the Cross-border Parcel Delivery Regulation, Ecommerce Europe wants to gather feedback from members on issues related to the implementation of the provision included in the Regulation and prepare a report to send to the European Commission. Ecommerce Europe will update its Manifesto for a better parcel delivery market in Europe to reflect the changes happened in this sector at EU and global level (*i.e.*, UPU remuneration system, standardisation in VAT and customs, etc.). Ecommerce Europe also wants to bring again to the attention of the stakeholders the work done on the harmonised label for parcels, with a focus on finding pilots.
