



EU4Digital

EU4Digital: supporting digital economy
and society in the Eastern Partnership

eCommerce report

Recommendations proposed for eCommerce
environment harmonisation in the EaP countries:
Ukraine

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1 Executive summary

In the EU market, eCommerce presents opportunities for retailers from the different countries to grow businesses and revenues. The EU market of eCommerce provides access to over 500 million consumers with the eCommerce market worth more than \$700 billion¹ and an annual growth rate of 15% on average domestically and exceeding 25% for cross-border eCommerce². The EU, being the second biggest in the world cross-border buyer of goods, established own eCommerce rules, processes, know-hows and ways for engagement of stakeholders. The EU member states expect that these rules are considered and followed by trading partners, including non-EU businesses. Otherwise, obstacles and barriers created by different rules in the EU and third countries complicate eCommerce transactions.

To eliminate existing obstacles and barriers for pan-European eCommerce for citizens and businesses requires the harmonisation of the digital environments among the Eastern partner countries and with the EU. This includes harmonisation of eCommerce ecosystem and approximation to relevant EU legislation and standards.

1.1 Objectives of the report

The overall objective of the report is to provide recommendations to harmonise eCommerce among the Eastern partner countries (in particular, Ukraine) and the EU in three areas: ecosystem, legal framework and standards. This includes:

- Eliminating the barriers for cross-border eCommerce;
- Boosting cross-border eCommerce volume;
- Preparing countries for the upcoming EU and global changes in eCommerce introduced in 2021.

1.2 Scope of eCommerce study

eCommerce in this study is understood as a sale of goods through electronic transactions carried out on computer networks.

The study **focuses on the B2C** type of electronic exchange, but doesn't exclude C2C, B2B and B2G exchange. This focus is taken as the volume of B2C transactions is increasing in the EU, which is strengthened amid COVID-19. In 2019, the number of EU enterprises using B2C transactions was higher than the number of EU enterprises using B2B and B2G combined³. As B2C eCommerce is facing updates that will shape the area for the next few years, this study aims to provide benefit to harmonise B2C area between the EU and the Eastern partner countries. Also, it is important to note that the topics covered in this study, such as cross-border parcel supply chain, interaction between parcel operators, logistics and the supporting areas of eCommerce legislation, are valid both for B2C and B2B

The basis of the analysis is **the EU baseline** that consists mainly of the EU laws and standards regulating eCommerce as well as best practices in eCommerce ecosystem development. The EU baseline also includes international rules as the EU trades with the rest of the world and there are rules developed by **global cooperation** (e.g. the Universal Postal Union network that enables eCommerce cross-border delivery, the World Customs Organisation model for customs procedures).

In addition, the analysis is based mainly on the **existing legislation**, standards and ecosystem processes. However, as the EU is in the process of major changes that impact eCommerce, the report is also focused on the **upcoming legislation** (i.e. 2021 eCommerce package) that is defined and is to be implemented in 2021.

The report focuses on the eCommerce areas that are the most critical to be harmonised for **cross-border transactions**. Harmonisation of these areas facilitates cross-border eCommerce transactions and reduce obstacles for seamless cross-border trade.

1.3 Approach

The recommendations to harmonise eCommerce among the Eastern partner countries and the EU were developed by performing the following activities by the EU4Digital central eCommerce experts and local experts from the Eastern partner countries:

¹ More at: <https://www.digitalcommerce360.com/2019/05/09/the-delivery-preferences-of-european-online-shoppers/>

² More at: <https://op.europa.eu/en/publication-detail/-/publication/1c50224c-574e-11e9-a8ed-01aa75ed71a1/language-en>

³ Eurostat, Community survey on ICT usage and e-commerce in enterprises, 2019



- Developed the EU state of play or [the baseline](#) for the assessment, which is structured around the eCommerce value chain. The value chain describes the players, information and activities involved in the supply, distribution, and post-sales activities of goods for the market. More than 100 key aspects in legal, standards and eCommerce ecosystem areas are described across the value chain and the baseline.
- Performed the state of play analysis of eCommerce in the Eastern partner countries by conducting interviews, workshops and research. More than 50 stakeholders were involved across the Eastern partner countries to provide inputs for analysis of the state of play of eCommerce. Among them the ministries, customs and tax authorities, postal and logistics operators, marketplaces, business associations, local experts.
- Provided professional opinion by the EU4Digital Facility experts on the key gaps for cross-border eCommerce.
- Developed recommendations based on the EU practices aimed to boost eCommerce transactions volume and address the necessary supportive measures for eCommerce to work. Key recommendations for each Eastern partner country include specific actions to be considered on a national level.
- Organised consultations and alignments with the national stakeholders.

1.4 The state of play in the Eastern partner countries

The Eastern partner countries have a varying level of digital commerce enablement. Comparing to the eCommerce baseline, the analysis identified the key common gaps in the following areas provided in the table below. Note that the overview below provides a summary of the most common gaps, while specific gaps are explained in the chapter 4. *Gap analysis report for Ukraine* of this report.

Table 1: Summary of eCommerce common gaps for cross-border eCommerce in the Eastern partner countries comparing to the EU baseline

No	Area	Key aspects that have gaps and challenges in the Eastern partner countries
Gaps in eCommerce ecosystem		
1.	Marketing and sales	<ul style="list-style-type: none">• Usage of global marketplaces that operate in the EU is limited (reasons: long/expensive delivery, cash-on-delivery preference, poor awareness).• Local marketplaces selling cross-border are not common, except certain national platforms (reasons: long/expensive delivery, cash-on-delivery preference, poor awareness).
2.	Payment	Payment methods usage is different than in the EU due to still preferred cash-on-delivery payment method and common usage of local solutions rather than global that are popular for the EU.
3.	Parcel delivery	<ul style="list-style-type: none">• Global private operators face challenge to maintain high eCommerce volumes creating high rates for parcel delivery limiting involvement in eCommerce ecosystem.• Wide network of active postal offices is not aligned with the centralised approach that is common in the EU and within the UPU.• Delivery time is few days longer than in the EU, where delivery within 48 hours is common.
4.	The EU 2021 eCommerce package	Limited ⁴ awareness by stakeholders and only fragmented actions to prepare for changes in VAT (Import One Stop Shop, removal of exceptions), customs (Import Control System 2, mandatory electronic declarations), harmonised ID (item level information exchanged via harmonised IDs).
Gaps in eCommerce legal framework		
5.	Platforms	Limited regulation of terms and conditions explaining ranking of goods on platforms.
6.	Parcel delivery	<ul style="list-style-type: none">• Limited regulation of postal security requirements for the provision of electronic advance data for consignments of distance sales.

⁴ Limited means not regulated or not (partially) compatible with the EU rules or not implemented regulation.



No	Area	Key aspects that have gaps and challenges in the Eastern partner countries
		<ul style="list-style-type: none"> Insufficient preparation for the EU VAT eCommerce package, including a special scheme as regards certain value added tax obligations for distance sales of goods imported from third territories or third countries to the EU that will be applied from 1 July 2021.
7.	Consumer protection	<ul style="list-style-type: none"> Limited regulation of misleading commercial practices of paid advertisement, including provisions indicating the cases when paid advertisement is considered as a misleading commercial practice. Limited regulation of information requirements for distance contracts of digital content and digital service, including definitions of digital content, digital service supplied by the trader to the consumer and personalised pricing on the basis of automated decision-making. Limited regulation on misleading omissions about consumer reviews of products, where trader providing access to consumer reviews of products must inform the consumer about whether and how the trader ensures that the published reviews originate from consumers who have actually used or purchased the product.
Gaps in eCommerce standardisation aspects		
8.	Interoperability	<ul style="list-style-type: none"> Limited technical specifications for secure, trustworthy and user-friendly opening systems for parcel boxes for home use. Limited requirements for electronic advanced data submission in postal operations in domestic and international postal operations as a pre-requisite for digital customs or transport security related declaration.
9.	Digital postal services	Limited standardisation of electronic advanced data semantic mapping of attributes of commercial single items compliant to the UPU-WCO (the Universal Postal Union – the World Customs Organisation) model from 2021.
10.	The UN, the EU, the UPU: electronic exchange	Limited standardisation of specifications for post, courier, express, parcel operators and customs agents that transport eCommerce items from the country into the EU to prepare the necessary electronic data lodging of digital customs pre-declarations on item level that will become mandatory from 1 July 2021 for items below a value of 150 EUR.
11.	The UPU: technical standards	Limited standardisation of EDI messaging to be exchanged between customs authority/border agency to a postal operator, between destination postal operator and the origin postal operator on risk assessment.
12.	eCommerce websites trust mark	Lack of national eCommerce Trustmark certification scheme(s) which authenticates that an eCommerce company established on the national territory has made a commitment to work in compliance with the Code of Conduct, guaranteeing ethical standards in the digital marketplace.

1.5 The recommendations to harmonise eCommerce

To address the identified gaps and challenges, the EU4Digital Facility prepared the recommendations for harmonisation of eCommerce among the Eastern partner countries and with the EU. The overview is provided in the table below. Note that the overview provides a summary of the recommendations, while specific recommendations and action points are explained in the chapter 5. *Recommendations report for Ukraine* of this report.

Table 2: Summary of eCommerce recommendations to harmonise cross-border eCommerce among the Eastern partner countries and with the EU

No	Recommendation	Goal
Recommendations in eCommerce ecosystem		
1.	Establish a virtual warehouse as a re-usable database to list goods for sale in the EU.	Cross-border sales volume increase as businesses in the Eastern partner countries list and manage inventory of goods for cross-border sale; and the national postal operators are connected to the database to trigger cross-border delivery once sales happen to deliver within 72 hours.
2.	Establish national pavilion account(s) on the EU marketplace(s) to list goods for sale in the EU.	Cross-border sales volume increase as businesses in the Eastern partner countries list goods for cross-border sale



No	Recommendation	Goal
		through a single national account and get support with marketing.
3.	Establish consolidated central distribution networks with centralised warehouses, fulfilment and sorting facilities to enhance postal capacity for cross-border transportation.	National postal operators and parcel delivery operators use centralised networks for clearance, sorting and transportation of parcels to the cross-border hubs (office of exchange) to enable daily dispatch abroad. The aim is to reduce delivery time for domestic and cross-border delivery of commercial items.
4.	Establish co-sharing agreements and unified parcel identifiers between the post and private parcel operators.	The national postal operator and private sector parcel delivery operators sign cooperation agreements to co-share the last mile delivery and to dispatch cross-border consignments within 24 hours from order (after handing over to postal service provider). The aim is to establish co-sharing agreements for delivery to ensure optimal usage of infrastructure and postal rates.
5.	Further strengthen the integration of the Eastern partner countries eCommerce ecosystem actors into the EU networks.	Increased collaboration of the eCommerce ecosystem stakeholders of the Eastern partner countries with the EU ecosystem actors through transfer of the EU knowledge and practices.
6.	Increase awareness and readiness (legal, systems, processes) of relevant stakeholders for the 2021 changes in customs, taxes, security, parcel delivery areas.	Cross-border trade is possible as customs and taxes authorities, postal and logistics operators can seamlessly exchange electronic advanced data with the EU operators; can use simplified procedures to pay taxes; use harmonised ID to exchange information on an item level.
Recommendations in eCommerce legislation and standards frameworks		
7.	Improve the overall framework of eCommerce by introducing fundamental principles and critical requirements (electronic platforms, contracts and intermediation services, data protection).	The legal framework and main standards related to eCommerce correspond to the EU general framework and the consumers feel safe to shop on-line.
8.	Improve online marketing and electronic sales capacities of traders to increase visibility (on-line marketplaces, unfair commercial practices, price indication, trust mark, CE, products safety, intellectual property).	Products of the Eastern partner countries are presented on the marketplaces selling in the EU, clearly identifiable and promoted to the potential target segments.
9.	Improve compliance with electronic payment (liability for unauthorised payment, removal of surcharges, customer authentication).	Assure the maximum consumer protection when using electronic payment on eCommerce platforms.
10.	Improve safe placing of on-line orders (governance of contracts by residence).	Assure the maximum level of consumer and trader contractual protection in case of contracts concluded on-line.
11.	Improve the time of cross-border parcel delivery (postal security requirements and standards for electronic advanced data, measures for quality of delivery services, interfaces between the e-merchant and logistic operators).	Allow processing of all cross-border data on parcels between the Eastern partner countries and the EU countries in standardised electronic format in advance.
12.	Improve Online Alternative Dispute Resolution mechanism (out-of-court resolution for domestic and cross-border) and transparency in case of security incidents (communication of incidents, complaints handling principles).	Assure the maximum level of consumer support in case of disputes and security incidents.

1.6 The next steps and considerations

The beneficiaries in the Eastern partner countries should use this report to consider implementing the recommendations.



- Recommendations in legal and standards areas include specific points for specific government authorities to use as an input to make necessary changes.
- Recommendations in ecosystem area should be considered by the relevant government and non-government ecosystem stakeholders, who should include the recommendations in national economy development plans for practical actions.

In addition, this report is considered by the European Commission for possible activation of the recommendations on bi-lateral and regional level.

The next step of the EU4Digital Facility is to launch a pilot to facilitate cross-border eCommerce. Recommendation #1 of this report – Establish a virtual warehouse as a re-usable database to list goods for sale in the EU and other Eastern Partnership countries – is confirmed to be a pilot solution, which will support countries to list products on the foreign marketplaces and complete cross-border eCommerce transactions. The pilot activity is scheduled to start in January 2021 and to be completed by April 2021. Updates on the activities are published on eufordigital.eu.

2 Introduction

This analysis report of harmonisation of eCommerce among the Eastern partner countries and with the EU is developed under the European Union's regional facility "EU4Digital Facility: bringing the benefits of the harmonised digital market to the Eastern Partnership countries", thematic area of eTrade, eCommerce activity. The aim of this activity is to harmonise cross-border eCommerce laws, standards and ecosystem among the Eastern partner countries (Armenia, Azerbaijan, Belarus, Georgia, the Republic of Moldova and Ukraine) and the EU, as well as piloting technical solution to support cross-border eCommerce.

Team: the report is developed by the team of experts from 10 countries.

The central team includes: Artūras Piliponis (EU4Digital Team Lead), Rūta Šalvytė-Tamošiūnienė (EU4Digital Deputy Team Lead, eTrade Stream Lead), Walter Trezek (Chairman of the Universal Postal Union Consultative Committee, Co-chair of e-logistics Working Committee of Ecommerce Europe), Vladimir Abramytchev (Team Lead in European External Action Service and multiple eCommerce studies funded by the European Commission), Jan Hyttel (Board member of GS1 and Transport Innovation Association in Lithuania), Volodymyr Kovalenko (EU4Digital eCommerce expert).

The local country teams: Armenia - Vahagn Marukhyan; Azerbaijan - Anar Jafarzade; Belarus - Natallia Harbuz; Georgia - Nino Esakia; Moldova - Alexandru Florea, Ionela Titirez; Ukraine - Oleksiy Shmuratko.

Acknowledgements: more than 50 stakeholders were involved across the Eastern partner countries to provide inputs for analysis of the state of play of eCommerce. These inputs covered more than 100 aspects in legal, standards and ecosystem areas covering the entire value chain of eCommerce – platforms, payments, order placement, parcel delivery, customer protection. The involved stakeholders included the Ministries, customs and taxes authorities, postal and logistics operators, marketplaces, business associations, local experts. The stakeholders participated in consultation sessions to provide feedback and shape the final set of recommendations to harmonise eCommerce. Involvement of a broad community of stakeholders makes the recommendations actionable and relevant for the beneficiaries in the Eastern partner countries.

2.1 Context

eCommerce of the EU market presents opportunities for retailers from the different countries to grow businesses and revenues. The EU market of eCommerce provides access to over 500 million consumers with the eCommerce market worth more than \$700 billion⁵ and an annual growth rate of 15% on average domestically and exceeding 25% for cross-border eCommerce⁶. The EU, being the second biggest in the world cross-border buyer of goods, established own eCommerce rules, processes, know-hows and ways for engagement of stakeholders. The EU member states expect that these rules are considered and followed by trading partners, including non-EU businesses. Otherwise, obstacles and barriers created by different rules in the EU and third countries complicate eCommerce transactions.

To eliminate existing obstacles and barriers for pan-European eCommerce for citizens and businesses requires the harmonisation of the digital environments among the Eastern partner countries and with the EU. This includes harmonisation of eCommerce ecosystem and approximation to relevant EU legislation and standards.

⁵ More at: <https://www.digitalcommerce360.com/2019/05/09/the-delivery-preferences-of-european-online-shoppers/>

⁶ More at: <https://op.europa.eu/en/publication-detail/-/publication/1c50224c-574e-11e9-a8ed-01aa75ed71a1/language-en>



2.2 Objectives

To ensure harmonisation, the objective of this report is to provide recommendations to harmonise eCommerce practices among the Eastern partner countries and the EU in three areas: ecosystem, legal framework and standards.

Ecosystem recommendations have objectives to:

- Eliminate the barriers for cross-border eCommerce;
- Boost cross-border eCommerce volume;
- Prepare countries for the upcoming EU and global changes introduced in 2021.

Legal framework and standards recommendations have an objective to address the key aspects that must be in place for cross-border eCommerce with the EU to work.

2.3 Scope

2.3.1 Framework of eCommerce

eCommerce is defined as sale of goods through electronic transactions carried out on computer networks. eCommerce comprises the preparation of orders for goods using electronic interfaces. An electronic interface should be understood as a device or programme, which allows two independent systems or the system and the end user to communicate. This is a broad concept and could encompass a website, portal, gateway, marketplace, or application program interface (API). Then, the orders are transmitted through computer networks. The methods of placing of the order such as by telephone calls, facsimile or manually typed e-mail are usually not considered as part of eCommerce. The payment and the ultimate delivery of the goods or services do not have to be conducted online.

eCommerce can operate through websites (which allow online ordering or booking, for example using a “shopping cart”), mobile applications operated on mobile telecommunications networks or through an exchange of electronic messages or EDI messages (electronic data interchange).

The study focuses on the Business to Consumer (B2C) type of electronic exchange, but does not exclude C2C, B2B and B2G exchanges. This focus is privileged as the volume of B2C transaction is increasing in the EU, which is strengthened amid COVID-19. In 2019, the number of EU enterprises using B2C transactions was higher than the number of EU enterprises using B2B and B2G combined⁷. As B2C eCommerce is facing updates that will shape the area for the next few years, this study aims to provide benefit to harmonise B2C area between the EU and the Eastern partner countries. Also, it is important to note that the topics covered in this study, such as cross-border parcel supply chain, interaction between parcel operators, logistics and the supporting areas of eCommerce legislation, are valid both for B2C and B2B.

The EU framework related to eCommerce and the best EU practices in the EU member states offer a comprehensive structure to conduct harmonisation of national legal framework among the Eastern partner countries and with the EU, both for goods and services. The EU baseline is historically more focused on online purchase of physical goods as it occupies a major part in eCommerce transactions. In this study, eCommerce is mainly considered as online purchase of goods and products in the form of merchandise. Many challenges in eCommerce are associated with cross-border delivery of commercial items, which explains the priority of the study on goods.

The study provides a holistic overview of the EU best practices and conducts a comprehensive assessment of the main aspects of eCommerce in the Eastern partner countries. However, it does not treat in detail some aspects, such as trust service, networks security, and cybercrime related to eCommerce, because they are considered within EU4Digital Trust & Security component as well as the other project under EU4Digital Initiative – “EU4Digital: Improving Cyber Resilience in the Eastern Partnership countries”.

2.3.2 Global perspective addressed

To harmonise eCommerce in the Eastern partner countries in line with the EU state of play, mainly the EU regulations, directives and processes are described. To complement this description, rights and obligations set by the global organisations, such as the Universal Postal Union (UPU) and the World Customs Organisation (WCO), are covered as well. This global perspective on eCommerce has to be taken into consideration as the EU member states trade with the Eastern partner countries and the rest of the world. As the EU trades with the rest of the world, there are legislation and procedures developed by global cooperation (e.g. the UPU network

⁷ Eurostat, Community survey on ICT usage and e-commerce in enterprises, 2019

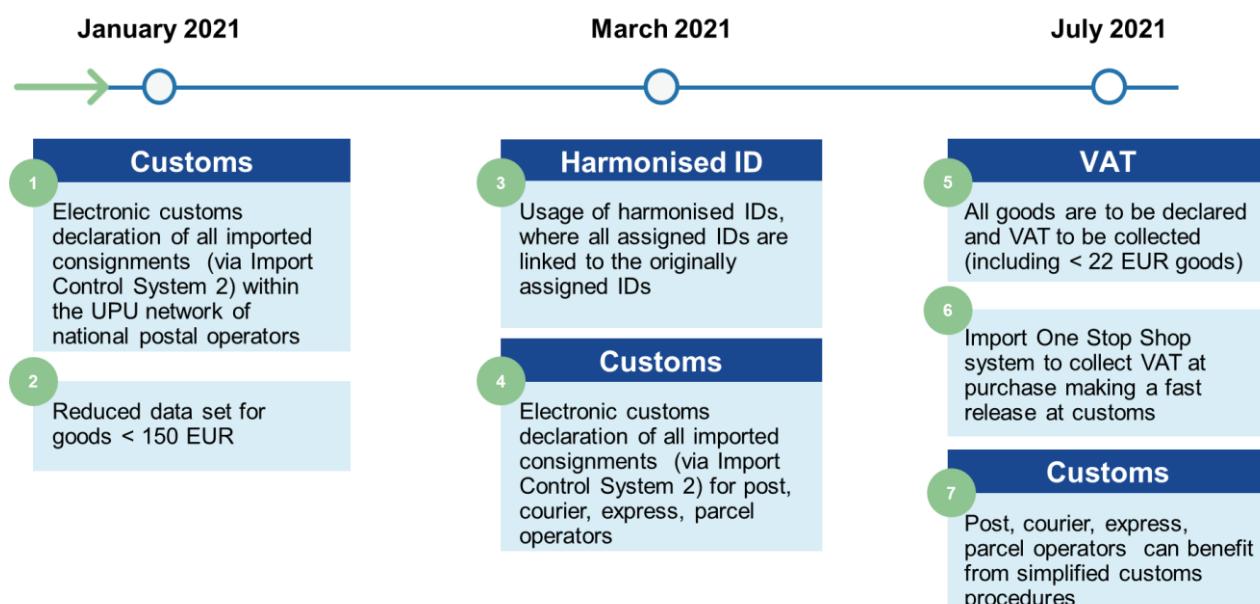


that enables cross-border delivery within eCommerce, the WCO global model for customs requirements). Such systems and procedures influence eCommerce legislation in the EU and the rest of the world.

