



Digital Content

K o n t e n u t
D i g i t a l i

Help and advice
for consumers
in Europe



European Consumer Centre Malta

Co-funded by the
European Union



X'inhu l-Kontenut Diġitali?

It-terminu Kontenut Diġitali jirreferi għall-prodotti aċċessibbli f'forma diġitali, bħal mużika u stampi disponibbli għat-tniżżil jew midja elettronika. Normalment, il-kontenut diġitali hu fornut f'forma li jista' jintmess fiżikament, eżempju diska blu-ray b'film. Izda, il-kontenut diġitali m'għandux format tanġibbli, eżempju meta wieħed iniżżel xi film fuq il-kompjuter jew meta wieħed jixtri xi dar virtwali waqt li qed jilgħab logħba fuq il-mowbajl.

Huwa importanti li wieħed ma jitgerfix il-kontenut diġitali mal-modi ta' kif il-kontenut diġitali jew prodotti u servizzi huma magħżula, mixtrija, furnuti jew tranżmessi. Jekk negozjant ibiegħ il-prodotti tiegħu permezz ta' websajt, l-użu tal-websajt jitqies bħala xiri virtwali mhux kontenut diġitali.

Uħud isostnu li l-kontenut diġitali hu dak kollu li jista' jiġi ppublikat fuq l-internet, inklużi l-blogs. Jekk dan hu minnu, kull darba li persuna taqra xi artiklu jew tisma' l-mużika onlajn, jew saħansitra meta wieħed jippostja fuq Facebook bl-ismartphone, allura wieħed fil-verità jkun qed jaqra, jisma' jew jikrea l-kontenut diġitali.



What is Digital Content?

The term Digital Content refers to products available in a digital form, such as music and images available for download or electronic media. Usually, digital content is supplied in a format that can be physically touched, example a blu-ray disc containing a film. However, digital content does not have a tangible format, example when downloading a film to a computer or buying a virtual house when playing a mobile game.

It is important not to confuse digital content with the ways by which digital content or goods and services are chosen, purchased, supplied or transmitted. If a trader sells products online using a website, the use of the website to sell those products is a virtual shopping place not digital content.

Some argue that digital content is everything that can be published on the internet, including blogs. If this is true, then, this means that every time we read an article on the internet, listen to music or even post a Facebook message with our smart phone, we're actually reading, listening or creating digital content.

X'tgħid il-liġi dwar il-kontenut diġitali?

Fil-preżent m'hemm l-ebda leġislazzjoni speċifika dwar il-kontenut diġitali. Izda, hemm ċertu aspetti regolati minn liġijiet oħra. B'hal pereżempju, fid-Direttiva għad-Drittijiet tal-Konsumatur hemm imnizzel li qabel ma' konsumatur jintrabat b'kuntratt, il-bejjiegh għandu jipprovdi lill-konsumatur b'informazzjoni li hi:

- ċara,
- komprensibbli, u
- hi tal-inqas f'waħda mil-lingwi uffiċjali ta' Malta (bil-Malti jew bl-Ingliż)

Il-bejjiegh irid ukoll jinforma lill-konsumatur dwar kif jaħdem il-prodott, kif ukoll dwar il-miżuri tekniċi tal-protezzjoni applikabbli tal-kontenut diġitali. Il-konsumatur għandu wkoll ikun infurmat jekk il-bejjiegh ikun jaf jew kellu jkun konxju ta' kwalunkwe interoperabilità rilevanti tal-kontenut diġitali marbut ma' hardwer jew softwer.



Digital content and the law

Presently, there is no specific legislation that deals with digital content. However, there are some aspects that are regulated by other laws. For example, the Consumer Rights Directive states that before the consumer is bound by a contract, the trader should provide the consumer with information that is:

- clear,
- comprehensible, and
- is at least in one of the official languages of Malta (Maltese or English)

The trader should also inform the consumer about the functionality of the product, including the applicable technical protection measures of the digital content. The consumer should also be informed if the trader is aware or can reasonably be expected to have been aware of any relevant interoperability of digital content with hardware and software.

Id-Dritt li tħassar kuntratt

Meta konsumatur jixtri prodott b'kuntratt mill-bogħod jew lill-hinn mill-post tan-negożju, dan għandu l-erbatax-il ġurnata cooling off period. Matul dan il-perjodu, il-konsumatur ikun jista' jħassar jew jirritorna l-prodotti mingħajr ma jagħti raġuni għala għamel hekk u mingħajr ma jħallas spejjeż żejda.

