

Bulgaria enacts EU directives on regulated consumer digital environment

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On 4 March 2021, the Bulgarian parliament adopted the Act on the Supply of Digital Content and Digital Services and the Sale of Goods, which implements the provisions of Directive (EU) 2019/770 on contracts for the supply of digital content and digital services, and Directive (EU) 2019/771 on the sales of goods.

Digital strategy for the future

The new rules mark a step forward in the EU's digital transformation strategy whose goal is to ease e-commerce practices by harmonising contractual rules among EU member states. This is expected to raise trust with consumers and traders in the digital environment. Traders will be more willing to expand their businesses online, and consumers will be guaranteed better protection of their rights. The EU hopes to expand the digital single market by increasing the share of online sales and promoting digital products.

Under the new Act, the following common contractual rules have been amended to reflect the digital realm of the single market:

Conformity

The provisions of the Act divide the requirements for contract conformity into objective and subjective ones. Consumers will be able to opt out of objective requirements for conformity only if they are aware of the deviation in advance. To some degree, this raises the standards of conformity for the contract. Categorising requirements will make it easier to resolve any follow-up disputes.

In case of non-conformity by the trader, consumers will have the right to require digital content or services to be in conformity. After an attempt is made, consumers may request a price reduction or the immediate termination of the contract. In addition, the Act includes articles on the procedure of consumer complaints in line with the Consumer Protection Cooperation Regulation (EU) 2017/2394.

Consumer remedies

The "reversed burden of proof" is a new concept introduced by European legislators. According to this provision, the burden of proof regarding the conformity of goods, digital content or service lies with the trader. This is another point where consumer protection is prioritised in the new set of rules. However, this rule only applies for two years from the supply of the digital content or service.

Data as a counter-performance

Providing data as a counter-performance provision is still being discussed, and has not yet been detailed in legal practice. According to this provision, a consumer's personal data is accepted in exchange for digital content. This means that providing data in standard counter-performance arrangements is the equivalent of paying for the digital content. Providing personal data for such reasons can be controversial since experts have raised questions about its compliance with the GDPR, evolution of big data, and the right of treating data as a tradable commodity.

For more information on Bulgarian consumer protection laws, call or email your regular CMS contact, or our local CMS expert Ivan Gergov, CMS Sofia.

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KEY CONTACTS



Ivan Gergov

Senior Associate, Sofia

Attorney-at-law





Maria Harizanova

Sofia

Attorney-at-Law