2.3.3 The future state of play of eCommerce considered

The EU baseline being the basis for harmonisation mainly consists of the existing regulations, directives and processes. However, as the EU is in the process of major changes that impact eCommerce, the report is also focused on the upcoming legislation (i.e. 2021 eCommerce package) that is already defined and is to be implemented in 2021. The changes are presented in the figure below.

Figure 1. Overview of the 2021 changes in eCommerce area



It is crucial for the Eastern partner countries to align to these changes, which is reflected in the recommendations provided to the countries. Failing in doing so might lead to substantial challenges when trying to export goods into the EU, even block trade completely.

2.3.4 Cross-border aspects in focus

This report is focused on the aspects important for cross-border eCommerce harmonisation. This is critical as the EU is developing Digital Single Market⁸ and EU4Digital Facility is bringing the benefits of the harmonised digital market to the Eastern Partnership countries. Thus, the report focuses on the eCommerce areas that are the most critical to be harmonised for cross-border transactions. Harmonisation of these areas facilitates cross-border eCommerce transactions and reduce obstacles for seamless cross-border trade.

3 Methodology

3.1 EU practice of cross-border eCommerce

The Digital Single Market Strategy of the European Commission targets to break down online barriers by applying the four basic freedoms in the EC Treaty (goods, persons, services and capital) to allow people in the EU countries to benefit from full access to goods and services offered online. The Strategy treats the aspects of promoting cross-border access to products and online services, protecting online consumer rights and facilitating cross-border parcels delivery. Its main focus is on ending unjustified cross-border barriers to businesses in the EU.

The European Commission proposes several measures for ending unjustified cross-border barriers to eCommerce. They spread out from making it easier for European consumers to shop online, making safer to pay online, abolishing geo-blocking, facilitating parcel delivery. The measures have impact on online shopping

⁸ More at: <https://eufordigital.eu/discover-eu/eu-digital-single-market/>



activities of consumers that range from searching products and services on web sites, through buying online, paying, delivery, to providing customer support services.

The objective to eliminate existing obstacles and barriers for pan-European eCommerce for citizens and businesses require the harmonisation of the digital environments among the Eastern partner countries and with the EU. This includes the approximation to relevant EU legislation and standards, harmonisation of business processes and data formats, and alignment of eCommerce ecosystems to enable cross-border eCommerce.

3.2 Value chain of eCommerce

The study uses the concept of a value chain to describe eCommerce domain and the interaction between the eCommerce ecosystem of the EU member states and the Eastern partner countries. The proposed method supports that all required eCommerce aspects are included in the study.

3.2.1 Value chain approach

eCommerce value chain describes the players, information and activities involved in the supply, distribution, and post-sales activities of goods. The approach offers an insight about the flow of activities and processes involved in any type of eCommerce cross-border trade between businesses, consumers and public entities. It identifies the key commercial, logistical, regulatory and payment procedures applied in the eCommerce international supply chain.

The value chain defines areas and boundaries of the legal framework, standards and ecosystem related to eCommerce and provides a structure for describing the requirements for interoperable eCommerce exchange among the Eastern partner countries and with the EU.

The lifecycle of an online purchase can involve the consumer accessing a network, searching for an online trader, selecting the product he or she wants to purchase. The consumer enters information related to how he intends to purchase the product and then place the order. From here, the lifecycle continues from the viewpoint of the supplier who receives the order. The supplier locates the product, obtains the product from his inventory (a warehouse, distribution or fulfilment centre), processes payment, ships the order to the consumer and ultimately provides required customer support, such as handling of returns.

For the purpose of this study, the eCommerce value chain is broken down into six business processes: marketing, sales, payment, placing order, delivering parcel, and customer support. These business processes englobe the whole chain of required activities from marketing of a product online to providing customer services after the product is delivered to the customer.

These key business processes are both cross-functional and cross-area in nature. Three functional perspectives define the eCommerce value chain in this study: ecosystem, legislation and standards. The following Figure shows the business processes of eCommerce value chain.

Figure 2: Business processes of the eCommerce value chain



The eCommerce value chain comprises both physical flows of items and digital flows of data. Electronic exchange of information is necessary for operations such as tracking and tracing of items and payments.

- **Marketing.** eCommerce begins with marketing business processes that include different activities conducted by traders to promote and advertise products and services online.
- **Sales.** eCommerce websites and marketplaces sell non-digital, digital products and services. The consumer visits an online shop to search for an item. The eCommerce trader targets to organise the most effective customer journey through the storefront or marketplace in order to present in an optimal way products or services with the purpose to trigger a sale and placement of an online order by the consumer.
- **Payment.** After the consumer selects an item to purchase, the online shop sends a request to the customer to pay. Billing and payment comprise payment platforms used to process monetary transactions made by consumers on the online shop. Electronic payment services are provided by banks, payment processors, and online payment service providers.



- **Placing order.** After the customer pays, payment confirmation and checkout are triggered. Following checkout (submission of online order), payment placement is conducted, which in turn leads to an order. Once a customer has placed an order, the trader provides an order confirmation to the consumer. It contains contractual, order information and estimated shipping dates.
- **Parcel delivery.** The next stage in the eCommerce value chain is transporting the item to the consumer's final delivery destination. Successful delivery is confirmed when the consumer receives the parcel. It triggers the customer's confirmation of receipt.
- **Customer service.** Customer service consists of provision of support to customers before (orientation), during (selection of item, purchase) and after purchase (after sale and post-delivery customer support). It can be personal as well as automated. eCommerce trader offers the flexibility and scope to the consumers to return an item in case it's faulty or not of their choice. This makes the traders to support a reverse supply chain of getting it back from the consumer to their warehouse.

3.3 Approach of assessment in the Eastern partner countries

Three functional perspectives are used in this study to define the EU baseline and to assess eCommerce state of play in the Eastern partner countries: ecosystem, legislation and standards. The value chain guides the assessment through questionnaires of three perspectives of eCommerce in the Eastern partner countries. It facilitates the gathering of recommendations on harmonisation of certain areas to facilitate trade with the EU.

eCommerce ecosystem. The eCommerce value chain is operated by multiple players that interact through a complex network or interconnected system. All together they form an eCommerce ecosystem. It can be defined as a network of interconnected players and functions that comprise the full cycle of the buying and selling of goods and services electronically.

Legislation. The eCommerce ecosystem players interact through a series of activities, and their relationships may be either competition or cooperation. The overarching EU legal framework and the legislation of each EU member state defines the legal rules of interaction between the eCommerce ecosystem players in the European market.

Standards. A set of standards related to eCommerce provide guidelines and characteristics for activities or their results, for common and repeated use. Standards provide individuals, businesses and organisations involved in eCommerce value chain with a common basis for mutual understanding. The EU standards mainly relate to products, services or systems.

3.3.1 eCommerce ecosystem

eCommerce ecosystem is formed by multiple players that interact along the eCommerce value chain. It is a network of interconnected players and functions that cover the full cycle of the buying and selling of goods and services electronically. The following table presents the ecosystem perspective of eCommerce. It shows the main areas of the ecosystem that are associated to each business process of the eCommerce value chain. Several areas are applicable to all business processes (the second row in the table). Other areas are applicable to particular business processes. The table highlights the aspects of eCommerce ecosystem that are critical for the cross-border electronic commerce activities between the EU member states and the Eastern partner countries.

Table 3: Ecosystem perspective of the eCommerce value chain

Marketing	Sales	Payment	Placing order	Delivering parcel	Customer service
Process of cross-border parcel supply chain and stakeholders involved					
Security and trust through:					
• Globally recognised barcodes					
• Advanced payment security providers					
• Clear return processes for purchased goods					
• The EU eCommerce trust marks					
• Goods control and surveillance by public regulatory bodies					
• Alternative and online dispute resolution					
• Review platforms for businesses and goods					
• Insurance of transported goods					



Marketing	Sales	Payment	Placing order	Delivering parcel	Customer service
Global, continental and local eCommerce platforms operating in the EU Rating of products	Common solutions to create platforms and integrate with other stakeholders of the ecosystem Social media as a marketplace for influencers	Electronic payments ecosystem: <ul style="list-style-type: none">• Common in the EU payment methods• Payment gateways and service providers Payment of cross-border taxes and stakeholders involved at every stage		Role of the UPU in parcels delivery rules Common goods delivery methods and fulfilment operations Delivery to remote and rural areas Goods tracking and identification via global IDs Customs clearance process and changes in 2021 De-minimis in the EU and changes in 2021	Return process of damaged or wrong goods

The indicated areas summarise the EU eCommerce ecosystem [baseline](#). It examines the current state of the key areas of eCommerce ecosystem setup in the European Union / EEA market and take into account the systems and procedures developed by global cooperation with the international organisations such as the Universal Postal Union and the World Customs Organisation.

3.3.2 Legislation

The establishment of adequate legal framework can facilitate the take-up of cross-border eCommerce regionally and also between the EU member states and the Eastern partner countries by reducing uncertainties, enhancing trust and addressing potential harms.

The following table presents the legislative perspective of eCommerce. It indicates the main legal areas that are associated to each business process of the eCommerce value chain. The priority areas highlight the best practices of the EU legal framework in eCommerce. Several areas are applicable to all business processes (the second horizontal row in the table). Other legal areas are proper to particular business processes. The focus is on the legislative and regulatory aspects that are critical for the cross-border electronic commerce activities between the EU member states and the Eastern partner countries.

Table 4: Legislation perspective of the eCommerce value chain

Marketing	Sales	Payment	Placing order	Parcel delivery	Customer service
Net neutrality Consumer protection, consumer rights Redress and litigation, public enforcement Injunctions The Universal Postal Union regulations: items, data models Data protection Security of networks and information systems					
Unfair commercial practices Price indication Online marketplaces	Consumer sales and guarantees Product safety rules Rules for protection of intellectual	Electronic payments Limit of payment fees	Unfair contract terms Electronic contracts Prohibitions and restrictions of import of goods	Parcel delivery customs formalities: excise goods, fees for customs procedures Fiscal aspects of parcel delivery:	Consumer alternative dispute resolution Consumer online dispute resolution



Marketing	Sales	Payment	Placing order	Parcel delivery	Customer service
	property and enforcement Online pharmacies Trademarks and designs			duties, VAT, excise duties Transparency of tariffs for cross-border parcel delivery Postal security measures for cargo and mail Import electronic advance data	

The indicated areas are presented in the EU legal [baseline](#). It examines the current state of a number of key areas of law and regulation for eCommerce in the European Union and takes into account the recommendations of the international organisations such as the Universal Postal Union and the World Customs Organisation.

3.3.3 Standards

European Standards are a key component of the European Single Market. Although rather technical, they represent one of the most important issues for the interoperability between businesses and public organisations. They are crucial in facilitating cross-border trade and hence have high visibility among manufacturers and suppliers of goods inside and outside Europe. Standards provide consumers, businesses, public administrations and regulatory organisations with a common basis for mutual understanding and represent the state of the art of business conduct.

The following table indicate the standards important for cross-border eCommerce. It codifies the best EU practice based on the standards of the Universal Postal Union, the United Nations and the World Customs Organisation. Several standards are applicable across all business processes of eCommerce value chain (the second horizontal row). Other standards are applicable to particular business processes. The indicated standards highlight the aspects that are the most critical for the cross-border electronic commerce activities between the EU member states and the Eastern partner countries.

Table 5: Standards perspective of the eCommerce value chain

Marketing	Sales	Payment	Placing order	Delivering parcel	Customer service
Stakeholder and Information exchanges based on WCO/UPU messaging model					
Physical process and associated data					
Information exchanges based on UN/EDIFACT syntax					
Electronic advanced data exchange on item level					
UPU electronic exchange standards					
UPU technical standards					
Information available on postal services	Distance to access point of postal services		Interfaces for cross-border parcels	Quality of postal services	Complaints handling principles for postal services
International postal address component	Open global networks and systems for postal operators		Electronic Data Interchange between postal handling organisations	Interoperability in postal operations	Damage to postal items
Data definition and encoding – Identification of postal items	Packaging for boxable items		Electronic communication of item information	Digital postal services	Re-forwarding
Identification & codification of postal consignment	Product safety		Item level tracking information	Measurement of the transit time of end-to-end services	Measurement of loss and substantial delay in priority and first-class single piece mail



Marketing	Sales	Payment	Placing order	Delivering parcel	Customer service
EU eCommerce websites trust marks CE marking			Item messages with Customs Consignment messages with carrier Messages between postal operators	for cross-border parcels Apertures of private letter boxes and letter plates Parcel boxes for end use Digital opening and closing systems for parcel receptacles Requirements for electronic advanced data in postal operations	

The indicated standards are described in the EU [baseline](#). Each of the standards represent a model specification or a technical solution against which the actors of eCommerce ecosystem trade across-borders. The baseline examines the status of standards related to eCommerce in the European Union and aligned to the recommendations of the international organisations such as the European Committee for Standardisation (CEN) and the UPU.

3.3.4 Data collection

Data collection in the Eastern partner countries was conducted by local research teams. A detailed methodology for assessment of each of three areas using structured questionnaires facilitated interviews and data collection. Each question corresponds to an evaluation criterion in [the EU legal baseline](#) for eCommerce. The questions are grouped into several thematic categories, as presented in the following table.

Table 6: Thematic categories of three questionnaires used in the data collection

Legal	Standards	Ecosystem
Consumer protection	Quality of services	eCommerce platforms
Parcel delivery	Interoperability	Payments
Universal Postal Union	Digital Postal Services	Taxation
Security of networks and information systems	Physical process and associated data	Logistics and supply chain
Geo-blocking	Stakeholders and Information Exchanges based on UN/EDIFACT	The process of cross-border sale in the EU
Data protection	Stakeholder and Information Exchanges based on the EU customs model	
Electronic contracts	UPU electronic exchange standards	
Electronic payments	UPU technical standards	
Platforms	EU eCommerce websites trust marks eCommerce and product safety Terms and Definitions	

3.3.5 Gaps analysis

Gaps analysis was focused on identifying differences in laws, standards and practices related to eCommerce between the Eastern partner countries and with the EU. EU4Digital Facility developed gap analysis of



eCommerce state of play in each country after comparing it to [the EU baseline](#). The gap analysis covers three areas – legislation, standards and eCommerce ecosystem.

Gap analysis report for the three areas follows the same approach. First, a particular aspect of the state of play in the EU is indicated. Next to it, the state of play of this aspect in an Eastern partner country is summarised. In conclusion, gaps comparing to the EU state of play and analysis of the challenges for cross-border eCommerce are presented. In addition to the identified gaps, the EU4Digital Facility experts provide justification for recommendations to harmonise cross-border eCommerce in each Eastern partner country with the EU.

eCommerce stakeholders of the Eastern partner countries, both from the public and private sectors, were involved to assess the state of play by providing input to the local research teams, to review the collected data and to give feedback on the identified gaps.

3.3.6 Recommendations

The identified gaps have different degree of impact on the cross-border eCommerce between the country and the EU. Some gaps are important to address in order to boost eCommerce flows between the regions. Other gaps serve to improve the conditions of eCommerce nationally and cross-border. Based on the identified gaps, the EU4Digital Facility developed recommendations.

eCommerce ecosystem recommendations have objectives to:

- Eliminate the barriers for cross-border eCommerce;
- Boost cross-border eCommerce volume;
- Prepare countries for the upcoming EU and global changes introduced in 2021.

Legal framework and standards recommendations have an objective to address the key aspects that must be in place for cross-border eCommerce with the EU to work.

The recommendations for each of the Eastern partner country include specific actions to be considered on a national level. The recommendations are designed to provide practical and actionable inputs for the relevant government and non-government stakeholders to make necessary changes and include in national economy development plans.

In this document, the recommendations are presented starting from the overall eCommerce ecosystem aimed to boost eCommerce transactions volume and following with recommendations in legal and standards areas, which are supportive measures to reach the goal.



4 Gap analysis report for Ukraine

eCommerce stakeholders of Ukraine were involved to assess the state of play and provided input for the local research teams, including:

- The Ministry of Infrastructure of Ukraine;
- National Commission for the State Regulation of Communications and Informatization (NCCIR);
- The national postal operator – Ukrposhta.

Gaps are presented in three areas: eCommerce ecosystem, legislation framework and standards.

4.1 Gap analysis in eCommerce ecosystem area

The table below provides an overview of the identified gaps in ecosystem area in Ukraine comparing to the state of play in the EU. The conclusions are provided next to gaps as:

- ‘Similar practices as in the EU’ if the ecosystem area functions in a way that is similar to the EU or
- ‘Different practices than in the EU’ if the ecosystem area functions in a way that is different from the EU.

The table follows the structure of eCommerce ecosystem as presented in the EU baseline and covers the following areas:

- eCommerce platforms;
- Payments;
- Taxation;
- Logistics and supply chain.

The table is summarised in the section *4.4. Summary of gap analysis*.