Jekk il-bejjieġħ ma joffrix li jiġbor il-prodotti hu stess, il-konsumatur għandu jibgħathom lin-negożjant hu stess mhux iktar tard minn dawk l-erbatax-il ġurnata. Barra minn hekk, il-konsumatur m'għandu jgħorr l-ebda spiża għall-provvista sħiħa jew parzjali ta' kontenut diġitali li mhuwiex fornut b'mezz tangibbli.

F'każijiet fejn il-provvista tal-kontenut diġitali ma tkunx fornuta f'mezz tangibbli u l-prestazzjoni tkun bdiet bil-kunsens u r-rikonoxximent tal-konsumatur, dan tal-aħħar m'għandux id-dritt li jħassar il-kuntratt jew l-ordni.



The right of withdrawal

When a product is bought from a distance or an off premises contract, the consumer has the fourteen days cooling off period, during which s/he can withdraw or return the products without giving any reasons and without incurring any costs.

Unless the trader has offered to collect the goods himself, the consumer shall send back the goods to hand them over to the trader without undue delay and not later than 14 days. Moreover the consumer shall bear no cost for the supply in full or in part of digital content which is not supplied on a tangible medium.

In cases where the supply of digital content is not supplied in a tangible medium and the performance has begun with the consent and acknowledgement of the consumer, the latter does not have the right of withdrawal.

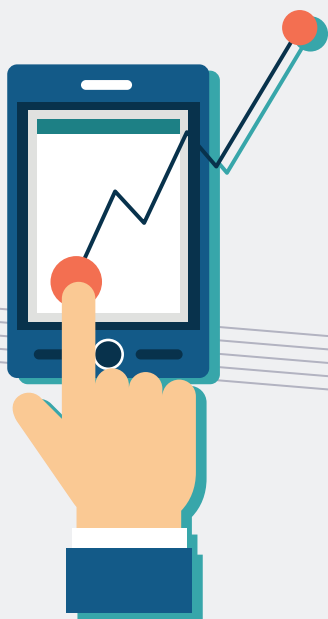
Geoblocking u l-Kontenut Diġitali

It-terminu *Geoblocking* jirreferi għar-restrizzjonijiet li jillimitaw ix-xiri onlajn u l-bejgħ transkonfinali.

Dan il-kunċett jillimita l-possibiltà li l-konsumaturi u l-kummerċjanti jibbenefikaw mill-vantaġġi kollha tal-kummerċ onlajn. Kumpanniji u bejjiegħa onlajn jimponu restrizzjonijiet fuq il-konsumaturi abbażi n-nazzjonalita tagħhom jew skond il-post fejn jgħixu. Eżempji ta' dan huma:

1. Aċċess imblukkatt għall-websajts transkonfinali;
2. Ma jkunx hemm konsenja tal-affarijiet bejn il-fruntieri;
3. Inqas possibiltà li wieħed inizzel ċertu kontenut elettroniku.

Fil-kuntest tal-Kontenut Diġitali, il-bejjiegħa normalment japplikaw ċertu restrizzjonijiet wara li jindunaw li l-indirizz IP tal-konsumatur ikun qed jindika pajjiż li mhuwiex fil-mira tagħhom. Eżempju konsumatur jista' jkun ristrett fuq il-



Geoblocking and Digital Content

Geoblocking refers to the restrictions which undermine online shopping and cross-border sales.

This concept limits the possibility for consumers and businesses to benefit from the advantages of online commerce. Companies and online retailers apply barriers to consumers on the basis of their nationality or place of residence. Some examples of this would be:

1. blocking access to websites across borders;
2. denying delivery or shipment across border;
3. denying the possibility to download certain content.

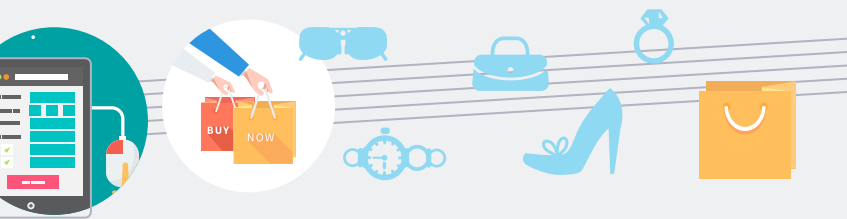
The traders might have justified reasons not to sell cross border (e.g they would need to register at the tax authority, expensive shipping rates etc.)

limitu t'affarijiet li jista' jnizzel jew x'files jista' jtella' minħabba l-indirizz tal-IP.

