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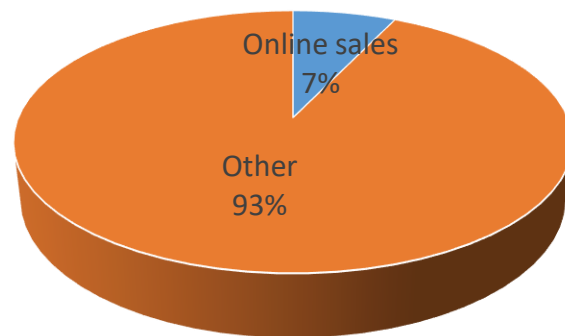
E-commerce: DOs and DON'Ts

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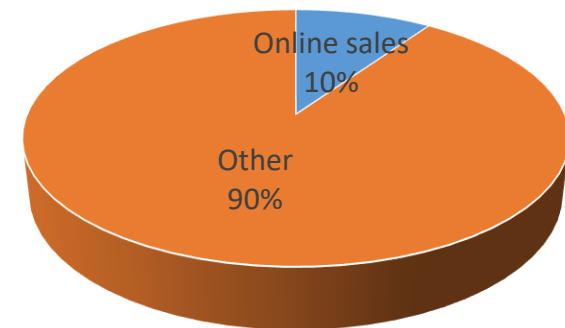
1. Introduction

Total retail sales 2019

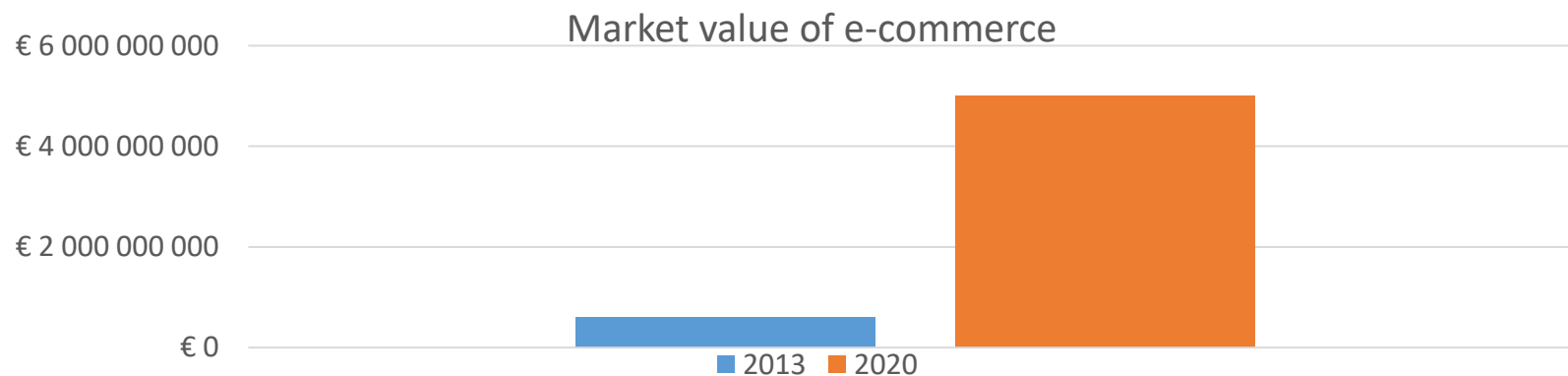


■ Online sales ■ Other ■

Total retail sales 2020



■ Online sales ■ Other ■



2. Main legal aspects to consider

- **Directive 2019/770** concerning contracts for the **supply of digital content and digital services** implemented by Emergency Government Ordinance no. 141/2021 (“**GEO no. 141/2021**”);
- **Directive 2019/771** on contracts for the **sale of goods** implemented by Emergency Government Ordinance no. 140/2021 (“**GEO no. 140/2021**”).

2.1. Rules set forward in the directives

- Subjective requirements for conformity
- Objective requirements for conformity
- Lack of conformity and remedies
- Liability of the seller
- Repair or replacement of the goods
- Termination of the sales contract
- Commercial guarantees

2.2. Rules set forward in GEO no. 140/2021 and GEO no. 141/2021

- Focused mainly on **contractual relationships between merchants and consumers**;
- Main objective: **high level of consumer protection**;
- Applicability:
 - **GEO no. 140/2021** - to sales contracts concluded between sellers and consumers for any category of **movable items**;
 - **GEO no. 141/2021** - to contracts under which the merchant supplies or undertakes to supply the consumer with **digital content or a digital service**.

3. Good practices guide

- The Romanian Association of Online Stores recently published a good practices guide for e-commerce platforms operators;
- Predictability of contractual terms and conditions;
- Creating a system enabling communication with the users;
- Justifying the decisions taken by the platform and access to alternative means of dispute resolution;
- Transparency regarding algorithms;
- Combating improper products.

4. T&C, Privacy Policy, Cookie Policy

- Increasingly necessary for platforms to regulate through their Terms & Conditions (“T&C”) all aspects that would usually be included in the hard copy agreement;
- Creating a privacy policy is the most common way to provide all required data protection information. It should be easily available and visible on the website, in advance of customer personal data being collected;
- If an e-commerce platform uses cookies, it must obtain prior consent. Opt-in for non-necessary cookies is commonly obtained through cookie banners.

5. Personal Data Protection

- General Data Protection Regulation (EU) 2016/679 (“**GDPR**”) entered into force on 25th May 2018.
- Mandatory for e-commerce platforms to implement data protection policies, focusing mainly on:
 - Purpose and legal grounds for the processing;
 - Limitation of purpose, data and storage;
 - Data subject rights;
 - Consent;
 - Personal data breaches;
 - Data Protection Impact Assessment;
 - Data transfers;
 - Data Protection Officer;
 - Awareness and training.

6. Other key aspects

- Language;
- Authorizations and restrictions;
- Financial services provided to customers;
- Relevant authorities:
 - National Authority for Management and Regulation in Communications (“**ANCOM**”);
 - National Authority for Consumer Protection;
 - National Supervisory Authority for the Processing of Personal Data.

7. Conclusions and recommendations

- E-commerce is one of the fastest developing sectors in the Romanian economy;
- Legislation focused on creating a safe space for consumers;
- More regulatory challenges than ever before;
- Implementing policies and measures that would limit the liability of the e-commerce platforms, while also protecting the right of consumers.

Thank you for your attention!

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