	Gaps
	Challenges

Table 7: Ukraine: ecosystem gaps comparing to the EU eCommerce baseline

No	State of play in the EU	State of play in Ukraine	Gaps comparing to the EU baseline / Challenges
eCommerce platforms			
1.	There is a variety of the major global eCommerce platforms providing services in the EU market, which enables cross-border eCommerce in the	Availability of the global marketplaces:	Similar practices as in the EU. Although the global marketplaces are not directly present in Ukraine, intermediary services



No	State of play in the EU	State of play in Ukraine	Gaps comparing to the EU baseline / Challenges
	<p>EU. Using one of these platforms brings benefits to enter the market quickly and with relatively low costs.</p> <p>Key aspects to consider for the Eastern partner countries:</p> <ul style="list-style-type: none">• Increase awareness and communicate the benefits of activating cross-border eCommerce through the major global eCommerce platforms.• Also, assess accessibility of the global eCommerce platforms in the market.	<ul style="list-style-type: none">• Global marketplaces that are operating in the EU are available for customers and businesses.• However, there are no global marketplaces operating in Ukraine directly. Although some of the global marketplaces offer international delivery to Ukraine, the delivery is often limited to certain goods. That is why Ukrainian parcel delivery operators (e.g. the national postal operator Ukrposhta, Nova Poshta, Meest) offer delivery options for orders from the global marketplaces through parcel forwarding services.• Global delivery services (e.g. DHL, UPS, FedEx) can also be used to enable delivery from the global marketplaces operating in the EU to Ukraine.	<p>(such as parcel forwarding) and global delivery services enable delivery from the global marketplaces. It is not likely that the global marketplaces will enter Ukraine (similarly as in some of the EU countries).</p> <p>Global logistics players (such as DHL, UPS, FedEx) entered the market to enable availability of the global marketplaces, but it's challenging for them to maintain high volumes, which influences high rates for parcel delivery.</p> <p>As a result, businesses and customers leverage workarounds to make the global marketplaces available (e.g. parcel forwarding services).</p>
2.		<p>Usage of the global marketplaces:</p> <ul style="list-style-type: none">• Customers use some of the key global marketplaces (being the second nation in the world for order growth on Aliexpress).• When buying cross-border, customers face challenges:<ul style="list-style-type: none">◦ Long delivery time ranging between four to six weeks;◦ Often, the global marketplaces work only with prepayment, while in Ukraine cash-on-delivery payment method is very popular.• Challenges for businesses for cross-border transactions:<ul style="list-style-type: none">◦ Supply logistics networks in Ukraine are not developed: the post offers long delivery time between four to six weeks; global logistics players (such as DHL, UPS, FedEx) are expensive; cross-border service Nova Poshta Global only starts to develop.	<p>Different practices than in the EU. Usage of global marketplaces is limited. Although local postal operators (e.g. Ukrposhta, Nova Poshta, Meest) and global delivery services enable delivery from the global marketplaces operating in the EU, consumers and businesses face challenges. Challenges include long delivery between four to six weeks by local operators, expensive delivery provided by private parcel delivery operators, unsupported by marketplaces cash-on-delivery payment method. Also, it is common for businesses (e.g. such as the leading marketplaces) to focus on adaptation to COVID-19 situation rather than on cross-border sales.</p> <p>Businesses and customers leverage workarounds, such as parcel forwarding services of which users have to be aware.</p>



No	State of play in the EU	State of play in Ukraine	Gaps comparing to the EU baseline / Challenges
		<ul style="list-style-type: none"> Priorities of marketplaces shifted to adapting to COVID-19 situation rather than on cross-border orientation. 	
3.	<p>In the EU, eCommerce marketplaces play an important role in cross-border sales as they allow SMEs to expand globally at reasonable cost. Such platforms provide support in payments, logistics, localisation and other key areas of cross-border eCommerce.</p> <p>Key aspects to consider for the Eastern partner countries: depending on audience, it may be the most effective to engage with buyers on local platforms.</p>	<p>Local marketplaces selling cross-border:</p> <ul style="list-style-type: none"> The most visited marketplaces in Ukraine are Rozetka, Prom.ua, Olx.ua, Ria.com, Kasta, MakeUp, Allo. Marketplaces selling cross-border are not common. E.g. none of the most visited marketplaces is selling cross-border. 	<p>Different practices than in the EU. It is not common for local marketplaces in Ukraine to sell to the EU.</p>
4.	<p>Continental eCommerce platforms focus on markets throughout the European Economic Area (EEA). Such platforms personalise operations to the EU market by providing services in two or three European languages, accepting three or four currencies and localising communication channels.</p> <p>Key aspect to consider for the Eastern partner countries: increase the awareness of the importance for cross-border eCommerce to personalise and localise eCommerce platforms with languages and currencies familiar for audiences.</p>	<p>Localisation and personalisation of local marketplaces:</p> <ul style="list-style-type: none"> Ukrainian marketplaces typically provide services in Ukrainian or/and Russian. It is common that prices are indicated and transaction processes in Ukrainian currency. Some of the marketplaces (e.g. liki24.ua) see high costs to personalise and localise interfaces (English language and EUR currency) but low benefit of doing so. 	<p>Different practices than in the EU. For a seamless eCommerce transaction between the EU and Ukraine, it is important to indicate prices at least in EUR currency and have interface in English, which is common in the EU. It is not common for marketplaces in Ukraine to localise and personalise services for the EU buyers by offering English language and EUR currency.</p>
Payments			
5.	<p>Following payment methods are typically offered to the EU customers: Visa/Mastercard, Digital wallets, Domestic bank credit / debit card, Bank transfer, Invoice, Cash-on-delivery, iDeal.</p> <p>Key aspects to consider for the Eastern partner countries: consider implementing the most common electronic payment methods that</p>	<p>Payment methods usage:</p> <ul style="list-style-type: none"> Accepted payment methods: Visa/Mastercard, domestic bank credit / debit card, bank transfer, cash-on-delivery. Not common methods: payment by invoice, digital wallets and iDeal. 	<p>Different practices than in the EU. Although some of the most common payment methods in Ukraine are aligned with the EU, consumers prefer cash-on-delivery payment method for eCommerce transactions. This is not supported by most of the global marketplaces.</p>



No	State of play in the EU	State of play in Ukraine	Gaps comparing to the EU baseline / Challenges
	consumers expect to see on eCommerce platforms, such as bank cards, digital wallets, bank transfer, invoice, cash-on-delivery. The preference varies on country.	<ul style="list-style-type: none"> A common way for customers to pay for goods is at the delivery. This is enabled by cash-on-delivery method when customers pay as they receive goods at the post (e.g. Nova Poshta) or escrow services when customers pay through a marketplace but sellers receive payments only after customers pick up orders. This way customers have the right to refuse receiving and paying for goods. As global marketplaces often work only with prepayment, when in Ukraine cash on delivery is very popular, it creates a challenge for cross-border transactions. Global wallets (e.g. PayPal) are not common as legal framework doesn't allow to receive money directly to accounts registered in Ukraine. For this reason, intermediaries exist that allow to receive money for a commission. This creates additional obstacles and costs. 	<p>Also, digital wallets are not common in Ukraine for eCommerce. Common global stakeholders such as PayPal do not allow to receive money directly to accounts registered in Ukraine. For this reason, intermediaries exist that allow to receive money for a commission. This creates additional obstacles and costs.</p> <p>Marketplaces do not use global, secure, trusted and transparent payment gateways to process payments. Instead, local solutions are used (e.g. PrivatePay and LiqPay). This makes the payments more challenging, as the EU consumers cannot see the common and trusted services in the EU during the checkout.</p>
6.	<p>To process payments, it is common for the EU business to use global electronic payments service providers. These providers meet standards for data security and are trusted by both, businesses and consumers. That is why, consumers expect to see payment gateways when shopping cross-border, such as⁹: Amazon payments, WePay, PayPal payments standard, Authorize.net, 2Checkout, Stripe, eWay, Payment Express.</p> <p>Key aspects to consider for the Eastern partner countries: Consider implementing the most common and trusted payment gateways that are available on the EU eCommerce marketplaces.</p>	<p>Payment gateways usage:</p> <ul style="list-style-type: none"> Businesses do not commonly use global payment gateways, such as WePay, PayPal payments standard, Authorize.net, 2Checkout, Stripe, eWay, Payment Express, to process payments. Instead, local solutions, such as PrivatePay and LiqPay are used. 	
Taxation			

⁹ <https://www.j2store.org/j2store-payment-gateways2/germany.html>



No	State of play in the EU	State of play in Ukraine	Gaps comparing to the EU baseline / Challenges
7.	<p>EU businesses and authorities are adjusting their systems and processes to the EU 2021 eCommerce package.</p> <p>For businesses selecting Import One Stop Shop¹⁰ (hereafter, IOSS) facility, especially for non-EU businesses, it is important to note that the IOSS representative for the remote seller has to register only in one Member State within the EU - the Member State of Identification (MSI). So, businesses must have an IOSS representative in the EU / EEA with a contract with the seller, acting as its fiscal representative¹¹.</p> <p>When selling through own website, businesses themselves need to appoint an EU intermediary to obtain an EU IOSS VAT number. However, when selling through a marketplace / platform, the operator of this marketplace / platform becomes liable to pay the VAT to the EU tax authorities.</p> <p>Key aspects to consider for the Eastern partner countries:</p> <ul style="list-style-type: none"> • Tax / customs authorities must be connected to the EU IOSS database. • Businesses should consider appointing IOSS representatives in the EU. • Increase awareness and communicate the changes in VAT processes associated with IOSS. 	<p>Awareness of eCommerce package – IOSS:</p> <ul style="list-style-type: none"> • Ukrposhta is aware of the changes in the EU legislation regarding cross-border taxes and constantly monitors changes. • Local stakeholders, except the national postal operator, are not aware of changes related to IOSS. 	<p>No full awareness as of summer 2020. The key stakeholders in Ukraine (except the national postal operator – Ukrposta) are not aware of the EU changes to cross-border taxation procedures in 2021 and are not doing preparatory actions, which includes establishing a representative in the EU, updating IT systems and cross-border taxes reporting processes.</p> <p>It is important for Ukraine to adjust to these changes as IOSS system may help authorities to control taxes flows and businesses to report cross-border taxes.</p>
Logistics and supply chain			

¹⁰ https://ec.europa.eu/taxation_customs/business/vat/modernising-vat-cross-border-e-commerce_en. IOSS is the system to declare and pay VAT on business-to-consumer (B2C) distance sales of consignments of an intrinsic value of maximum EUR 150.

¹¹ Explanatory notes on VAT eCommerce rules: https://ec.europa.eu/taxation_customs/sites/taxation/files/vatcommerceexplanatory_notes_30092020.pdf



No	State of play in the EU	State of play in Ukraine	Gaps comparing to the EU baseline / Challenges
8.	The most common delivery method in the EU is the post. About 75% of all commercial postal items (EU definition: parcels) sent across borders are enabled through the UPU.	<p>Post delivery:</p> <ul style="list-style-type: none"> Customers and businesses typically can select different ways to deliver commercial items, including global parcel delivery operators, the national postal operator Ukrposhta and local parcel delivery services. Post is the most common delivery method for cross-border purchases. The national postal operator Ukrposhta has over 11,000 postal offices. Local parcel delivery network is also represented by major local operators, such as Nova Poshta, Justin, Meest. For cross-border delivery, the national postal operator Ukrposhta is using 26 hubs (offices of exchange)¹². 	<p>Similar practices as in the EU. Delivery is enabled by the national, local and global operators. The national postal operator is one of the key stakeholder in delivery, however, the expected delivery time standards in Ukraine are slightly longer than 'the same or the next day delivery' expected in the EU (within 48 hours).</p> <p>Also, global logistics players (such as DHL, DPD, UPS and FedEx) entered the market to enable availability of the global marketplaces, but it's challenging for them to maintain high volumes, which influences higher rates for parcel delivery.</p> <p>In the EU, it is common to establish a centralised infrastructure with few cross-border hubs (offices of exchange) to achieve timely and regular transportation of parcels abroad. Wide network of cross-border hubs in Ukraine is not fully aligned with the centralised approach and provides possibilities for optimisation.</p>
9.	<p>eCommerce retailers manage their logistics by working with international logistics companies such as DHL, DPD, UPS and FedEx.</p> <p>Key aspects to consider for the Eastern partner countries: Increase awareness of possible fulfilment models that retailers must consider. Depending on volume of sales, consider one of the fulfilment models:</p> <ul style="list-style-type: none"> Ship purchased goods from the third countries. Cooperate with logistics business in the EU (outsourcing delivery). Cooperate with multiple logistics business in the EU to ensure fast delivery. It is common for the EU businesses to cooperate with 	<p>Availability of international logistics operators:</p> <ul style="list-style-type: none"> Key international parcel delivery operators are available: DHL, DPD, UPS and FedEx. These operators are often used by international marketplaces delivering orders to Ukraine. However, these operators are not common for internal delivery, where Nova Poshta or Ukrposhta are used. 	

¹² International Mail Processing Centres: UACOPA; UACOPB; UACOPC; UACOPD; UACOPE; UACOPF; UAIIEVA; UAIIEVB; UAIIEVC; UAIIEVD; UAIIEVE; UAIIEVF; UAIIEVG; UAIIEVH; UAIIEVI; UAIIEVK; UAIIEVK; UALWOA; UALWOB; UALWOC; UALWOD; UALWOE; UAODSA; UAODSB; UAODSC; UAODS; UAODS.



No	State of play in the EU	State of play in Ukraine	Gaps comparing to the EU baseline / Challenges
	<p>multiple service providers, because only a few international logistics companies have infrastructure on both sides of the border to cover the full cycle of delivery. Nevertheless, large companies, such as DPD, DHL, UPS, FedEX, are capable to do so.</p> <ul style="list-style-type: none"> • Own warehouse facilities in the EU to manage the delivery. • Enable cross-border eCommerce through the global marketplaces (such as: Amazon or Alibaba) to leverage their own delivery networks. 		
10.	<p>About 66% of the EU retailers use between two to ten carriers to enable delivery services. Half of these retailers use about five carriers for domestic and international needs.</p> <p>Key aspects to consider for the Eastern partner countries: Same as in question No 9.</p>	<p>Parcel delivery network:</p> <ul style="list-style-type: none"> • Customers and businesses are able to select different operators to deliver parcels. • For business it is common to offer between two to three delivery options. • However, cooperation between services is not common. For example, Nova Poshta has own couriers, who can deliver the order straight to delivery address. Also, many marketplaces often offer delivery by their own couriers. 	<p>Similar practices as in the EU. Although international service delivery operators are available in the market and parties can select different delivery services, international service delivery operators face challenge to maintain high eCommerce volumes creating high rates for parcel delivery limiting involvement in parcel delivery network. Also, cooperation between services is not common, which is important to optimise cross-border parcel delivery.</p>
11.	<p>The most popular delivery locations are the following: Home, Post office (outlet of the national universal service provider), Work, Parcel shop (local or international service providers such as DHL), Retailer store, Parcel locker station (as an example of unattended delivery).</p> <p>Key aspects to consider for the Eastern partner countries: Same as in question No 9.</p>	<p>Delivery locations:</p> <p>The most popular delivery locations: home, post office, work, parcel shop, retailer store, parcel locker station.</p>	<p>Similar practices as in the EU.</p>
12.	In most cases, the EU retailers may deliver purchased goods, when required (for a surcharge) during the same day within cities. In other cases,	Delivery time:	<p>Different practices than in the EU. The expected delivery time standards in Ukraine are slightly longer than the same</p>



No	State of play in the EU	State of play in Ukraine	Gaps comparing to the EU baseline / Challenges
	<p>an additional day may be agreed with the customer.</p> <p>Key aspects to consider for the Eastern partner countries: Enable the same or next-day delivery to get purchased goods to buyers.</p>	<ul style="list-style-type: none"> The same day delivery happens for orders made before 12 pm, if the delivery address is in the same city as the marketplace's warehouse. Next day delivery is more common, if an order is made before 12 pm and should be delivered to an urban area. For orders placed after 12 pm, delivery usually takes two days. Delivery terms of Ukrposta make standard delivery to vary between four to seven days. Express delivery is between one to three days. The expected delivery date is communicated to customers through marketplaces and by delivery operators. Also, major postal operators allow to track the status of delivery. 	<p>or the next day delivery expected in the EU (within 48 hours).</p> <p>This is a challenge for a seamless cross-border delivery of parcels to the EU as it is important to ensure optimised delivery to the border.</p>
13.	<p>High quality service with relatively short delivery time to large, mid-sized and small cities. The major retailers deployed their own warehousing and delivery processing facilities to fulfil growing eCommerce needs for high quality delivery to remote areas. Delivery to remote areas is dependent on the road availability.</p> <p>Key aspects to consider for the Eastern partner countries:</p> <ul style="list-style-type: none"> Ensure availability of infrastructure to a pick-up point selected by a consumer. Otherwise, delivery operators may drop shipments in the nearest drop locations. For optimised delivery, it is important to ensure a sufficient infrastructure. 	<p>Delivery to remote areas:</p> <ul style="list-style-type: none"> Nova Poshta takes additional two days to deliver parcels to remote areas (if that area has postal station of Nova Poshta). Ukrposhta with over 11000 postal offices is obliged to have branches in towns with a population of over 2000 people. Parcels can be delivered to these branches. There are ongoing steps to optimise delivery to remote areas: <ul style="list-style-type: none"> Ukrposhta having the most branches within the country, can be used by the private delivery operators, such as Nova Poshta or Meest Express, for collection of parcels. Introduction of "mobile postal services" - a post office on wheels is expanding from six regions to 27. This will lead to clearing unprofitable remote branches and replacing them with mobile branches. Unattended parcel lockers are not under consideration to enable delivery to remote areas. 	<p>Similar practices as in the EU. Decentralised network with active postal offices in all regions of the country is an old state-of-art, which is recommended to be updated according to the global and the EU best practices. In the EU, it is common to establish consolidated central distribution networks to achieve timely transportation of parcels. The ongoing steps to optimise delivery network in Ukraine should be further supported.</p>
14.	EU businesses and authorities are adjusting their systems and processes to the EU 2021 eCommerce package.	Awareness of eCommerce package - electronic declarations only:	No full awareness as of summer 2020. Although some of the key stakeholders already use electronic declarations in Ukraine with plans to connect to the EU



No	State of play in the EU	State of play in Ukraine	Gaps comparing to the EU baseline / Challenges
	<p>One of the aims of the 2021 modernisation is to eliminate traditional or physical customs documentation. All logistics businesses will need to adjust and use the IT system – Import control system 2 – to exchange pre-arrival information about goods¹³.</p> <p>Key aspects to consider for the Eastern partner countries:</p> <ul style="list-style-type: none"> • Increase awareness and communicate that retailers, parcel delivery services and tax / customs authorities will have to use electronic advanced data instead of physical documentation. • Retailers, parcel delivery services and tax / customs authorities should consider integrating with the IT system – Import control system 2 – to exchange pre-arrival information about goods. 	<ul style="list-style-type: none"> • Ukrposhta and the customs authorities are aware of the EU updates in customs clearance. • Stakeholders are gradually moving to a paperless environment (over 90% of customs declarations are filled electronically), yet certain documents and processes are still paper-based. • From November 2020, electronic entry summary declarations should be implemented in Ukraine with integration to Import Control System. However, there is no specified plan to integrate to Import Control System 2. 	<p>system, paper declarations are still allowed. This will not be allowed in the EU in 2021. Also, plans to connect to the newly introduced EU IT system remain unclear. The key eCommerce stakeholders (such as private parcel delivery operators) lack awareness about the electronic declarations becoming mandatory for the EU cross-border trade. As the result, they cannot start preparatory actions, which includes adjustments to the systems and business processes.</p> <p>Adjusting to these 2021 changes of the EU is important for Ukraine to speed up cross-border delivery.</p>
15.	<p>EU businesses and authorities are adjusting their systems and processes to the EU 2021 eCommerce package.</p> <p>One of the aims of the 2021 modernisation is to transport goods using a simplified dataset to be shared with customs authorities, prior to crossing the border into The EU /EEA for low value consignments. It can be used by all stakeholders¹⁴.</p> <p>Key aspects to consider for the Eastern partner countries: increase awareness and communicate that parcel delivery services and tax / customs authorities can benefit from simplified customs</p>	<p>Awareness of eCommerce package - simplified customs procedures:</p> <ul style="list-style-type: none"> • Ukrposhta is aware of the EU updates in simplified customs procedures. • Currently, Ukrposta is using customs declaration for low value consignments (value not more than €150) containing less amount of data as compared with the standard customs entries. However, datasets in such simplified declaration are not harmonised with the EU dataset. Currently, there is no plan to harmonise with the EU 2021 eCommerce package. • Also, the simplified dataset is used only by the national postal operator, but not by private parcel operators. Private 	<p>No full awareness as of summer 2020. Although the national postal operator in Ukraine is exchanging a minimum necessary set of information with the customs authorities, private delivery services are not aware of the possibility to use simplified procedures in 2021 during cross-border transactions with the EU. Also, the currently used dataset in simplified customs declarations is not harmonised with the one used in the EU in 2021.</p> <p>Adjusting to these 2021 changes of the EU is important for Ukraine, which may make</p>

¹³ Explanatory notes on electronic advanced data: <https://standards.iteh.ai/catalog/standards/cen/0428799b-5273-45f8-8629-17da8e92f54f/fprcen-tr-17536>

¹⁴ Explanatory notes on simplified customs procedures: <https://standards.iteh.ai/catalog/standards/cen/0428799b-5273-45f8-8629-17da8e92f54f/fprcen-tr-17536>



No	State of play in the EU	State of play in Ukraine	Gaps comparing to the EU baseline / Challenges
	procedures, where reduced data set can be used to declare goods to customs in the EU.	parcel operators are not aware of their ability to use the simplified dataset in 2021.	private parcel delivery services faster and affordable for cross-border eCommerce.
16.	<p>EU businesses and authorities are adjusting their systems and processes to the EU 2021 eCommerce package.</p> <p>In July 2021, de-minimis will be cancelled and VAT will apply to all purchased goods. The eCommerce stakeholders may expect that imports may become more expensive as VAT will apply to all goods – without exceptions. It may increase burden on national customs authorities having to process additional number of goods¹⁵.</p> <p>Key aspects to consider for the Eastern partner countries: Introduce awareness campaign to communicate that as de-minimis are cancelled there is impact on cross-border parcel delivery, such as:</p> <ul style="list-style-type: none"> Businesses should consider leveraging local EU fulfilment services to optimise delivery processes by importing larger transportation pallets, rather than individual parcels falling under de-minimis rules. Burden on national customs authorities may increase having to process additional number of goods. 	<p>Awareness of eCommerce package - no exceptions to pay VAT:</p> <ul style="list-style-type: none"> Ukrposhta is aware of the EU updates. The current de minimis limit in Ukraine is €100 for VAT and €150 for the customs duty. However, there is no plan to harmonise with the EU 2021 eCommerce package by eliminating the de minimis, which can create obstacles when moving goods from Ukraine to the EU Member states. 	<p>No full awareness as of summer 2020. The national postal operator is aware of the EU 2021 VAT eCommerce package. However, the rest of the key stakeholders and beneficiaries of the change, such as delivery services and online retailers, are not aware of the removed exceptions to pay VAT from mid-2021.</p> <p>Unawareness of the changes create a risk for stakeholders that they are not ready for more expensive transactions, additional burden to declare all items at customs. Adjustment to the changes is necessary not to block eCommerce with the EU completely.</p>
17.	Requirements for returns include preservation of the original product (or control of usage) and compliance with deadlines. Consumers do not have to provide reasons for return. Not all logistics companies manage cross-border returns, thus, in addition to the biggest parcel delivery operators that can do it, specialised returns software	<p>Return delivery:</p> <ul style="list-style-type: none"> The return conditions are specified directly on online interfaces (e.g. marketplaces). Normally, customers can return goods within 14 days from the moment of purchase. 	<p>Similar practices as in the EU. Return of goods is one of the key factors that build trust for consumers. To enable cross-border eCommerce it is important for Ukraine to fully align the return procedures. Minor gaps are observed:</p>

¹⁵ Explanatory notes on VAT eCommerce rules: https://ec.europa.eu/taxation_customs/sites/taxation/files/vatcommerceexplanatory_notes_30092020.pdf



No	State of play in the EU	State of play in Ukraine	Gaps comparing to the EU baseline / Challenges
	<p>providers and companies exist. Pick-up drop-off (PUDO) points is a common way to send back purchased goods to retailers.</p> <p>Key aspects to consider for the Eastern partner countries: Introduce awareness campaign to communicate to consumers, businesses and parcel delivery services the key requirements of the return procedure:</p> <ul style="list-style-type: none">Original product has to be preserved. Businesses can verify if goods have been used and reject the return.Customers have 14 days to decide to return purchased goods without providing any reason.Parcel delivery operators should consider installing unattended delivery options to enable customers to drop goods.Retailers must provide reimbursement as soon as evidences received.The biggest logistics operators provide the cross-border return services. Businesses may consider cooperating with such or domestic stakeholders to manage the cross-border return.Also, they may consider cooperating with the EU or domestic return software.	<ul style="list-style-type: none">Often marketplaces require explanation why a buyer wants to return goods.The seller checks returned goods in terms of original product preservation.Domestic and cross-border returns are enabled by Ukrposhta and Nova Poshta. Customers returning goods drop them at the nearest postal office.	<ul style="list-style-type: none">14 days for return start after purchase (not after delivery as in the EU), which makes delivery time in Ukraine even more critical -- especially for cross-border returns;Sellers may require a reason for return from customers, which is not in line with the EU practices, where no reasons are required within 14 days timeline.In the ecosystem of Ukraine no return specialised operators (e.g. specialised software, parcel operators specialised on returns) are observed.
18.	EU businesses and authorities are adjusting their systems and processes to the EU 2021 eCommerce package.	Awareness of eCommerce package - cross-border parcel supply chain: No information provided.	No information provided.