Il-Kummissjoni Ewropeja ħolqot l-Istrateġija tas-Suq Uniku Diġitali sabiex tipprevjeni *geoblocking* li mhuwiex ġustifikat. Saret ukoll proposta leġislattiva wara li ġie evalwat ir-rispons tal-konsultazzjoni pubblika li saret fl-2015. Ir-Regolament propost jindirizza l-problema tal-konsumaturi meta ma jkunux jistgħu jixtru prodotti u servizzi mingħand kummerċjanti li jinsabu fi Stat Membru differenti, jew li jkunu diskriminati fi prezzijiet jew kundizzjonijiet tal-bejgħ sempliċiment għax jgħixu f'pajjiż ieħor.

Regoli proposti sabiex jitneħħa l-Geoblocking

Ir-Regoli proposti jinkludu ċertu sitwazzjonijiet fejn ma jista' jkun hemm l-ebda raġuni ġustifikata għall-*geoblocking* jew diskriminazzjonijiet oħra ta' nazzjonalità jew post. Eżempji ta' sitwazzjonijiet hekk jinkludu:



In the context of Digital Content restrictions may be applied by traders following that it is noticed that a consumer's IP address points to a country outside the trader's business target. For example a consumer may be restricted on the download limit or file sharing due to his IP address.

The European Commission created the Digital Single Market Strategy in order to prevent unjustified geoblocking. A legislative proposal was made after assessing the responses from a public consultation held in 2015. The proposed regulation tackles the problem of consumers not being able to buy goods and services from traders located in a different Member State, or being discriminated in prices or sales conditions just because they live in another country.

Proposed rules to remove Geoblocking

Since half of the Europeans access the internet with their mobile devices, they want and expect to have access to content while on the move in other EU countries.

- Meta l-kummerċjant ibiġh prodotti li huma kkonsenjati fi stat membru li fih joffri kunsinna jew jingabru minn post miftiehem mal-klijenti;
- Meta konsumatur jixtri servizz li huwa mwassal b'mod elettroniku, bħal cloud services, data warehousing, website hosting;
- Meta konsumatur jixtri servizz li hu fornut fejn jopera l-bejjieġh, bħall-akkomodazzjonijiet f'hotel, attivitajiet tal-isport, kiri ta' karozzi, u biljetti tad-dħul għal festivals tal-mużika.

L-għan ta' din il-proposta hu li jelimina l-ostakli tal-portabilità transkonfinali sabiex il-ħtiġijiet tal-konsumaturi jintlaħqu b'mod iktar effettiv, kif ukoll ikun hemm promozzjoni tal-innovazzjoni għall-benefiċċju tal-konsumaturi, fornituri tas-servizzi u detenturi tad-drittijiet.



The proposed rules include certain situations when there can be no justified reasons for geo-blocking or other discriminations due to nationality or location. These situations include where:

- the trader sells goods that are delivered in a member state to which the trader offers delivery or are collected at a location agreed upon with the customer;
- when a customer buys an electronically delivered service, such as cloud services, data warehousing, website hosting;
- when a customer buys a service which is supplied where the trader operates, such as hotel accommodation, sports events, car rental, and entry tickets to music festival or leisure parks.

This proposal aims to remove barriers to cross-border portability so that the needs of users can be met more effectively as well as promoting innovation for the benefit of consumers, service providers and right holders.



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This publication is part of the action 670694 — ECC-Net MT FPA which has received funding under a grant for an ECC action from the European Union's Consumer Programme (2014-2020). The content of this publication represents the views of the author only and it is his/her sole responsibility; it cannot be considered to reflect the views of the European Commission and/or the Consumers, Health, Agriculture and Food Executive Agency or any other body of the European Union. The European Commission and the Agency do not accept any responsibility for use that may be made of the information it contains.

ECC Malta is hosted by the Malta Competition and Consumer Affairs Authority.

Dan il-fuljett huwa parti mill-azzjoni 670694 — ECC-Net MT FPA li irċieva fondi mill-Unjoni Ewropeja fil-qafas tal-programm ta' azzjoni tal-Komunita' fil-qasam tal-Politika tal-Konsumatur (2014-2020). Il-fuljett jista' jkollu opinjonijiet li mhux neċessarjament jirreflettu dawk tal-Kummissjoni Ewropeja/CHAFEA jew korp ieħor tal-Unjoni Ewropeja. Il-Kummissjoni Ewropeja jew CHAFEA ma jaċċettaw ebda responsabbiltà għall-użu li jista' 'jsir mill-informazzjoni kontenuta f'din il-pubblikazzjoni.