No	State of play in the EU	State of play in Ukraine	Gaps comparing to the EU baseline / Challenges
	<p>The newly introduced process in 2021 for cross-border parcel supply:</p> <ul style="list-style-type: none">• Is a standard process to exchange information between stakeholders in advance, i.e. before purchased goods are transported;• Is based on an Electronic Advanced Data flow of information;• Is performed on item level¹⁶;• Is enabled by the global ID (which is explained in detail in the following section);• Will be fully implemented in 2021. It will be mandatory to send this electronic advanced data for each commercial item, prior to any border crossing into the EU/EEA for customs, fiscal and transport security purposes.		

4.2 Gap analysis in legal area

The table in this section provides an overview of the identified gaps in legislation area in Ukraine comparing to the state of play in the EU. The table follows the structure of eCommerce legal framework as presented in the [EU baseline](#) and covers the following areas:

- Consumer protection;
- Parcel delivery;
- Security of networks and information systems;
- Geo-blocking;
- Data protection;
- Electronic contracts;
- Electronic payments;

¹⁶ Explanatory notes on item-level tracking rules: <https://standards.iteh.ai/catalog/standards/cen/29395c55-0c81-4a45-8358-059647b5cca7/cen-tr-17535-2020>



- Platforms.

The table is summarised in the section *4.4. Summary of gap analysis*.

4.2.1 Country profile

National legislation agenda in relation to eCommerce

Ukrainian legislation contains general fundamental rules and does not contain specific provisions present in the EU legislation. Moreover, some aspects are underregulated, for example, cloud services, online marketplaces, which complicates relations between the actors in the field.

Most of abovementioned legislative acts were adopted at 1990s and 2000s without any regard to the EU legislation. Only several laws, e.g., the Law of Ukraine "**On Electronic Commerce**", were developed after signing of Association Agreement between the European Union and its Member States and Ukraine on 27 June 2014 and were aimed at approximation with EU legal framework.

Some of the laws were amended to fulfil Ukraine's obligations under the Association Agreement. For example, the Law of Ukraine "**On Consumer Rights Protection**" was supplemented by provisions on consumer protection in connection with distance sale of goods and provision of services and on unfair business practices.

As of now, the process of harmonisation of Ukrainian legislation in the field of eCommerce with EU legal framework is still ongoing, which is reflected in the developed draft legislation.

The following draft legal acts were developed:

- Draft Law "**On Cloud Services**" has a high chance of being adopted soon. It will for the first time regulate relations in the field of provision of cloud services, which are an integral part of the eCommerce ecosystem;
- Draft Law "**On Virtual Assets**" will for the first time regulate the legal status of cryptocurrency in Ukraine, which is currently outside the scope of legal regulation. In the long perspective, this may affect the field of eCommerce, as it will open opportunities for new payment instruments.
- Draft Law "On Amendments to the Law of Ukraine "**On Postal Services**". According to the National Commission for State Regulation of Communications and Informatization, it was developed by the Ministry of Infrastructure and it is now planned to submit the bill to the Parliament. The amendments proposed by this draft law will regard market transparency, reporting and tariff regulation. Currently, national regulatory authority set tariff caps for universal postal services and postal operators' reporting is not required.
- Draft Law "**On Mediation**" will for the first time establish alternative dispute resolution rules in Ukraine, which might be applicable to consumer protection sphere as well. Current legislation does not provide any alternative dispute resolution options available in consumer protection disputes;
- Draft Law "**On Payment Services**", elaborated by the National Bank of Ukraine with the assistance of the European Bank for Reconstruction and Development and provided for public discussion in January 2020. The Draft Law is based on Payment services (PSD 2) Directive (EU) 2015/2366 and E-money Directive 2009/110/EC. Inter alia, there are provisions with an increased focus on protection of user rights and payment operations (supporting the necessity of reinforced user authentication in certain cases);
- Draft Law "**On Electronic Communications**" aimed at implementation of Directive 2018/1972 establishing the European Electronic Communications Code was pre-approved by the Parliament. Proposed bill will completely reform the market of electronic communications replacing current outdated law "On Telecommunications";



- Draft Law "On Amendments to Laws of Ukraine on **Information Security**" No. 9340 dated 26 November 2018 supplements the Law of Ukraine "On National Security of Ukraine" with the concept of information security and defines the content of information security as one of the key functions of the state in the Law of Ukraine "On Information". The Draft Law has been withdrawn.

Also, in 2019, the National Bank of Ukraine considered a possibility of introducing a **cap for the interchange fee**. Currently, Ukrainian legislation does not establish any limits for the interchange fee. As of now, there are no changes at this area.

Status of the approximation to the EU legal framework

Ukraine has formally fulfilled its obligations under the Association Agreement regarding eCommerce (implementation of the Directive 2000/31/EC, e-signatures, consumer protection in respect to eCommerce and unsolicited commercial messages), implemented norms are not always consistent with the Ukrainian legal system, and the implementation itself was not always complete. According to the Action plan for the implementation of the Association Agreement (Clause 1913), the Ministry of Digital Transformation by 2023 should draft a new eCommerce law based on Directive 2000/31/EC.

Identified challenges of the country in eCommerce legal field

- Large-scale contraband and subsequent resale of goods through online stores creates unfair conditions in the market due to substantially lower prices of contraband goods.
- The current €100 VAT-free and €150 import duty-free threshold applicable to inbound cross-border parcels for individuals may be considered an obstacle for cross-border eCommerce. On the other hand, Ukrainian market majors stand for a further reduction of such cap. In 2019, they proposed to reduce it to €22, but it was only reduced from €150 to €100 for VAT purposes. The interests of consumers, foreign and national merchants should be reasonably balanced. Ukraine is obliged to implement Directive 2006/112/EC of 28.11.2006 (VAT Directive) under the Association Agreement. At the same time, there are no information about any governmental action plans/draft laws aimed at approximation of Ukraine's domestic law with the specific Directives/Regulations comprising the EU VAT eCommerce package.
- In Ukraine, a significant part of individual entrepreneurs is taxed under a simplified tax regime that provides for lower tax rates and a less sophisticated procedure for their administration. Some eCommerce market players deliberately structure their sales through individual entrepreneurs registered specifically for tax reduction purposes, so that these individual entrepreneurs act as direct sellers of goods or service providers. This allows medium- and even, reportedly, large-scale eCommerce businesses to unfairly pay lower taxes, which leads to significant abuse and discrimination of market players who do not use this semi-legal scheme.
- There is a rising problem with the protection of consumer rights when using marketplaces. Market players selling goods through marketplaces may indicate false (or non-existent) store names, which makes it difficult or impossible for consumers to interact with them directly. This limits consumers' adequate protection in case of violation of their rights, because they must first apply to the marketplace to obtain information about the merchant. Moreover, some marketplaces do not collect sufficient information from merchants required for adequate consumer protection.
- Despite its name, the Law of Ukraine "On Electronic Commerce" is de facto limited to electronic trade and provision of electronic services (at a high level). This results in insufficient regulation of other spheres of eCommerce (e.g., B2B or G2B eCommerce).
- Consumer rights are sometimes violated where instead of a fiscal receipt merchants issue other similar documents, which are not considered proper proof of purchase of goods and, for example, do not provide the right to warranty repair. Reportedly, it is also sometimes used to avoid recording transactions and reporting respective income. This, however, is more a matter of enforcement rather than regulation.



4.2.2 Analysis of legislation

Consumer protection

The national legislation (laws, decrees, regulations) related to consumer protection in eCommerce:

- Civil Code of Ukraine No. 435-IV dated 16 January 2003;
- Law of Ukraine "On Advertising" No. 270/96-BP dated 3 July 1996;
- Law of Ukraine "On Consumer Rights Protection" No. 1023-XII dated 12 May 1991;
- Law of Ukraine "On Electronic Commerce" No. 675-VIII dated 3 September 2015;
- Law of Ukraine "On Private International Law" No. 2709-IV dated 23 June 2005;
- Law of Ukraine "On Protection Against Unfair Competition" No. 236/96-BP dated 7 June 1996;
- Law of Ukraine "On Protection of Economic Competition" No. 2210-III dated 11 January 2001;
- Law of Ukraine "On Protection of Personal Data" No. 2297-VI dated 1 June 2010;
- Draft Law "On Mediation";
- Rules for sale of goods to order and outside retail and office premises, approved by Order of the Ministry of Economy of Ukraine No. 103 dated 19 April 2007;
- Procedure for approval of Rules of Professional Ethic in Competition, approved by Decree of the Antimonopoly Committee No. 14-пн dated 8 August 2019;
- Temporary rules of case proceedings on violation of the antimonopoly legislation of Ukraine, approved by Decree of the Antimonopoly Committee No. 5 dated 19 April 1994.

Table 8: Ukraine: legislation gaps comparing to the EU eCommerce baseline – consumer protection

No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
Contractual obligations				
1.	Consumer contracts, Regulation (EC) No 593/2008, Article 6(1)	Law of Ukraine "On Private International Law, Article 5, paragraphs 2, 3 of Article 32, Article 43, paragraphs 1-3 of Article 45	The law governing the contract shall be chosen by the parties. However, the choice of law may not limit customer protection provided to the customer by a country of their residence or location.	Compatible
Unfair commercial practices				



No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
2.	Prohibition of unfair commercial practices, Directive 2005/29/EC Articles 5-9	Law of Ukraine "On Consumer Rights Protection", Articles 15, 17, 19, 21 Law of Ukraine "On Protection Against Unfair Competition", Article 151	Ukrainian legislation details the types of actions considered unfair competition, among which are misleading or aggressive (involving elements of coercion, harassment, undue influence) acts (or omissions), dissemination of misleading information (including misleading omission of information), infringement of consumer rights (including right to information about the product, freedom of product choice, freedom of will, limitation of rights, etc.), unfair advertising, etc. and establishes liability for such actions.	Compatible
3.	Recourse to the codes of conduct, Directive 2005/29/EC Articles 10	Not regulated. The national legislation does not encourage the control of unfair commercial practices by recourse to the national bodies providing code of conduct and recourse to such bodies if proceedings before such bodies are in addition to the court or administrative proceedings.		
4.	Adequate and effective means to combat unfair commercial practices, Directive 2005/29/EC Articles 11	Law of Ukraine "On Protection of Economic Competition", paragraph 4 of Article 4, Section 7 Law of Ukraine "On Protection Against Unfair Competition", Article 28 Temporary rules of case proceedings on violation of the antimonopoly legislation of Ukraine, approved by Decree of the Antimonopoly Committee, Section 6 Law of Ukraine "On Consumer Rights Protection", Article 4 Law of Ukraine "On Electronic Commerce", paragraph 4 of Article 1	Antimonopoly Committee of Ukraine carries out state supervision of compliance with legislation on protection of economic competition, protection of consumers and business entities. Bodies of the Antimonopoly Committee shall initiate case proceedings on violation of legislation on protection of economic competition upon claims of business entities, citizens, associations, institutions, organizations regarding infringement of their rights within 6 months from the date of rights infringement or its identification. The Law of Ukraine "On Consumer Rights Protection" and the Law of Ukraine "On Electronic Commerce" contain general provisions stating that state protection of consumer rights is granted in connection with products sold (and services provided) in the territory of Ukraine.	Partially compatible. The national legislation does not include legal provisions under which persons or organisations may take legal action and/or bring such unfair commercial practices before a competent administrative authority in case if the consumer affected, and the trader are located in different countries.
Consumer rights				



No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
5.	Requirements for distance contract, contract medium and language, Directive 2011/83/EU Articles 6-8	Rules for sale of goods to order and outside retail and office premises, approved by Order of the Ministry of Economy of Ukraine, paragraphs 1.6 Law of Ukraine "On Electronic Commerce", paragraphs 2, 14 of Article 11, paragraph 1 of Article 3, paragraph 5 of Article 7 Law of Ukraine "On Consumer Rights Protection", paragraph 2 of Article 13, paragraph 2 of Article 19	In case of conclusion of a distance contract, the trader shall provide to the consumer the following information: 1) name of a trader; its location and the procedure of complain acceptance; 2) main features of the product; 3) price, including delivery fee and payment requirements; 4) guarantee obligations and other services, including retention and repair; 5) other terms of contract performance; 6) minimal contract duration, if there are frequent deliveries; 7) telecommunication services fee; 8) proposal acceptance period; 9) contract termination procedure. Electronic contract shall include information required by the Civil Code regarding the respectful contract type and may additionally include information.	Partially compatible. There are no explicitly described characteristics and nature of the language that shall be used in the contracts concluded online.
6.	Compulsory information to provide before placing an online order, Directive 2011/83/EU Article 8	Rules for sale of goods to order and outside retail and office premises, approved by Order of the Ministry of Economy of Ukraine, paragraphs 1.6 Law of Ukraine "On Electronic Commerce", paragraph 2 of Article 11 Law of Ukraine "On Consumer Rights Protection", paragraph 2 of Article 13	In case of distant contract conclusion, the trader shall inform the consumer about the price, including delivery fee and payment terms. The trader shall inform the consumer on delivery terms. Ukrainian legislation provides only general requirements to delivery and payment terms with no explicit requirements regarding restrictions or means of payment (although that "payment terms" may be reasonably interpreted to include means of payment).	Partially compatible. The legislation does not require the consumer, when placing his order, to explicitly acknowledge that the order implies an obligation to pay. It does not demand that the trader explicitly indicates whether any delivery restrictions apply, and which means of payment are accepted before the consumer places his order
7.	Formal requirements for confirmation of the distance contracts, Directive 2011/83/EU Article 8	Law of Ukraine "On Electronic Commerce", paragraphs 2, 11 of Article 11	Electronic contract may include information on contract's conclusion procedure, producing and receipt of paper copies. Confirmation shall be made in the moment of transaction or moment of delivery of goods.	Compatible
8.	Obligations of the trader and the consumer in the event of withdrawal,	Rules for sale of goods to order and outside retail and office premises, approved by Order	A consumer has the right to terminate a distance contract, subject to notice to a trader, within 14 days after receipt of the document confirming conclusion of	Compatible



No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
	Directive 2011/83/EU Articles 13-14	of the Ministry of Economy of Ukraine, paragraphs 1.7, 1.8 Law of Ukraine "On Consumer Rights Protection", paragraph 4 of Article 12	a contract or, if delivery of goods is made after the consumer received the document confirming conclusion of a contract, within 14 days after receipt of goods/first batch of goods. The trader shall reimburse the received payments without a delay within 30 days from the moment of receipt of consumer's notice on contract termination.	
9.	Delivery of purchased goods, Directive 2011/83/EU Article 18	Law of Ukraine "On Consumer Rights Protection", paragraph 6 of Article 13 Rules for sale of goods to order and outside retail and office premises, approved by Order of the Ministry of Economy of Ukraine, paragraph 2.8	The trader shall deliver the goods to the consumer within an acceptable time period, but no later than 30 days from the receipt of consumer's consent to conclusion of a contract.	Compatible
Consumer Sales and Guarantees				
10.	Conformity of consumer goods with the contract, Directive 1999/44/EC Article 2	Civil Code, paragraph 1 of Article 662, Articles 670-675 Law of Ukraine "On Consumer Rights Protection", paragraph 1 of Article 6 Rules for sale of goods to order and outside retail and office premises, approved by Order of the Ministry of Economy of Ukraine, paragraph 2.7	The seller shall hand over to the consumer the goods defined by the purchase and sale agreement in agreed quality, quantity and assortment. If the contract does not include quality requirements, the seller shall deliver the product suitable for the purpose for which this type of products is normally used. If, when concluding a contract, the seller was informed by the buyer about the specific purpose for which the product is purchased, the seller shall deliver the product suitable for use according to this purpose. If the product is sold by sample and/or description, the seller shall deliver product complying with the sample and/or description. If the law establishes requirements to quality of products, the seller shall deliver products complying with such requirements.	Compatible



No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
11.	Liability of the seller to the consumer for any lack of conformity of delivered goods, Directive 1999/44/EC Article 3	Civil Code, Articles 672, 678, 708-710 Law of Ukraine "On Consumer Rights Protection", Articles 6, 8-10, 17	If quality of the goods does not conform to the contract's terms or is insufficient, the consumer may demand price reduction, free of charge rectification of defects / blemishes, refund of expenses for rectification of defects / blemishes, or refuse to accept the goods and demand refund. If the assortment of the goods does not conform to the contract's terms, the consumer may refuse to accept the goods and demand refund; or accept only the conforming part of the goods; or demand replacement of the goods which are not in conformity. If within the goods' guarantee period the consumer has detected substantial defects, caused by the fault of the seller/producer, or falsification, they may: (a) terminate the contract and receive refund; (b) demand replacement of the goods.	Compatible
12.	Right of redress by the final seller liable to the consumer, Directive 1999/44/EC Article 4	Civil Code, Article 678 Law of Ukraine "On Consumer Rights Protection", paragraph 12 of Articles 12	If the seller is not the producer of the products/goods, claims may be filed by the consumer against either the seller or the producer. The law does not explicitly describe relations within the supplier chain. Therefore, in all uncovered matters general provisions regarding reimbursement of damages shall be applied (i.e., the final seller would be able to claim damages for supply of non-conforming goods from a previous seller under general rules and subject to contractual terms between them).	Compatible
Better enforcement and modernisation of consumer protection rules				
13.	Misleading commercial practices of paid advertisement, Directive 2005/29/EC Annex 1 (Directive (EU) 2019/2161, Art 3 (7)(a)	Law of Ukraine "On Advertising", Article 1, paragraph 5 of Article 9	Ukrainian legislation provides a vague description of "covert advertising" which is considered as information about a person or product in a programme, broadcast, publication, if such information persuades advertising purpose and may be misleading regarding the true aim of the programme, broadcast or publication. Covert advertising is prohibited.	Partially compatible. The national legislation does not indicate paid advertisement as a misleading commercial practice in case of providing search results in response to a consumer's online search query without clearly disclosing any paid advertisement or payment specifically for



No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
				achieving higher ranking of products within the search results.
14.	Misleading omissions for products offered on online marketplaces, Directive 2005/29/EC Annex 1 (2019/2161, Art 7(f)) / Directive (EU) 2019/2161, Art 3 (4)(f)	Law of Ukraine "On Electronic Commerce", subparagraph 8 of paragraph 1 of Article 3, subparagraph 4 of paragraph 1 of Article 4, paragraph 2 of Article 13	There is no definition of "online marketplace" in Ukrainian legislation. There is no direct requirement to inform the consumer whether the third party offering the products is a trader or not. Nevertheless, there is a general obligation of the seller to provide the consumer with information on the seller's name, their location and procedure of claim acceptance. Information provided to the consumer about the seller/producer shall be accessible, accurate and timely.	Not regulated. The national legislation does not introduce the notion of online marketplace. In the case of an invitation to purchase for products offered on online marketplaces, the legislation does not require that the consumer must be informed whether the third party offering the products is a trader or not, on the basis of the declaration of that third party to the provider of the online marketplace.
15.	Information requirements for distance contracts of digital content and digital service, Directive (EU) 2019/2161 Art 4 (2)(b) / Directive 2011/83/EU Art 3	Law of Ukraine "On Electronic Commerce", paragraph 1 of Article 14 Law of Ukraine "On Protection of Personal Data"	There are no definitions of "digital content" and "digital service" stipulated by Ukrainian legislation. However, the notion of "digital content" is present in professional legal discussions/dialogue/ research studies. Ukrainian legislation does not directly include provisions of consumer rights protection where the trader supplies or undertakes to supply digital content which is not supplied on a tangible medium or a digital service to the consumer and the consumer provides or undertakes to provide personal data to the trader.	Not regulated. The national legislation does not define digital content and digital service supplied by the trader to the consumer. The legislation does not include provisions of consumer rights protection where the trader supplies or undertakes to supply digital content which is not supplied on a tangible medium or a digital service to the consumer and the consumer provides or undertakes to provide personal data to the trader.
16.	Information requirements for distance contracts when price was personalised on the basis of automated decision-making, Directive (EU) 2019/2161, Art 4 (4)(a)ii / Directive 2011/83/EU Art 6	Not regulated. Before the consumer is bound by a distance or off-premises contract, or any corresponding offer, the trader shall inform the consumer, where applicable, that the price was personalised on the basis of automated decision-making. The national legislation of Ukraine does not apply this provision.		
17.	Fake price reductions, Directive (EU) 2019/2161, Art 2 (1) / Directive 2011/83/EU Art 6a	Law of Ukraine "On Consumer Rights protection", paragraph 6 of Article 15	After the public announcement of a sale start, discounts or price reduction, the consumer shall be provided with information about the prior price of the goods set before the sale/discounts/price reductions,	Partially compatible. The national legislation does not define the period of time during which the prior price is defined and



No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
			as well as the new price of the goods. There are no specific requirements, however, as to what exactly the prior price is.	the requirements to defining of the prior price.
18.	Misleading omissions about consumer reviews of products, Directive (EU) 2019/2161, Art 3 (4)(c) / Directive 2005/29/EC Art 7 (4)	Not regulated. The legislation of Ukraine does not require that the trader providing access to consumer reviews of products must inform the consumer about whether and how the trader ensures that the published reviews originate from consumers who have actually used or purchased the product. This aspect is critical for domestic and cross-border consumers in protecting against misleading omissions about consumer reviews of products.		
19.	Enforcement of proportionate and effective remedies, Directive (EU) 2019/2161, Art 3 (5) 1 / Directive 2005/29/EC Art 11a	Articles 4, 15, 19 of the Law of Ukraine "On Consumer Rights Protection"	Under Ukrainian legislation, contracts concluded using unfair business practices are invalid. It means that such contracts may be terminated in court and the consumer is entitled to demand restitution. In case of unfair advertising, which is considered as a special type of unfair business practices, the consumer is entitled to damages. The right to reduce the price of goods does not apply to cases of unfair business practices.	Compatible
20.	Injunctions for the protection of consumers' interests, Directive 2009/22/EC Art 2 and 3	Articles 22, 26 of the Law of Ukraine "On Consumer Rights Protection"	According to Ukrainian law, consumers are entitled to seek protection of their violated rights in court or to file a complaint to the State Service of Ukraine on Food Safety and Consumer Protection.	Compatible
Right to price indication				
21.	Consumer protection in the indication of the prices of products offered to consumers, Directive 98/6/EC Art 1, 3, 5	Article 15 of Law of Ukraine "On Consumer Rights Protection"	Ukrainian legislation provides that the indicated price for a unit of the product, or a given quantity of the product, must include all taxes and non-tax mandatory payments that are required to be paid by the consumer when purchasing the product. Ukrainian legislation does not stipulate the indication of the price per unit of measurement.	Partially compatible. The national legislation does not require the indication of the price per unit of measurement of products offered by traders to consumers.



No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
Alternative dispute resolution for consumer disputes				
22.	Availability of procedures for the out-of-court resolution of domestic and cross-border disputes concerning contractual obligations, Directive 2013/11/EU Art 1, 2, 5-11	Article 2 of the Draft Law "On mediation"	<p>Consumer is entitled to seek protection of their violated rights by filing a lawsuit to the court or a complaint to the State Service for Food safety and Consumer Protection.</p> <p>Currently, there are no relevant alternative dispute resolution options. However, the Draft Law "On mediation", that has been adopted in the first reading recently may apply to consumer protection disputes.</p>	Not regulated. The legislation does not stipulate that consumers can, on a voluntary basis, submit complaints against traders to entities offering independent alternative dispute resolution (ADR) procedures. It does not establish harmonised quality requirements for ADR entities and ADR procedures.
Online dispute resolution for consumer disputes				
23.	Availability of an online dispute resolution platform for consumer disputes, Regulation (EU) No 524/2013 Art 1-5		Not regulated. The rules for the establishment of online dispute resolution platform(s) facilitate the independent, impartial, transparent, effective, fast and fair out-of-court resolution of disputes between consumers and traders online. The legislation of Ukraine does not provide this mean of the consumer protection. No online dispute resolution platform is available in Ukraine at the moment.	

Parcel delivery

The national legislation (laws, decrees, regulations) related to parcel delivery:

- Convention on International Civil Aviation of 1944;
- Customs Code of Ukraine No. 4495-VI dated 13 March 2012;
- Tax Code of Ukraine No. 2755-VI dated 2 December 2010;
- Air Code of Ukraine No. 3393-VI dated 19 May 2011;
- Law of Ukraine "On postal services" No. 2759-III dated 4 October 2001;
- Law of Ukraine "On veterinary medicine" No. 2498-XII dated 25 June 1992;
- Law of Ukraine "On Plant Quarantine" No. 3348-XII dated 13 February 2020;
- Law of Ukraine "On State Market Surveillance and Control of Non-Food Items" No. 2735-VI dated 2 December 2010;
- Rules for providing postal services, approved by Resolution of the Cabinet of Ministers of Ukraine No. 270 dated 5 March 2009;
- Regulation on customs control and customs clearance of international mail approved by Order of the State Customs Service of Ukraine and State Committee for Communications and Informatization of Ukraine No. 680/108 dated 27 October 1999;



- Resolution of the Cabinet of Ministers of Ukraine "Certain issues of implementation of the Law of Ukraine "On Plant Quarantine" No. 1177 dated 15 November 2019;
- Regulation on procedure for passing goods under the control of the State Veterinary Medicine Service across the state border of Ukraine approved by Order of the Chief State Inspector of Veterinary Medicine of Ukraine No. 49 dated 27 December 1999;
- Aviation Rules of Ukraine "Instructions on the Organization and Implementation of Security Control at Ukrainian Airports" approved by Order of the State Aviation Service of Ukraine No. 322 dated 15 March 2019;
- Procedure and Conditions for Provision of the Service of Transferring of International Postal Items (local act of national designated operator "Ukrposhta").

Table 9: Ukraine: legislation gaps comparing to the EU eCommerce baseline – parcel delivery

No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
Customs formalities				
24.	Customs declaration for all consignments of distance sales, Commission Delegated Regulation (EU) 2019/1143 Art 1, Commission Delegated Regulation (EU) 2015/2446	<p>Art. 31-1, 264 of the Customs Code of Ukraine No. 4495-VI of 13 March 2012 (electronic declaration of goods).</p> <p>Art. 233 – 237 of the Customs Code of Ukraine No. 4495-VI of 13 March 2012 (declaration of goods imported by international postal parcels/express delivery).</p> <p>Para 2-8 of the Regulation on Customs Declarations, approved by the regulation of the Cabinet of Ministers of Ukraine No. 450 of 21 May 2012 (types of declaration applicable upon movement of goods by post/express delivery).</p>	<p>According to domestic customs legislation of Ukraine, a customs declaration can be completed either as an electronic document or as a hard copy. Parcels with the goods that are not subject to customs tax (e.g., invoice value does not exceed €100 – for VAT purposes) are declared orally based on the shipping documents. Depending on the value of the parcel, as well as on whether the declarant is a private individual/legal entity, simplified forms of customs declarations (containing less particulars as compared to regular customs entries) can apply. However, datasets in these declarations are not harmonised.</p> <p>According to the Customs Code, filing of entry summary declaration (ENS) would be mandatory from November 2020. Draft bylaw legislation (required for implementation of ENS in Ukraine) is published by the Ministry of Finance.</p>	<p>Not implemented. From 1 July 2021, the European Union will introduce the fully electronic customs declaration of all consignments covering distance sales of goods imported from third countries or territories to customers in the EU. Ukraine has not yet initiated any legislative work on the adaptation of the national legislation to the new EU rules in customs declaration. If not adapted, the flow of eCommerce towards the EU will be restricted.</p>
Fiscal aspects				



No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
25.	Special scheme as regards certain value added tax obligations for distance sales of goods imported from third territories or third countries, the Directives and Regulations the VAT eCommerce package	Not implemented. No active legislative work on the adaptation of the national legislation to any of the above VAT eCommerce package new rules is currently in progress. Special scheme as regards certain value added tax obligations for distance sales of goods imported from third territories or third countries to the EU will be applied from 1 July 2021. Ukraine has not yet initiated any legislative work on this adaptation. If not adapted, the flow of eCommerce towards the EU will be restricted.		
Non-fiscal aspects				
26.	Compliance with product safety rules, Commission Notice 'Blue Guide', Section 7.3.	Section 36 (Articles 233-237), article 319 of the Customs Code of Ukraine Art. 38 of Law of Ukraine "On State Market Surveillance and Control of Non-Food Items" No. 2735-VI of 2 December 2010 (suspension of customs clearance of suspected non-conforming goods) Sections 3, 4 of the Regulation on customs control and customs clearance of international mail approved by Order of the State Customs Service of Ukraine and State Committee for Communications and Informatization of Ukraine No. 680/108 dated 27 October 1999	For goods imported by international postal parcels/express delivery, product safety controls are not applicable at the border, but may be conducted in the inland customs office. Product safety controls are not applied to parcels with the invoice value below the tax-free limits (€100 for VAT, EUR 150 for customs duty).	Compatible
27.	Protection of intellectual property regarding products sold online and imported from third	Section 57 (Articles 397-403) of the Customs Code of Ukraine	The Customs Code of Ukraine (governing intellectual property rights (IPR) enforcement at customs) does not contain any specific provisions regarding goods sold through eCommerce. IPR protection measures can be applied for both commercial and non-commercial	Compatible



No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
	countries, Regulation (EU) No 608/2013		shipments, regardless of the quantity/value of goods in a parcel. For small consignments of IPR infringing goods moved by international postal parcels/express delivery, (regardless of whether it is a commercial or non-commercial shipment) there is a simplified procedure of goods' destruction (where the owner of the goods agrees). Postal operators are not responsible for destruction. If the owner's consent for destruction of goods is granted, customs would present the goods to the right holder, who must destroy them at his own expense.	
28.	Authenticity logo for online sale of medicines, Commission Implementing Regulation (EU) No 699/2014, Directive 2011/62/EU		Not regulated. The national legislation does not introduce a common logo for legally operating online pharmacies and retailers as one of the measures to fight against falsified medicines. This measure improves the consumer protection for cross-border eCommerce of medicines.	
29.	Transparency of cross-border tariffs for parcels, Regulation (EU) 2018/644, Directive 97/67/EC Art 12	Clause 3 of Paragraph 2 of Article 13 and Clause 5 of Paragraph 2 of Article 19 of the Law of Ukraine "On Consumer Rights Protection"	Ukrainian legislation stipulates that the consumer should be provided with information about price, including cost of delivery and terms of payment, before execution of the agreement. Otherwise, it may be considered a deceptive business practice. However, there are no specific regulations on consumer protection in respect to cross-border parcel delivery.	Not regulated. The legislation does not require that all cross-border parcel delivery service providers operating in the country shall provide the national regulatory authority with the public list of tariffs applicable each calendar year. The national regulatory authority is not required to objectively assess the cross-border tariffs in order to identify those cross-border tariffs that it considers to be unreasonably high. For distance contracts, the traders concluding sales contracts with consumers that include the sending of cross-border parcels are not required to make available, at the pre-contractual stage, information about the cross-border delivery options in relation to the specific sales contract and charges payable by consumers for the cross-border parcel delivery. These gaps negatively affect the quality of cross-border delivery services.



No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
Legal framework related to the Universal Postal Union				
30.	Provided services by the national designated postal operator, UPU Convention Manual, Art 1.14 and 17	Procedure and Conditions for Provision of the Service of Transferring of International Postal Items (local act of national designated operator "Ukrposhta")	National designated operator of Ukraine accepts, handles, conveys and delivers such types of postal items. Information about provision of such services is available at its official website.	Compatible
31.	Postal security requirements for the provision of electronic advance data, UPU Convention Manual, Article 8.1	Sections 3, 4 of Regulation on customs control and customs clearance of international mail approved by Order of the State Customs Service of Ukraine and State Committee for Communications and Informatization of Ukraine No. 680/108 dated 27 October 1999	Customs declarations forms CN 22 or CN 23 are used for declaration of items imported by international postal parcels. These documents are usually paper-based. Currently there are no operational mechanisms of electronic exchange of advance data between the postal operator and the customs authorities.	Not implemented. The national postal operator does not exchange advance data with the customs authorities of the country via electronic data interchange (EDI) messaging, does not use the Customs Declaration System (CDS), and does not exchange advance data about parcel-post items with the other authorities of the country (sanitary, phytosanitary, quality standards, IPR).
32.	Security measures for cargo or mail that fly from / to the country outside the EU into the EU	Paragraph b of Article 35 of the Convention on International Civil Aviation of 1944 Paragraph 4 of Article 87 of the Air Code of Ukraine Sections XVI, XXI of the Aviation Rules of Ukraine "Instructions for the organization and implementation of security controls at airports Of Ukraine"	National regulations provide for the physical screening of postal items before they are sent by air by airport security regardless of whether they come from a secure supply chain. This issue is governed by the aviation safety rules. There is no specific postal service regulation regarding such case.	Compatible

Security of networks and information systems

The national legislation (laws, decrees, regulations) related to security of networks and information systems:

- Law of Ukraine "On Information" No. 2657-XII dated 2 October 1992;



- Law of Ukraine "On Protection of Information in Information and Telecommunication Systems" No. 80/94-BP dated 5 July 1994;
- Law of Ukraine "On Personal Data Protection" No. 2297-VI dated 1 June 2010;
- Law of Ukraine "On Electronic Commerce" No. 675-VIII dated 3 September 2015;
- Rules for ensuring information protection in information, telecommunication and information-telecommunication systems, approved by Resolution of the Cabinet of Ministers of Ukraine No. 373 dated 29 March 2006.

Table 10: Ukraine: legislation gaps comparing to the EU eCommerce baseline – security of networks and information systems

No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
33.	Security requirements and incident notification, Directive (EU) 2016/1148 Art 16	Articles 1, 2, 9 of the Law of Ukraine "On Protection of Information in Information and Telecommunication Systems" Paragraph 3 of Article 7 of the Law of Ukraine "On Electronic Commerce" Article 15 of the Draft Law "On Cloud Services"	Although currently there are no regulations specifically governing Online marketplace, Online search engine, Cloud computing services, such systems can be defined as an information system (i.e., automated system), which, according to Ukrainian legislation, is an organizational and technical system implementing the information processing technology by using hardware and software. Protection shall be provided to the information being processed in such system and software that is designed to process this information. The owner of the system is responsible for ensuring security of information within the system. However, this obligation is not further detailed. The Draft Law "On Cloud Services", which passed the first reading by the Parliament, also establishes generic obligation of the cloud services provider to ensure appropriate conditions for data protection in the cloud computing system.	Partially compatible. Apparently, the national legislation does not require that the digital service providers are required to notify the competent authority without undue delay of any incident having a substantial impact. The competent national authority have no obligation to inform the public about individual incidents or require the digital service provider to do so.
34.	Jurisdiction and territoriality of digital service providers, Directive (EU) 2016/1148 Art 18	Not regulated. The legislation of Ukraine does not require from a digital service provider that is not established in the country, but offering services of Online marketplace, Online search engine, or Cloud computing within the country, to designate a legal representative in the country. These measure with a view to achieving a high common level of security of network and information systems within the cross-border eCommerce so as to improve the functioning of the market.		



Geo-blocking

Table 11: Ukraine: legislation gaps comparing to the EU eCommerce baseline – geo blocking

No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
35.	Unjustified blocking or limiting a customer's access to the trader's online interface, Regulation (EU) 2018/302 Art 3	Paragraph 1 of Article 17 of the Law of Ukraine "On Consumer Protection"	Ukrainian law regulates this issue only at the level of general consumer protection issues, guaranteeing consumers' right to equal access to trade and other service and prohibiting preferential treatment and direct or indirect limitation of consumers' rights	Not regulated. The legislation does not require that a trader shall not, through the use of technological measures or otherwise, block or limit a customer's access to the trader's online interface, or shall not apply different general conditions of access to goods or services for reasons related to the customer's nationality, place of residence or place of establishment.

Data protection

The national legislation (laws, decrees, regulations) related to data protection:

- Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data dated 28 January 1981;
- Additional Protocol to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data, regarding supervisory authorities and transborder data flows dated 8 November 2001;
- Law of Ukraine "On Personal Data Protection" No. 2297-VI dated 1 June 2010;
- Order of the Ukrainian Parliament Commissioner for Human Rights "On Approval of Documents in the Field of Personal Data Protection" No. 1/02-14 dated 8 January 2014.



Table 12: Ukraine: legislation gaps comparing to the EU eCommerce baseline – data protection

No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
36.	Transfers of personal data to third countries or international organisations, Regulation (EU) 2016/679 Art 44, 46	Paragraph 4 of Article 14 and Article 29 of the Law of the Ukraine "On Personal Data Protection	General conditions allowing cross-border transfer of personal data are, inter alia, (i) transfer to countries ensuring the appropriate level of personal data protection (to be determined by the Government, by default including EEU countries and parties to the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data), (ii) transfer subject to explicit consent, (iii) protection of vital interests of data subjects, (iv) public interest and (v) guarantees of guarantees of non-interference in data subject's personal and family life by data controller.	Partially compatible. The legislation does not indicate mechanisms or any special tools for transfer of personal data to third countries.

Electronic contracts

Table 13: Ukraine: legislation gaps comparing to the EU eCommerce baseline – electronic contracts

No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
37.	Free movement of information society services, Directive 2000/31/EC Art 3	Articles 55 and 129 of the Commercial Code of Ukraine	Ukrainian legislation does not specifically establish the general principle of the freedom to provide information society services by a service provider established on the territory of a third country. However, it generally allows foreign business entities to provide services in the territory of Ukraine.	Not regulated. The national legislation does not establish the general principle of the freedom to provide information society services by a service provider established on the territory of a third country.
38.	Liability of intermediary service providers, Directive 2000/31/EC Art 9-11	Article 40 of Law of Ukraine "On Telecommunications" Articles 6, 9, 17 of Law of Ukraine "On Electronic Commerce" Paragraph 2 of Article 27 of the Law of Ukraine "On advertising"	The Draft Law "On Media" (currently being considered by a respective parliamentary committee) establishes that providers of platforms of shared access to information (which, as we understand, covers social media) shall envisage a restriction for dissemination of user information violating Ukrainian legislation and legislation on copyright, a notice on obligations occurring in relation with refutation of information in their "terms of use". Otherwise, sanctions might be applied to such providers.	Partially compatible. There are no general conditions under which information society service providers cannot be held liable (liability limitations) for a third-party illegal content.



No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
		Article 27 of law of Ukraine "On Advertising" Articles 23, of Draft Law "On Media"	Under general rules liability shall be imposed on the person guilty of the wrongdoing. Ukrainian legislation contains several specific rules governing liability of separate categories of information society service providers: intermediary online services, telecommunication service providers, advertisers. According to court practice, in cases of on-line dissemination of disputable information claims may be filed against both the author of the content and owner of the website.	

Electronic payments

The national legislation related to electronic payments:

- Law of Ukraine "On Payment Systems and Transfer of Funds in Ukraine" No. 2346-III dated 5 April 2001;
- Law of Ukraine "On Banks and Banking Activity" No. 2121-III dated 7 December 2000;
- Regulation on Electronic Money in Ukraine approved by Resolution of the Board of National Bank of Ukraine No. 481 dated 4 November 2011;
- Regulation on the Procedure for Issuing Payment Instruments and Transactions with Their Use approved by Resolution of the Board of National Bank of Ukraine No. 705 dated 5 November 2014;
- Law of Ukraine "On Protection of Economic Competition" No. 2210-III dated 11 January 2001;
- Regulation on the Procedure for Registration of Payment Systems, Payment Infrastructure Operators approved by Resolution of the Board of National Bank of Ukraine No. 434 dated 4 February 2014.

Table 14: Ukraine: legislation gaps comparing to the EU eCommerce baseline – electronic payments

No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
39.	Integrated market for electronic payments, Directive (EU) 2015/2366 Title I and II	Law of Ukraine "On Payment Systems and Funds Transfer in Ukraine", Articles 9, 14, 38 Regulation on the Procedure for Registration of Payment	Ukrainian legislation defines general rules for electronic payments which shall be adhered to by all the actors. It includes provisions guaranteeing equal access for users to payment systems, variety of electronic means of payment (business entities shall give to users the opportunity to use no less than three),	Compatible



No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
		<p>Systems, Payment Infrastructure Operators</p> <p>Regulation on the Procedure for Issuing Payment Instruments and Transactions with Their Use</p> <p>Law of Ukraine "On Protection of Economic Competition"</p>	<p>protection of consumer rights, security of information, etc.</p> <p>The antimonopoly legislation is also designed to protect equal access to the market and means of payment, competitive relations among the market participants.</p>	
40.	Strict security requirements for electronic payments, Directive (EU) 2015/2366 Art 94-96	<p>Article 38, 39 of the Law "On Payment Systems and Transfer of Funds" Subclause 13 of Clause 2 of Section 2 of Regulation on the Procedure for Registration of Payment Systems, Payment Infrastructure Operators</p> <p>Subclause 7 of Clause 8 of Section I Regulation on the Procedure for Issuing Payment Instruments and Transactions with Their Use</p>	<p>Ukrainian legislation establishes general requirements for components and functions of security system of funds transfer systems. There is also an obligation of payment systems operators to submit information about their information security systems to the National Bank of Ukraine. Additionally, participants of payment systems should secure the protection of relevant information about the transfer from unauthorized access, unauthorized changes to information, unauthorized transactions with components of payment systems.</p>	Compatible
41.	Transparency and information requirement, Directive (EU) 2015/2366 Title III	<p>Paragraph 6 of Article 9 of the Law of Ukraine "On Payment Systems and Transfer of Funds"</p> <p>Regulation on the Procedure for Issuing Payment Instruments and Transactions with Their Use, in particular, Clauses 6 and 9 of Section II and Clause 11 of Section III</p>	<p>Under general rules, payment system participants are obliged to ensure provision of information on funds transfer services to protect the rights of consumers of such services. The above contract terms should cover type of payment instrument, procedure for providing for use or transfer of ownership of an electronic means of payment to the user, types of available payment transactions, rules and the maximum term of their execution, procedure for servicing the account, the bank's tariffs, information on limits and/or restrictions on transactions, etc.</p>	Partially compatible. Apparently, the legislation does not contain requirements for transparency of conditions and information requirements for payment services applied to framework contracts and payment transactions covered by them.



No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
42.	Rights and obligations for providers of payment services, Directive (EU) 2015/2366 Title IV	Law of Ukraine "On Payment Systems and Funds Transfer in Ukraine" Regulation on the procedure for issuing payment instruments and transactions with their use	Ukrainian legislation sets rights and obligations of payers, banks, other institutions participating in payment system, acquirers, clearing institutions, issuers of payment instruments. Such provisions are contained throughout the text and are not concentrated in a separate article or section.	Compatible
43.	Reduced liability for unauthorised payment transactions, Directive (EU) 2015/2366 Art 74	Currently Ukrainian legislation does not set limits on liability in case of unauthorized payment. However, in July 2019, the National Bank of Ukraine declared its intention to reform the sphere of payment systems, including the introduction of such limits in the future.	Not regulated. The national legislation does not impose a limit that the payer may be obliged to bear due to the losses relating to any unauthorised payment transactions, resulting from the use of a lost or stolen payment instrument or from the misappropriation of a payment instrument. This measure improves trust of cross-border consumers to use local on-line payment services.	
44.	Unconditional refund right, Directive (EU) 2015/2366 Art 73	Clause 14.16 of Article 14, Subclause 32.3.2 of Article 32, Clause 37.2 of Article 37 of the Law of Ukraine "On Payment Systems and Funds Transfer". Clause 9 of Section VI of the Regulation on the procedure for issuing electronic payment instruments and carrying out operations with their use approved by the Resolution of Board of National Bank of Ukraine No. 705 dated 5 November 2014	In case of initiating an improper transfer from the account of the improper payer, due to the fault of the initiator of the transfer who is not the payer, the issuer of payment instrument is obliged to transfer to the account of the improper payer the appropriate amount of money at his own expense and pay a penalty to the improper payer. The timeframe for fulfilment of this obligation is not defined.	Compatible
45.	Removal of surcharges for the use of credit cards and	Not regulated. The legislation does not require that payment service providers shall not offer or request a per transaction interchange fee of more than a certain fixed percentage (0,2% and 0,3 % in the EU) of the value of the transaction for any debit /credit card transaction. The consumer is not protected against abusive service charges that may be applied by payment service providers.		



No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
	debit cards, Regulation (EU) 2015/751			
46.	Development of regulatory technical standards on strong customer authentication and secure communication channels, Directive (EU) 2015/2366 Art 5, 15, 28, 29, 95	There are no approved technical standards on strong customer authentication and secure communication channels developed by the Ukrainian regulatory authority. The National Bank of Ukraine intended to introduce such standards in 2018 but later, following the reform of standardisation that has made the use of standards voluntary, the process was halted.	Not regulated. There are no legal obligations for the regulatory authority of the country to develop technical standards on strong customer authentication and secure communication channels with which all payment service providers must comply. The absence of such standards presents challenge to provide transparent and harmonised electronic payment services by the local and foreign payment service providers.	

Platforms

The national legislation related to online platforms:

- Law of Ukraine "On Electronic Commerce" No. 675-VIII dated 3 September 2015;
- Law of Ukraine "On Personal Data Protection" No. 2297-VI dated 1 June 2010.

Table 15: Ukraine: legislation gaps comparing to the EU eCommerce baseline – platforms

No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
47.	Terms and conditions of providers of online intermediation services, Regulation (EU) 2019/1150 Art 3	Not regulated. Ukrainian legislation does not establish any requirements to the terms and conditions of providers of online intermediation services. This measure ensures that business users of online intermediation services and corporate website users in relation to online search engines are granted appropriate transparency, fairness and effective redress possibilities.		
48.	Restriction, suspension and termination of online intermediation services,	Ukrainian legislation does not stipulate that where a provider of online intermediation	Not regulated. The legislation does not stipulate that where a provider of online intermediation services decides to restrict or suspend the provision of its online intermediation services to a given business user, it shall provide the business user concerned, prior to or at the time of the restriction or	



No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
	Regulation (EU) 2019/1150 Art 4	services decides to restrict or suspend the provision of its online intermediation services to a given business user in relation to individual goods or services offered by that business user, it shall provide the business user concerned, prior to or at the time of the restriction or suspension taking effect, with a statement of reasons for that decision on a durable medium.	suspension taking effect, with a statement of reasons for that decision on a durable medium. This measure better protects fairness among national and international traders.	
49.	Ranking in online intermediation services, Regulation (EU) 2019/1150 Art 5		Not regulated. It is not required that providers of online intermediation services shall set out in their terms and conditions the main parameters determining ranking and the reasons for the relative importance of those main parameters as opposed to other parameters on the online search engines of those providers.	
50.	Differentiated treatment in relation to goods or services offered to consumers through online intermediation services, Regulation (EU) 2019/1150 Art 7		Not regulated. The national legislation does not require that providers of online intermediation services shall include in their terms and conditions a description of any differentiated treatment which they give, or might give, in relation to goods or services offered to consumers through those online intermediation services. This measure better protects fairness among national and international traders on marketplaces.	
51.	Specific contractual terms, Regulation (EU) 2019/1150 Art 8		Not regulated. The legislation does not require that providers of online intermediation services shall include specific contractual terms in order to ensure that contractual relations between providers of online intermediation services and business users are conducted in good faith and based on fair dealing.	
52.	Access to data, Regulation (EU) 2019/1150 Art 9	Law of Ukraine "On Personal Data Protection", Part 2 of Article 12, Article 16	Ukrainian legislation does not establish any requirements to the terms and conditions of providers of online intermediation services. General personal data protection legislation provides that data subject's consent should contain provisions on access to, collection and processing of personal data. Also, data subjects	Not regulated. The legislation does not require that the providers of online intermediation services shall include in their terms and conditions a description of the technical and contractual access, or absence thereof, of business users to any personal data or other



No	Reference to the EU baseline	National legal act	Provision in national legislation	Gaps comparing to the EU baseline / Challenges
			should be notified about parties to whom their personal data will be transferred.	data, or both, which business users or consumers provide for the use of the online intermediation services concerned.
53.	Internal complaint handling system, Regulation (EU) 2019/1150 Art 11		Not regulated. Ukrainian legislation does not require that the providers of online intermediation services shall provide for an internal system for handling the complaints, either of consumers or business users. This measure would significantly improve disputes resolution mechanisms for national and cross-border traders.	

4.3 Gap analysis in standards area

The table below provides an overview of the identified gaps in standards area in Ukraine comparing to the state of play in the EU. The table follows the structure of eCommerce standards section as presented in the [EU baseline](#) and covers the following areas:

- Quality of standards;
- Interoperability;
- Digital Postal Services;
- Physical process and associated data;
- Stakeholders and Information Exchanges based on UN/EDIFACT;
- Stakeholder and Information Exchanges based on the EU customs model;
- UPU electronic exchange standards;
- UPU technical standards;
- EU eCommerce websites trust marks;
- eCommerce and product safety;
- Terms and Definitions.

The table is summarised in the section *4.4. Summary of gap analysis*.

4.3.1 Country profile

National standardisation landscape

The Cabinet of Ministers of Ukraine provides general regulation of activities in the field of postal services. The implementation of the state policy in the field of postal services is carried out by the authorized central executive body in the field of communications – the Ministry of Infrastructure of Ukraine. It is entrusted with:



- Development of regulations governing activities in the field of postal services;
- Ensuring postal security and secrecy of information in the field of postal services;
- Organization of work related to standardisation and certification of postal services;
- Promoting the development of the market of postal services, etc.

The efficiency of the postal services market is ensured by the national Commission for state regulation in the field of communications and informatization, based on balancing the interests of society, operators and users of postal services. The Commission is responsible for:

- Maintaining a single state register of postal operators;
- Formation of pricing policy and regulation in accordance with the legislation of Ukraine of tariffs for postal services.

The State Communications Inspectorate is entrusted with the implementation of state supervision over the postal services market by:

- Controlling over the quality of postal services;
- Controlling over the observance by postal operators and their separate subdivisions of the legislation on postal services, standards and other normative acts in the field of provision of postal services.

Due to Ukrposhta's close cooperation with the Universal Postal Union (UPU), Ukraine is constantly represented in the governing bodies of the UPU.

Ukraine is a member of both governing bodies of the Universal Postal Union (UPU) - the Administrative Council and the Postal Operations Council. Ukrposhta heads the Regulation and Standards Group of Commission 5 Postal Financial Services and is a member of many working groups.

Ukrposhta actively participates in international projects of the UPU, such as the exchange of electronic mail transfers through the International Financial System of the UPU, monitoring the quality of sending priority international written correspondence, constant quality control, exchange of emails with other postal operators through the UPU Post*Net network, use Internet-based UPU information system for expedited processing of complaints. The use of information systems in international exchange brings additional benefits to Ukrposhta from industrialized countries when paying for international exchange.

Ukraine's active position during the meetings of the governing bodies of the UPU made it possible to defend the system of mutual settlements for postal exchange, which is beneficial for developing countries.

Status of the approximation to the EU framework of standards

In the Ukraine–European Union Association Agreement, there are requirements for the implementation of the EU's norms to directives. Nowadays, Compliance Check by the EU norms, which Ukraine has prescribed in the draft laws, is in the process. The last time Ukraine was asked to amend the part of the law on couriers. From the point of view of postal regulation, Ukraine adopts European norms from directives. As for standardisation, these norms are not in the EU directive and Ukraine is not working on this. Ukraine is working purely on standardisation according to the UPU acts.

In 2017, Ukraine has received the status of a partner organization in the European Committees for Standardization (CEN).

The working group of the Committee on Digital Transformation in the Verkhovna Rada of Ukraine discusses three draft laws related to the topic - on the development of infrastructure for digital transformation of the economy and society (2320 from 28.10.2019), on electronic communications (2264 from 15.10.2019) and on radio frequency resource of Ukraine (1086 dated August 29, 2019), which is expected to take into account changes in EU legislation in this area in connection with the adoption on December 11, 2018 of the European Electronic Communications Code.

Identified challenges of the country in eCommerce standards field

Major challenges of Ukraine in national or international standardisation fields related to eCommerce:



- Insufficient security and personal data. One of the significant changes introduced by the law on electronic commerce is the assignment to the seller of the right to process the personal data of users from the moment a mark is placed on permission to use data according to the purpose of processing. Usually, such mark is included in the registration form on a store website. When making a settlement transaction, payment information itself is also provided. Thus, the databases of eCommerce entities contain a large amount of confidential information of buyers who constantly become the target of hackers and can act as an independent object of sale by unscrupulous traders. It should be noted that the law cannot ensure the protection of IT technologies, however, the improvement of the relevant legislation, including criminal legislation, regarding the prosecution and counteraction to fraudulent schemes and cybercrime should be a priority.
- Ukraine demonstrates insufficient progress in harmonising digital markets towards achieving the goals proposed by the EU for the Eastern Partnership countries in the Joint Working Document "Eastern Partnership - 20 Expected Results by 2020".

In order to move to practical and effective actions in all areas of digital harmonisation in Ukraine, a set of strategic documents should be developed, synchronized with each other and supported by careful analysis.

4.3.2 Analysis of standards

Table 16: Ukraine: standards gaps comparing to the EU eCommerce baseline – quality of standards

No	Reference to the EU baseline	National standard	Key aspects	Gaps comparing to the EU baseline / Challenges for cross-border eCommerce
Quality of services				
1.	Measurement of the transit time of end-to-end services for single piece priority mail and first-class mail, CEN/EN13850	Order of the Ministry of Infrastructure of Ukraine dated 28.11.2013 № 958 "On approval of Standards and regulatory deadlines for sending postal items"	Paragraph 1 of Part II of the Standards and regulatory deadlines for sending postal items. These Standards apply only to the national postal operator (NPO), Ukrposhta, it doesn't provide setting requirements for private operators. These Standards and regulatory deadlines are developed in accordance with the Law of Ukraine "On Postal Services" and acts of the Universal Postal Union.	Partially compliant. The national regulatory authority for the postal sector uses a standardised measurement method only for the NPO and not for all other operators.
2.	Complaints handling principles, CEN/TS14012	There is no national standard regarding this issue.	There is one state body in Ukraine, the State Service of Ukraine on food safety and consumer protection, which receives all complaints from all spheres. There is no national standard, but Ukrposhta has rules and regulations regarding this question stated in the internal standards. The same situation with private operators.	Partially compliant. There is no national standard for complaints handling of domestic and cross-border postal services.



No	Reference to the EU baseline	National standard	Key aspects	Gaps comparing to the EU baseline / Challenges for cross-border eCommerce
3.	Damage to postal items, CEN/TR 16915:2015		<p>There is no national standard regarding this issue. But internal rules and regulations of each operator include guidelines / description of best practices for handling of damaged postal items related to domestic postal services.</p>	Compliant
4.	Method for measurement of parcel transit time for cross-border parcels, CEN/TS 15472:2016	Order of the Ministry of Infrastructure of Ukraine dated 28.11.2013 № 958 "On approval of Standards and regulatory deadlines for sending postal items". Paragraph 1 of Part II of the Standards and regulatory deadlines for sending postal items	<p>Everything regarding cross-border parcels is highly regulated, not only on national level, but according to the Universal Postal Union's standards.</p> <p>Private operators set their own norms for cross-border parcels, it's their competitive advantage.</p>	Compliant
5.	Re-forwarding, CEN/TR 16894	<p>There are no methods for measuring the quality of a re-forwarding service of domestic addressed mail in national standards. Each operator can have its internal methods, including Ukrposhta.</p>	<p>Ukrposhta provides automatic service of re-forwarding. It requires a person to fill in an application form each month, specifying the address he/she wants to receive the mail, instead of the address, that is indicated in Ukrposhta's system.</p> <p>Private operators don't provide such automatic service. A person has to notify a postal operator to change his/her delivery address each time, he/she is going to receive a mail.</p>	Partially compliant. There is no one national standardised method.
6.	Distance to postal services access points, CEN/TR 15735:2008	Order of the Ministry of Infrastructure of Ukraine dated 28.11.2013 № 959 "On approval of the Standards for the development and location in the cities and rural areas of the network of postal facilities and mailboxes of the national postal operator"	Part IV. (Standards for the location of the network of mailboxes) Standards for the development and location in the cities and rural areas of the network of postal facilities and mailboxes of the national postal operator.	Compliant



No	Reference to the EU baseline	National standard	Key aspects	Gaps comparing to the EU baseline / Challenges for cross-border eCommerce
7.	Information available on postal services, CEN/TS15511:2008		Not regulated. The national regulatory authority for the postal sector does not provide a methodology for the quality of services measurement of information available on postal services and conditions of access to such information.	
8.	Measurement of loss and substantial delay in priority and first-class single piece mail using a survey of test letters, CEN/TS 14773:2004		There is no methodology for the quality of services measurement of loss and substantial delay in priority and first-class single piece mail in national standards. Each operator can have its internal methods for measuring the quality, including Ukrposhta.	Partially compliant. There is no one national standardised method.
Interoperability				
9.	Requirements for private letter boxes, CEN/EN 13724:2013	National Standard of Ukraine – ДСТУ 4364:2004	Postal Communication. "BOX POST FOR SUBSCRIBERS. CABINET POST FOR SUBSCRIBERS.CABINET POST WITH SUBSCRIPTION BOXES"	Compliant
10.	Technical features of parcel boxes for end use, CEN/TS16819: 2015	Resolution of the Cabinet of Ministers of Ukraine N 270 dated 05.03.2009 "On approval of the Rules for the provision of postal services" (with amendments)	Private operators set up their own technical features of parcel boxes, and specifications are provided in the norms and regulations of the operator's internal document.	Compliant
11.	International postal address harmonisation, EN ISO 19160-4:2017	Resolution of the Cabinet of Ministers of Ukraine N 270 dated 05.03.2009 "On approval of the Rules for the provision of postal services" (with amendments)	Addressing of postal items, postal transfers, item 42.	Compliant
12.	Framework for secure, trustworthy and user-friendly opening systems	NA	Ukrainian standards provide only private letter boxes for home use (in each household, all residents have their own letter boxes). If you receive a parcel, you will have to get it from the nearest post office.	Not regulated. The national standards framework does not provide technical specifications for unattended delivery solutions



No	Reference to the EU baseline	National standard	Key aspects	Gaps comparing to the EU baseline / Challenges for cross-border eCommerce
	for parcel boxes for home use, CEN/TS 17457			(parcel locker systems/parcel boxes) for home use with free access for the delivery and collection operators. This limits options for final delivery of national and cross-border parcels.
13.	Requirements for electronic advanced data (EAD) in postal operations, CEN/TR 17535	Acts of the UPU UPU EDI Messaging Standards	Acts of the UPU UPU EDI Messaging Standards	Partially implemented. The national standards framework does not define requirements for electronic advance data submission in domestic or international postal operations. This can obstruct cross-border eCommerce flow with the EU from July 2021.
14.	Properties for packaging of boxable items, WI331118	NA	Private operators define physical properties for the packaging of boxable items themselves, it's their own business decisions. The government doesn't provide standards for private operators at all. Ukrposhta internally regulates this issue.	Not regulated. The national standards framework does not define physical properties and characteristics for the packaging of boxable items to be delivered directly into private letter boxes, as well as environmental aspects of such packaging.
Digital Postal Services				
15.	Requirements for electronic advanced data (EAD) in postal operations, in particular compliant to security and customs requirements, CEN/TR 17536	Not regulated. The national standards framework does not define semantic mapping description of information on the characteristics or attributes of commercial single items compliant to the UPU-WCO customs model. The country should start preparing requirements for electronic advanced data in postal operations (for all commercial items sent to consumers up to 31,5 KG) which will be a pre-requisite for any digital customs or transport security related declaration sent to EU authorities prior to any border crossing into the EU (Measure will be applied by the EU in 2021). This can obstruct cross-border eCommerce flow with the EU from July 2021.		
Physical process and associated data				



No	Reference to the EU baseline	National standard	Key aspects	Gaps comparing to the EU baseline / Challenges for cross-border eCommerce
16.	Interfaces for cross border parcels, CEN/TS17073:2017	Not regulated. Everything regarding cross-border parcels is regulated according to the standards of the UPU. The national standards framework does not provide technical specifications (of physical label and electronic exchanges, as well data formats used within delivery chain) for an interface between the e-merchant (any commercial supplier sending parcels) and logistic operators.		
Stakeholders and Information Exchanges based on UN/EDIFACT				
17.	UN / EDIFACT Exchange Specification, CEN/TR 17536, Regulation (EU) No 952/2013	<p>Postal operators in Ukraine don't have to know what is inside of the parcel, as a result they can't prepare customs pre-declarations. Only security services can check parcels.</p> <p>Companies that render express-delivery services, such as DHL, Fedex, UPS, etc. have to notify customs authority about what they send/deliver. But they don't prepare the necessary electronic data lodging of digital customs pre-declarations.</p>	Not implemented. The national courier, express, parcel operators and customs agents that transport eCommerce items from the country into the EU should prepare the necessary electronic data lodging of digital customs pre-declarations on item level that will become mandatory from 1 July 2021 for items below a value of 150 EUR (i.e. Low Value Consignments) sent from third countries into the EU. This can obstruct cross-border eCommerce flow with the EU from July 2021.	
Stakeholder and Information Exchanges based on the EU customs model				
18.	Information Exchanges based on the EU customs model, Regulation (EU) No 952/2013, CEN/TR 17536	Not implemented. The national Designated postal Operator needs to prepare the necessary specifications, procedures, IT systems for electronic data lodging of digital customs pre-declarations on item level according to the EU EAD customs model. EAD compliant pre-declaration on item level will become mandatory from 1 July 2021 for all items sent from third countries into the EU.		
UPU electronic exchange standards				



No	Reference to the EU baseline	National standard	Key aspects	Gaps comparing to the EU baseline / Challenges for cross-border eCommerce
19.	Electronic Data Interchange between postal handling organisations, UPU M30	Acts of the UPU	Ukraine follows the electronic exchange standards of the UPU. In some cases Ukraine can have bilateral international agreements with certain countries regarding their electronic data interchange.	Implemented
20.	ITMATT V1 – Electronic communication of item information, UPU M33	Acts of the UPU UPU EDI Messaging Standards	Activity is used according to the acts of the UPU.	Implemented
21.	CARDIT/RESGIT – Data flow version 2, M39	Acts of the UPU UPU EDI Messaging Standards	Activity is used according to the acts of the UPU.	Implemented
22.	EMSEVT V3. Item level tracking information – Tracking events and associated data elements, M17	Acts of the UPU UPU EDI Messaging Standards	Activity is used according to the acts of the UPU.	Implemented
23.	EDI Messaging Standards – PREDES, M41	Acts of the UPU UPU EDI Messaging Standards	Activity is used according to the acts of the UPU.	Implemented
24.	CUSITM V1 Customs Item pre-advice message to Customs, UPU M43	Not implemented. The postal operators' information systems do not apply CUSITM postal EDI messaging standard through which a postal operator can send mail item detailed information to its local customs authority / border agency. CUSITM (CUStoms ITeM) is a message that covers the electronic representation of existing UPU paper forms CN 22/CN 23 and CP 72, agreed standards between the UPU and the WCO (the World Customs Organization), plus additional attributes.		
25.	CUSRSP Customs Response, M44	Not Implemented. The customs authority information systems do not apply CUSRSP EDI messaging standard through which a customs authority/border agency can send information to a postal operator regarding mail items. CUSRSP (CUStoms ReSPonse) is a message for a customs organisation to transmit mail item information to the local designated postal operator, usually in response to a CUSITM message. Both parties must agree on the exact usage of the message. The intended business benefit for both parties is to automate and therefore speed up the customs process. This obstructs timely processing of data of cross-border eCommerce flow with the EU.		



No	Reference to the EU baseline	National standard	Key aspects	Gaps comparing to the EU baseline / Challenges for cross-border eCommerce
26.	ITMREF V1 – Item referral, UPU M53		Not Implemented. The postal operators' information systems do not use ITMREF EDI messaging standard which supports the communication from the destination postal operator to the origin postal operator of information on the pre-loading advance cargo information (PLACI) risk assessment. This obstructs timely processing of data to assure a required level of security for cross-border eCommerce flow with the EU.	
27.	REFRSP V1 – Referral response message specification, UPU M54		Not Implemented. UPU M54 – REFRSP V1 adopted in 2020. Information has been received, is being studied. Implementation is planned during 2020-2021. The postal operators' information systems do not use REFRSP EDI messaging standard which supports the communication from the origin postal operator to the destination postal operator of information on action taken and/or information required subsequent a request following the risk assessment carried out by the destination customs authority of pre-loading advance cargo information or destination postal operator assessment of ITMATT data. This obstructs timely processing of data of cross-border eCommerce flow with the EU.	
UPU technical standards				
28.	Identification of postal items – 13-character identifier, UPU S10, ISO/IEC 15459-1:2014	Acts of the UPU	Activity is used according to the acts of the UPU.	Implemented
29.	Postal Consignments, UPU S32	Acts of the UPU	Activity is used according to the acts of the UPU.	Implemented
EU eCommerce websites trust marks				
30.	Trademark ethical standards in the digital marketplace, The European Regulation No 524/2013		Not regulated. There is no national eCommerce Trustmark certification scheme(s) which authenticates that an eCommerce company established on the national territory has made a commitment to work in compliance with the national (or regional, Ecommerce Europe or other). Code of Conduct, guaranteeing ethical standards in the digital marketplace. An eCommerce Trustmark shows that the online shop is certified by the national eCommerce association or has made a commitment to work in compliance with the international Code of Conduct. This obstructs building trust of domestic and the EU consumers to buy on Ukraine eCommerce websites and marketplaces.	
eCommerce and product safety				
31.	CE marking, Blue Guide - Comprehensive guidance	Ukraine has already taken the first steps towards reforming the technical regulation	Draft Law on Amendments to Certain Legislative Acts of Ukraine in Connection with the Adoption of the Law of Ukraine "On Standardization" provides for amendments 127 legislative acts	Not regulated. The national standardisation authorities don't provide independent conformity

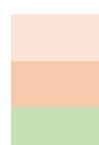


No	Reference to the EU baseline	National standard	Key aspects	Gaps comparing to the EU baseline / Challenges for cross-border eCommerce
	on the implementation of EU product rules	system. On January 3, 2015, the Law of Ukraine "On Standardization" came into force, according to which the National Standardization Body (State Enterprise "Ukrainian Research and Training Center for Standardization, Certification and Quality") is established.	(8 codes and 119 laws). The adoption of the law by the Verkhovna Rada of Ukraine will bring the national standardization system closer to international and European norms and rules - and therefore, domestic products will be recognized as high quality and safe worldwide and will not require certification for export abroad.	assessment and certification mechanisms for CE marking of products manufactured by local manufacturers.
Terms and Definitions				
32.	Terms and Definitions, Regulation 2018/644	Law of Ukraine on postal services	Law of Ukraine on postal services	Partially compliant. The following terms and definitions are not aligned with the EU legislation: Universal Service Provider, Parcel Delivery Service.

4.4 Summary of gap analysis

The table below provides an overview of the identified gaps in Ukraine comparing to the state of play in the EU. The gaps are mapped to the eCommerce value chain to have an overview of the areas that have to be addressed the most in order to provide recommendations to harmonise eCommerce state of play between the EU and Ukraine.

The summary of the gaps is mostly focused to identify gaps between Ukraine and the EU. Addressing these gaps will help to eliminate the barriers for cross-border eCommerce between EU and Ukraine. In addition, once the state of play in the Eastern partner countries (including Ukraine) is harmonised with the EU, it will facilitate eCommerce transactions among the Eastern partner countries as well.



Several gaps identified



Multiple gaps identified

No gaps identified

The identified gaps have different degree of impact on the cross-border eCommerce between the country and the EU. Several aspects are critical for eCommerce flow. These gaps are important to reduce in order to boost eCommerce. Other gaps serve to improve the local conditions of eCommerce market.



They indicate the areas of suitable harmonisation of practices between the country and the EU. In the following section, the identified gaps are classified in two categories according to their priority:

- Aspects critical for boosting cross-border eCommerce between the country and the EU
- Aspects harmonising the difference between the EU and the country's practices in eCommerce

Table 17: Ukraine: overview of three gap areas mapped to the eCommerce value chain

Value chain	Ecosystem	Legal	Standards
Marketing / Sales	<p>Q1. Availability of the global marketplaces is similar as in the EU. Challenge: global private logistics services enable delivery from the global marketplaces operating in the EU, but they face challenge to maintain high eCommerce volumes creating high rates for parcel delivery.</p> <p>Q2. Usage of the global marketplaces is limited. Challenge: long and/or expensive delivery, cash on delivery preference to pay which is not common on global marketplaces, buyers have to be aware of intermediary services.</p> <p>Q3. Local marketplaces selling cross-border are not common. Challenge: slow and/or expensive delivery, mindset that cross-border is expensive.</p> <p>Q4. Localisation and personalisation of local marketplaces are not common as EUR currency and English are not common on marketplaces.</p>	<p>Q3. Recourse to the codes of conduct (Unfair commercial practices) is not regulated.</p> <p>Q4. Adequate and effective means to combat unfair commercial practices is partially compatible as possibility to address unfair practices when the consumer and the trader are located in different countries is not specified.</p> <p>Q5. Requirements for distance contract, contract medium and language is partially compatible as nature of language of requirements is not described.</p> <p>Q6. Compulsory information to provide before placing an online order is partially compatible as it is not required to acknowledge that the order implies an obligation to pay and for trader to indicate acceptable methods to pay and delivery limitations.</p> <p>Q13. Misleading commercial practices of paid advertisement (Consumer protection) is partially compatible as misleading paid advertisement is not described as a misleading practice.</p> <p>Q14. Misleading omissions for products offered on online marketplaces (Consumer protection) is not regulated.</p> <p>Q15. Information requirements for distance contracts of digital content and digital service (Consumer protection) is not regulated.</p> <p>Q16. Information requirements for distance contracts when price was personalised on the basis</p>	<p>Q30. Trustmark ethical standards in the digital marketplace are not regulated.</p> <p>Q31. Certification mechanisms for CE marking of products is not implemented.</p>



Value chain	Ecosystem	Legal	Standards
		<p>of automated decision-making (Consumer protection) is not regulated.</p> <p>Q17. Fake price reductions (Consumer protection) is partially compatible as timeline to indicate prior price is not specified.</p> <p>Q18 Misleading omissions about consumer reviews of products (Consumer protection) is not regulated.</p> <p>Q21. Consumer protection in the indication of the prices of products offered to consumers is partially compatible as price per unit is not required.</p> <p>Q28. Authenticity logo for online sale of medicines (Non-fiscal aspects) online interface is not regulated.</p> <p>Q29 Transparency of cross-border tariffs for parcels is not regulated.</p> <p>Q35. Unjustified blocking or limiting a customer's access to the trader's online interface is not regulated.</p>	
Payment	<p>Q5. Payment methods usage is different than in the EU due to preference of cash-on-delivery and limited usage of the global digital wallet solutions (e.g. PayPal).</p> <p>Q6. Payments gateways usage is limited as global secure, trusted and transparent payment gateways are not common. Challenge: local solutions are used that are less familiar to the EU buyer.</p>	<p>Q41. Transparency and information requirement are partially compatible as requirements for transparency for payment services are not described.</p> <p>Q43 Reduced liability for unauthorised payment transactions is not regulated.</p> <p>Q45 Removal of surcharges for the use of credit cards and debit cards is not regulated.</p> <p>Q46 Development of regulatory technical standards on strong customer authentication and secure communication channels (payments) is not regulated.</p>	
Placing order	-	-	-



Value chain	Ecosystem	Legal	Standards
Parcel Delivery	<p>Q8. Post delivery is similar as in the EU. Challenge: expected delivery time standards are slightly longer than 'the same or the next day delivery' expected in the EU (within 48 hours); wide network of cross-border hubs is not fully aligned with the centralised approach (common in the EU) and provides possibilities for optimisation.</p> <p>Q9. Availability of international logistics operators is similar as in the EU. Challenge: global private logistics services face challenge to maintain high eCommerce volumes creating high rates for parcel delivery limiting involvement in eCommerce ecosystem.</p> <p>Q10. Parcel delivery network is similar as in the EU. Challenge: although global logistics players are available, they face challenge to maintain high eCommerce volumes creating high rates for parcel delivery limiting involvement in parcel delivery network.</p> <p>Q12. Delivery time is few days longer than in the EU, where delivery within 48 hours is common.</p> <p>Q13. Delivery to remote areas is similar as in the EU. Challenge: wide network of active postal offices is not fully aligned with the centralised approach (common in the EU) and provides possibilities for optimisation.</p>	<p>Q31. Postal security requirements for the provision of electronic advance data (UPU) is not regulated.</p> <p>Q32. Security measures for cargo or mail that fly from / to the country outside the EU into the EU is not regulated.</p>	<p>Q1. Measurement of the transit time of end-to-end services for single piece priority mail and first-class mail is partially compliant as it applies only to the national post.</p> <p>Q4. Method for measurement of parcel transit time for cross-border parcels is not regulated.</p> <p>Q5. Re-forwarding is partially compliant as there are no national standards in this area, except standards for the national post.</p> <p>Q7. Information available on postal services is not regulated.</p> <p>Q8. Measurement of loss and substantial delay in priority and first-class single piece mail using a survey of test letters is partially compliant as there are no national standards in this area.</p> <p>Q12. Framework for secure, trustworthy and user-friendly opening systems for parcel boxes for home use (Interoperability) is not regulated.</p> <p>Q13. Requirements for electronic advanced data (EAD) in postal operations (Interoperability) is partially compliant as standards do not define requirements for electronic advanced data submission in domestic or international postal operations.</p> <p>Q14. Properties for packaging of boxable items is not regulated.</p> <p>Q15. Requirements for electronic advanced data (EAD) in postal operations, in particular compliant to security and customs requirements are not regulated.</p> <p>Q16. Interfaces between the e-merchant and logistic operators for cross border parcels are not regulated.</p>



Value chain	Ecosystem	Legal	Standards
			<p>Q17. UN / EDIFACT Exchange Specification is not implemented.</p> <p>Q18. Information Exchanges based on the EU customs model is not implemented.</p> <p>Q24. CUSITM V1 Customs Item pre-advice message to Customs is not implemented.</p> <p>Q25. CUSRSP Customs Response is not implemented.</p> <p>Q26. ITMREF V1 – Item referral is not implemented.</p> <p>Q27. REFRSP V1 – Referral response message specification is not implemented.</p>
Customer service	Q17. Return delivery similar as in the EU. Challenge: timeline for 14-days guaranteed returns starts at purchase (not at delivery), reasons for return can be requested and no specialised operators observed in the ecosystem.	<p>Q22. Availability of procedures for the out-of-court resolution of domestic and cross-border disputes concerning contractual obligations (ADR) is not regulated.</p> <p>Q23. Availability of an online dispute resolution platform for consumer disputes (ADR) is not regulated.</p> <p>Q33. Security requirements and incident notification (security) is not regulated.</p> <p>Q53. Internal complaint handling system <u>by the providers of online intermediation services</u> is not regulated.</p>	<p>Q2. Complaints handling principles is partially compliant as there is no national standard for complaints handling of domestic and cross-border postal services.</p>
The EU 2021 eCommerce package	Q7. The EU 2021 eCommerce package – IOSS: is not familiar to all stakeholders and no preparatory actions done. Q14. The EU 2021 changes – electronic declarations only: is not familiar to all stakeholders and only fragmented preparations are done.	<p>Q24. Customs declaration for all consignments of distance sales is not regulated.</p> <p>Q25. Special scheme as regards certain value added tax obligations for distance sales of goods imported from third territories or third countries is not regulated.</p>	



Value chain	Ecosystem	Legal	Standards
	<p>Q15. The EU 2021 changes – simplified customs procedures: is not familiar to all stakeholders and no preparatory actions are done.</p> <p>Q16. The EU 2021 eCommerce package -- no exceptions to pay VAT: is not familiar to all stakeholders and no preparations are done.</p> <p>Q18. Harmonised ID, advanced electronic data and item level information exchange on parcels: no information provided.</p>		
Overall subjects		<p>Q33 Security requirements and incident notification is partially compatible as it is not required to notify authority and public about serious incidents without delay.</p> <p>Q34 Jurisdiction and territoriality of digital service providers is not regulated.</p> <p>Q36. Transfers of personal data to third countries or international organisations is partially compatible as no mechanism for data transfer is indicated.</p> <p>Q37. Free movement of information society services is not regulated.</p> <p>Q38 Liability of intermediary service providers (contracts) is partially compatible as it is not described when service providers are not liable for illegal content.</p> <p>Q47 Terms and conditions of providers of online intermediation services are not regulated.</p> <p>Q48 Restriction, suspension and termination of online intermediation services is not regulated.</p> <p>Q49. Ranking in online intermediation services is not regulated.</p> <p>Q50 Differentiated treatment in relation to goods or services offered to consumers through online intermediation services is not regulated.</p>	Q32. Terms and definitions are not fully aligned with the EU.



Value chain	Ecosystem	Legal	Standards
		Q51. Specific contractual terms are not regulated. Q52. Access to data of business users or consumers provided for the use of the online intermediation services is not regulated.	

5 Recommendations report for Ukraine

EU4Digital Facility developed gap analysis of eCommerce state of play in Ukraine after comparing it to [the EU baseline](#). Based on the identified gaps, the EU4Digital Facility developed 13 recommendations to eliminate the barriers for cross-border eCommerce between EU and Ukraine. These recommendations are presented starting from the overall eCommerce ecosystem aimed to boost eCommerce transactions volume and following with recommendations in legal and standards areas, which are supportive measures to reach the goal.

5.1 Ecosystem recommendations to eliminate the barriers for cross-border eCommerce

Eight key recommendations for Ukraine are presented below including specific actions to be considered on a national level. The recommendations and action points will support Ukraine to eliminate the barriers for cross-border eCommerce (including preparation for the upcoming EU and global changes introduced in 2021) and boost cross-border eCommerce volume. The recommendations are based on the best EU and global practices.

Table 18: Ukraine: Ecosystem recommendations to eliminate the barriers for cross-border eCommerce

Recommendation / Action	Specification
<p>1. Establish a virtual warehouse as a re-usable database for marketplaces in the EU to place Ukrainian goods for sale in the EU market.</p> <p>Final goal: cross-border sales volume increases as businesses in Ukraine list and manage inventory of goods that are sold through the EU marketplaces; and Ukrposhta is connected to the database to trigger cross-border delivery once sales happen to deliver within 72 hours.</p> <p>Gaps addressed:</p> <p>E1. Availability of the global marketplaces is similar as in the EU. Challenge: global private logistics services enable delivery from the global marketplaces operating in the EU, but they face challenge to maintain high eCommerce volumes creating high rates for parcel delivery.</p> <p>E2. Usage of the global marketplaces is limited. Challenge: long and/or expensive delivery, cash on delivery preference to pay which is not common on global marketplaces, buyers have to be aware of intermediary services.</p> <p>E3. Local marketplaces selling cross-border are not common. Challenge: slow and/or expensive delivery, mindset that cross-border is expensive.</p> <p>E4. Localisation and personalisation of local marketplaces are not common as EUR currency and English are not common on marketplaces.</p>	



Recommendation / Action	Specification
E12. Delivery time is few days longer than in the EU, where delivery within 48 hours is common. E17. Return delivery similar as in the EU. <i>Challenge:</i> timeline for 14-days guaranteed returns starts at purchase (not at delivery), reasons for return can be requested and no specialised operators observed in the ecosystem.	
1.1. Define a concept of a virtual warehouse for business in Ukraine to list goods for cross-border sales in the EU and manage the inventory in real time	<p>A national virtual warehouse can become a point for eCommerce ecosystem players in Ukraine to complete cross-border transactions. Sellers list and manage in real time the inventory of goods in the virtual warehouse (database). Cross-border transactions are enabled by connecting the EU marketplaces and the national postal operator to this virtual warehouse. The UPU already introduces software to connect eCommerce ecosystem players for cross-border transactions, which is accessible for UPU designated postal operators, including Ukrposhta.</p> <p>Possible steps:</p> <ol style="list-style-type: none">1. Develop concept and business case.2. Validate the concept with the key involved stakeholders – businesses, Ukrposhta (including UPU's Postal Technology Centre¹⁷), the State Customs Service, several EU marketplaces and EU national postal operators¹⁸ – and agree on cooperation.3. Prepare technical specifications for the virtual warehouse, including API connection, availability in English and displaying prices in EUR (currency converter based on the daily fixed rate provided by the European central bank for free and can be used).
1.2. Initiate pilot programme enabled by the virtual warehouse to connect businesses in Ukraine, postal operators and the EU marketplaces	<p>Businesses in Ukraine, postal operators and the EU marketplaces should be able to integrate through API to list real time inventory of goods via their interfaces. Once a sale is complete, they should notify through API the virtual warehouse. Then, Ukrposhta trigger cross-border delivery to ensure cross-border delivery within 72 hours, including picking up the goods, pre-filling customs declaration forms and creating labels and IDs (barcodes) that are in line with the UPU standards (UPU S10 / CEN/TS17073) for the track- and traceable barcodes on the parcels; as well as the unique digital description of the goods in the parcel (e.g. HS codes for establishing the necessary electronic pre-declaration in advance) to be shared with the national postal operators/or private postal service providers (e.g. CEP operators) in the EU for the last mile delivery. It is recommended to make available the UPU standards (S10) and CEN/TS 17073 related systems of parcel identification for private parcel delivery operators and logistics services as well as Ukrposhta (to enable both in parallel). Private parcel delivery operators, logistics services and the national postal operator should be able to use in parallel the UPU standards and CEN/TS 17073 related systems of parcel identification.</p> <p>Such cooperation schemes already used in projects in the EU and within the UPU network. Connection through API makes the concept a re-usable database for marketplaces in the EU to place goods of Ukraine for sale in the EU market.</p> <p>Possible steps:</p> <ol style="list-style-type: none">1. Knowledge transfer from similar projects in the EU and within the UPU network.

¹⁷ UPU's Postal Technology Centre (PTC) is the global technology provider for designated postal operators, just like Ukrposhta. The PTC may provide the necessary IT support and systems to Ukrposhta to a very large extend already today.

¹⁸ "National Postal Operators": please note, the definition of postal operators in the EU includes Courier-, Express-, and Parcel delivery service operators, as well national UPU designated postal operators.



Recommendation / Action	Specification
	<ol style="list-style-type: none">2. Define and complete preparatory actions to launch the pilot (e.g. planning, organisational set up, allocate budget).3. Identify and sign cooperation agreements with interested businesses, postal operators to ensure support, cooperation and usage of the virtual warehouse. Support signing agreements with the EU marketplaces, including agreeing on the payment terms and conditions.4. Ensure that Ukrposhta is technically capable to assign barcodes in line with the UPU standards (UPU S10 / CEN/TS17073 standard; HS-codes / GTIN) and share electronic advanced data within the UPU postal network.5. Ensure that businesses are technically capable to assign Global Trade Item Number (GTIN) to listed goods to enable cross-border tracking in related customs documents, including the necessary HS Codes.6. Introduce training programme for businesses (including the marketplaces in the EU) to use the virtual warehouse. Share information and benefits among stakeholders regarding the virtual warehouse and its concept through the Chamber of Commerce and Industry, possibly, the Association of retailers, Ecommerce Europe, European Business Associations, European Commission and other relevant parties.7. Support marketplaces in the EU technically to connect to the virtual warehouse through the developed API. Ensure that the EU marketplaces support cross-border return operations. Consider involving and signing agreement with specialised return operators to enable cross-border returns.8. Launch and monitor the pilot implementation, including setting up regular observation workshops involving the stakeholders.9. Complete the pilot programme and define the required improvements (if needed).10. Consider scaling up and implementing the tested solution with a broader scope.
<p>2. Establish national pavilion account(s) ("Best of Ukraine") on the EU marketplace(s) allowing businesses to list goods for cross-border sales, while reducing cost to enter the market and consolidating marketing efforts.</p> <p>Final goal: cross-border sales volume increase as businesses in Ukraine inquire to list goods for cross-border sale through a single national account and get support with marketing.</p> <p>Gaps addressed:</p> <p>E1. Availability of the global marketplaces is similar as in the EU. <i>Challenge:</i> global private logistics services enable delivery from the global marketplaces operating in the EU, but they face challenge to maintain high eCommerce volumes creating high rates for parcel delivery.</p> <p>E2. Usage of the global marketplaces is limited. <i>Challenge:</i> long and/or expensive delivery, cash on delivery preference to pay which is not common on global marketplaces, buyers have to be aware of intermediary services.</p> <p>E3. Local marketplaces selling cross-border are not common. <i>Challenge:</i> slow and/or expensive delivery, mindset that cross-border is expensive.</p> <p>E4. Localisation and personalisation of local marketplaces are not common as EUR currency and English are not common on marketplaces.</p>	



Recommendation / Action	Specification
2.1. Identify cooperating parties in Ukraine and the EU	<p>Best practices: public bodies register a national account on cross-border marketplaces and invite local businesses to list goods under one account. This concept is called national pavilion of local brands. This practice exists in different countries and can complement bi-lateral governmental agreements subsidised by states. Examples: Lithuania, New Zealand, Austria, Hungary. Businesses benefit as they experience lower cost to enter cross-border markets and save on marketing efforts as one national account is being promoted instead of different national brands. Such national accounts also add trust and credibility.</p> <p>Possible steps:</p> <ol style="list-style-type: none">1. Define the budget and confirm funding sources (possibly based on trade related subsidies and beneficial treatment) for registration, operation and marketing at the cross-border marketplaces operating in the EU.2. Identify responsible representatives in Ukraine, possibly by involving the Chamber of Commerce and Industry, possibly, the Association of retailers, to own a national account at the cross-border marketplaces operating in the EU.3. Identify businesses in Ukraine who are willing to sell cross-border through the concept of the national pavilion.4. Identify the cross-border marketplaces operating in the EU who are willing to cooperate by allowing Ukraine to be an intermediary by creating a national account and registering goods of local businesses for sale.5. Explore opportunities to involve payment provider that can act as an intermediary for processing payments from the owner of the account to businesses selling goods.6. Facilitate signing agreements between the parties. It is recommended that services to the businesses in Ukraine are funded by the authorities and provided free of charge for the businesses.
2.2. Open a pilot national pavilion account on selected marketplace(s)	<p>Possible steps:</p> <ol style="list-style-type: none">1. Register a pilot national pavilion account on selected marketplace(s) operating in the EU.2. Consult with the marketplaces selling in the EU and identify commercial items that have the best fit for the market creating good opportunities for sales.3. Introduce training programme for businesses on awareness and usage of cross-border marketplaces operating in the EU, including through a national pavilion account. Share information and benefits among stakeholders through the Chamber of Commerce and Industry, possibly, the Association of retailers and other relevant parties.4. Consult with the businesses in Ukraine on inventory to be listed for sales. Agree on the fulfilment processes – e.g. businesses handle delivery themselves after sales notification, delivery is implemented by marketplaces if businesses decide to use their fulfilment infrastructure.5. List goods to launch sales. Owner of the account should assign responsible contact person to operate the account on a daily basis.6. Launch marketing campaign (e.g. "Best of Ukraine") for the national pavilion account on the EU marketplace(s).



Recommendation / Action	Specification
	<ol style="list-style-type: none">7. Launch and monitor the pilot implementation, including setting up regular observation workshops involving the stakeholders.8. Complete the pilot programme and define the required improvements (if needed).9. Consider scaling up and implementing the tested solution with a broader scope.
3. Enhance capacity of Ukrposhta and private parcel service providers to deliver commercial items within 24 hours inside Ukraine for cross-border transportation by further support to establish consolidated central distribution networks with centralised warehouses, fulfilment and sorting facilities. Final goal: Ukrposhta and parcel delivery operators use centralised networks for clearance, sorting and transportation of parcels to the cross-border hubs (office of exchange) to enable daily dispatch abroad. The aim is to reduce delivery time for domestic and cross-border delivery of commercial items. Gaps addressed: E12. Delivery time is few days longer than in the EU, where delivery within 48 hours is common. E13. Delivery to remote areas is similar as in the EU. Challenge: wide network of active postal offices is not fully aligned with the centralised approach (common in the EU) and provides possibilities for optimisation.	
3.1. Assess understanding of the benefits/best practices of centralised postal networks for clearance and delivery of commercial items to the cross-border hubs (office of exchange)	<p>As Ukrposhta uses 26 centralised warehouses for cross-border transportation¹⁹ and has over 11,000 postal offices across the country, it is recommended to support clearing process of postal points where items are received, sorted and transported to the centralised hubs, as well as clearing process of the centralised hubs. Decentralised network with active postal offices in all regions of the country is an old state of art, which is recommended to be updated according to the global UPU best practices. The network of post offices should be used for the clearance (i.e. collection) of postal items in general (in most cases on a per item basis). Commercial collection should happen until a given time to achieve timely transportation to the Office of exchange for sorting and handling for dispatch to a third country. This "closing time" shall be in line with time required to achieve up to 24 hours for dispatch to a third country postal territory. It is recommended to use the existing network of cross-border centralised warehouses as a basis to enable cross-border transportation.</p> <p>Current efforts of centralisation (e.g. by Ukrposhta) should be further supported.</p> <p>Possible steps:</p> <ol style="list-style-type: none">1. Consult stakeholders involving Ukrposhta, private parcel operators and logistics businesses by organising workshops for awareness and practice transfer of centralised postal infrastructure for domestic clearance according to the UPU requirements and practices of the EU countries.2. Consult Ukrposhta to explore actions and possibilities to centralise postal infrastructure to achieve a speedy clearing (including postal offices) in urban and rural areas, transporting consignments to parcel operations in central hubs (i.e. offices of exchange or OE).

¹⁹ International Mail Processing Centres: UACOPA; UACOPB; UACOPC; UACOPD; UACOPE; UACOPF; UAIEVA; UAIEVB; UAIEVC; UAIEVD; UAIEVE; UAIEVF; UAIEVG; UAIEVH; UAIEVI; UAIEVK; UALWOA; UALWOB; UALWOC; UALWOD; UALWOE; UAODSA; UAODSB; UAODSC; UAODSD; UAODSE.



Recommendation / Action	Specification
<p>3.2. Consider clearance of certain postal offices that deliver items to the central hubs (offices of exchange) to establish efficient networks capable to dispatch abroad within 24 hours</p>	<p>Possible steps:</p> <ol style="list-style-type: none">1. Prepare the state-of-play and impact assessment and design of the future infrastructure and organisational (including processes) scheme with centralised postal infrastructure (warehouses, fulfilment and sorting facilities) for the clearance and sorting of commercial items (parcels);2. Implement an action plan to collect parcels (including the usage of certain regional postal offices) to establish a highly efficient, centralised postal infrastructure as per the UPU and commercial requirements, in line with best practices in the EU.
<p>4. Facilitate cooperation between Ukrposhta, private parcel delivery and logistics operators by establishing co-sharing agreements and the usage of unified parcel identifiers (such as outlined in standards CEN/TS17073) to track last mile delivery to urban and rural areas of Ukraine</p> <p>Final goal: the national postal operator and private sector parcel delivery operators signed cooperation agreements to co-share the last mile delivery in Ukraine and to dispatch cross-border consignments within 24 hours from order (after handing over to postal service provider). The aim is to establish co-sharing agreements for delivery to ensure optimal usage of infrastructure and postal rates.</p> <p>Gaps addressed:</p> <p>E10. Parcel delivery network is similar as in the EU. Challenge: although global logistics players are available, they face challenge to maintain high eCommerce volumes creating high rates for parcel delivery limiting involvement in parcel delivery network.</p> <p>E12. Delivery time is few days longer than in the EU, where delivery within 48 hours is common.</p>	
<p>4.1. Initiate stakeholder consultations to promote the benefits and best practices of co-sharing on the last mile delivery. Identify potential parties willing to co-share delivery and set conditions according to the EU benchmarks</p>	<p>Best practices: in the EU countries, it is common for the national postal operator to use barcodes and identifiers, which can be read by private parcel operators. This makes cooperation and co-sharing practices in the last mile possible for the public and private operators.</p> <p>Due to service parameters (Quality of Service), volumes sent to Ukraine could be delivered by the operator best suited on the last mile. "Downstream access" may allow private postal service operators to use the existing postal infrastructure for the last mile delivery of pre-sorted parcels. "Up-stream access" may allow private postal operators to collect consignments from senders to transfer them for sorting at the cross-border hub, or even to dispatch to a third country – allowing related rebates (equivalent to the cost savings of Ukraine).</p> <p>The national operator remains the owner of the transaction, but the private parcel operator receives a share of revenue for the delivery. Tracking is enabled by usage of the common barcodes and identifiers. Such cooperation is based on bilateral agreements.</p> <p>Possible steps:</p> <ol style="list-style-type: none">1. Organise a workshop to promote the benefits and best practices (including terms and conditions and suggested sharing schemes) of cooperation to co-share the last mile delivery between Ukrposhta and private parcel operators. Involve Ukrposhta and the key private postal operators.



Recommendation / Action	Specification
	2. Identify the key parcel delivery operators in Ukraine who are willing to enter bilateral agreements for last mile delivery cooperation. Additional assessment of their capability to deliver according to quality standards is required (e.g. ability to deliver within 24 hours).
4.2. Set and technically support requirements for cooperating parcel operators to use common barcode to identify parcel at any point of the cross-border supply chain	<p>To enable cooperation between the parcel delivery operators, it is recommended to use common barcodes. This makes it possible for parcel delivery operators to identify content of parcels and for parties to track items at any point of the supply chain. The European Committee for Standardisation (CEN) has developed the appropriate specification. Such a harmonised labelling specification shall be supported by the usage of the Global Trade Item Number (GTIN) and HS codes to achieve an automated description of the content of the consignment according to the UPU-WCO customs data model and mandatory use of Electronic Advanced Data (EAD).</p> <p>Possible step:</p> <p>Consult Ukrposhta, the State Customs Service and other relevant stakeholders, about the need to make available the UPU standards (M33-12) and CEN/TS 17073 related systems of parcel identification for private parcel delivery operators and logistics services as well as for Ukrposhta (to enable both in parallel). Private parcel delivery operators, logistics services and the national postal operator should be able to use in parallel the UPU standards and CEN/TS 17073 related systems of parcel identification.</p>
4.3. Initiate pilot programme to test cooperation between Ukrposhta and 2-3 private parcel delivery operators/logistics operators using the common barcodes to identify parcels when co-sharing the last mile delivery	<p>Possible steps:</p> <ol style="list-style-type: none">1. Develop concept and business case.2. Validate the concept with the key involved stakeholders.3. Define and complete preparatory actions to launch the pilot (e.g. planning, organisational set up, allocate budget).4. Set terms and condition of ownership of transactions – i.e. which parcel delivery operator receives is generally responsible for a transaction and co-shares revenues for a delivery. Agree on the revenue split model according to the EU benchmarks. Agree on the expected standards of the quality of service provided by operators.5. Sign bilateral agreements.6. Launch and monitor the pilot implementation, including setting up regular observation workshops involving the stakeholders.7. Complete the pilot programme and define the required improvements (if needed).8. Consider scaling up and implementing the tested solution with a broader scope.
5. Further strengthen the integration of Ukrainian eCommerce ecosystem actors into EU networks. Final goal: increased collaboration of the eCommerce ecosystem stakeholders of Ukraine with the EU ecosystem actors through transfer of the EU knowledge and practices. Gaps addressed: E7. The EU 2021 eCommerce package – IOSS: is not familiar to all stakeholders and no preparatory actions done.	



Recommendation / Action	Specification
E14. The EU 2021 changes – electronic declarations only: is not familiar to all stakeholders and only fragmented preparations are done. E15. The EU 2021 changes – simplified customs procedures: is not familiar to all stakeholders and no preparatory actions are done. E16. The EU 2021 eCommerce package -- no exceptions to pay VAT: is not familiar to all stakeholders and no preparations are done.	
5.1. Establish the national eCommerce association and consider joining Ecommerce Europe's national member associations	<p>To ensure exchange of critical information about the changes that are introduced consistently, it is advised for Ukraine to participate on a national level in regular events between the stakeholders.</p> <p>Possible steps:</p> <ol style="list-style-type: none">1. Establish the national eCommerce association/department in the Chamber of Commerce and Industry as an institutional partner to inform eCommerce stakeholders of Ukraine about the global and the EU eCommerce changes/updates.2. Explore possibilities to join Ecommerce Europe as a member. Also, consider involving the private sector parties as business members of Ecommerce Europe.3. Ensure that Ukraine is informed on a national level about the EU and global eCommerce agenda.4. Ensure sufficient funding sources to cover participation of Ukraine on a national level in regular meetings including travel, accommodation, facilitation, venue costs.5. If needed, facilitate agreements to involve Ukraine in meetings with the aim to exchange information on upcoming global changes in eCommerce area (e.g. the EU VAT Ecommerce package, EU Single Customs Window, Digital Services Act).6. Through the Chamber of Commerce and Industry introduce training programme for customers on buying online. Trainings should also include a range of topics, such as data and consumer protection, dispute resolution possibilities.
6. Adjust legislation, standards, IT systems and business processes of the State Customs Service, postal and logistics operators to prepare for electronic advanced data and simplified customs procedures.	<p>Final goal: cross-border trade is possible as customs authorities, postal and logistics operators can seamlessly exchange electronic advanced data with the EU operators. Courier, express or parcel operators are able to perform customs clearance using simplified procedures.</p>
Gaps addressed: L24. Customs declaration for all consignments of distance sales are not regulated. E15. The EU 2021 changes – simplified customs procedures: is not familiar to all stakeholders and no preparatory actions are done. E16. The EU 2021 eCommerce package -- no exceptions to pay VAT: is not familiar to all stakeholders and no preparations are done.	
6.1. Implement applicable clauses from the EU Regulation on	Implement the regulation of customs declaration for all consignments of distance sales according to Commission Delegated Regulation (EU) 2019/1143 of 14 March 2019 amending Commission Delegated Regulation (EU) 2015/2446 , including provisions:



Recommendation / Action	Specification
customs declarations (applicability of electronic declaration for all consignments of distance sales)	<ol style="list-style-type: none"> 1. Goods the intrinsic value of which does not exceed €22 shall be deemed to be declared for release for free circulation by their presentation to customs until July 2021. All imports into the EU will have to be declared at the border using an electronic customs declaration, as well import duties will apply without threshold by July 2021. 2. Possibility to declare goods destined to an EU Member state (including Norway) up to €150 (i.e. Low value consignment or LVC) using a customs declaration that requires three times less data (super-reduced dataset) than a standard declaration. 3. Requirements to designated postal operators as well as to courier, express or parcel operators to present the documents according to the value of consignments – i.e. reduced or full procedures and documentation – in advance. 4. Duty relief for LVC (intrinsic value of the goods not exceeding €150) when using the Import-One-Stop-Shop; or when the IOSS is not used special arrangements according the EU Customs Code. <p>Possible owner: the State Customs Service.</p>
6.2. Adapt processes and IT systems of the State Customs Service, postal and logistics operators to the requirements of the pre-arrival information exchange by connecting to Import Control System 2	<p>Possible steps:</p> <ol style="list-style-type: none"> 1. Assess the current state of awareness and preparatory actions for the mandatory electronic customs declarations and simplified customs procedures from 1 January 2021. 2. Assess the current IT systems and prepare for any updates needed to connect to the new system – Import Control System 2. This includes exit and entry summary declarations, as well unique transport ID on consignment level (including connectivity to e-AWBs). 3. Assess and adapt processes and IT systems to the data requirements for the pre-arrival information exchange²⁰. Identify potential software developers who could help to adjust. 4. Assess changes needed in businesses process as simplified procedures²¹ become available to parcel delivery services. 5. Introduce training programme for stakeholders to use electronic customs declarations and simplified customs procedures. <p>Possible owner: the State Customs Service, Ukrposhta, private postal and logistics operators.</p>
<p>7. Adjust legislation, IT systems and business process to prepare the State Customs Service, the State Fiscal Service, private parcel delivery and logistics operators, and online retailers for introduction of Import One Stop Shop (IOSS) and removed VAT exceptions.</p> <p>Final goal: cross-border trade is not delayed and is faster as the State Customs Service, the State Fiscal Service, private parcel delivery and logistics operators, and online retailers aware of procedures to collect VAT at the point of sale and ready to declare VAT for all commercial items. VAT is paid to a country of destination.</p> <p>Gaps addressed:</p>	

²⁰ Explanatory notes on electronic advanced data: <https://standards.iteh.ai/catalog/standards/cen/0428799b-5273-45f8-8629-17da8e92f54f/fprcen-tr-17536>

²¹ Explanatory notes on simplified customs procedures: <https://standards.iteh.ai/catalog/standards/cen/0428799b-5273-45f8-8629-17da8e92f54f/fprcen-tr-17536>



Recommendation / Action	Specification
L25. Special scheme as regards certain value added tax obligations for distance sales of goods imported from third territories or third countries is not regulated. E7. The EU 2021 eCommerce package – IOSS: is not familiar to all stakeholders and no preparatory actions done. E16. The EU 2021 eCommerce package -- no exceptions to pay VAT: is not familiar to all stakeholders and no preparations are done.	
7.1. Implement special scheme as regards certain value added tax obligations for distance sales of goods imported from third territories or third countries	Implement the special scheme as regards certain value added tax obligations for distance sales of goods imported from third territories or third countries according to the Directives and Regulations of the VAT eCommerce package .
7.2. Adapt processes and IT systems of the Customs Service, the Ministry of Taxes, private parcel delivery and logistics operators, and online retailers to be able to collect VAT and/or recognise commercial items cleared from VAT by connecting to IOSS	Possible steps: <ol style="list-style-type: none">1. Assess the current state of awareness and preparatory actions for the removed VAT exceptions and integration with the Import One Stop Shop from 1 July 2021²².2. Adjust systems and procedures of the State Customs Service and online retailers to connect to the new system – IOSS – to be able to collect VAT or recognise commercial items cleared from VAT (below €150).3. Adjust systems and procedures of the State Customs Service and online retailers for the data storage requirements, if needed.4. Adjust systems and procedures of the State Customs Service, the State Fiscal Service, private parcel delivery and logistics operators to deal with the increase in the volume of packages that are subject to VAT (cost, time, space wise), as all items will be subjects to VAT.5. Adjust systems and procedures of the Customs Service, the State Fiscal Service, private parcel delivery and logistics operators that would allow to distinguish between the packages that the VAT has already been collected for by platforms (via IOSS system at the point of sales) vs those which have to be collected by postal delivery operator.6. Adjust systems and procedures of the State Fiscal Service that would allow to send taxes collected from IOSS system to tax authorities of a destination country. Also, assess the needed change in processes when businesses will have opportunity to cancel VAT registrations for cross-border taxes procedures, which will be replaced with IOSS.7. Review contracts (and terms of use) with sellers and buyers.8. Introduce training programme for stakeholders to use IOSS.

²² Explanatory notes on VAT eCommerce rules: https://ec.europa.eu/taxation_customs/sites/taxation/files/vatcommerceexplanatory_notes_30092020.pdf



Recommendation / Action	Specification
	Possible owner: the State Customs Service, the State Fiscal Service, Ukrposhta, private postal and logistics operators, online retailers.
8. Adjust IT systems and business process to prepare the State Customs Service, private parcel delivery and logistics operators, and online retailers for usage of the harmonised ID system ensuring interoperability of item identification. Final goal: the State Customs Service, private parcel delivery and logistics operators, and online retailers assign harmonised identifiers (ISO/IEC 15459 compliant Serial Shipping Container Code (i.e. SSCC by GS1) as well as the UPU's mandatory S10 13-digit Item ID for postal items) to items making it possible for any eCommerce stakeholder to read and re-use identifiers for own purposes. Such harmonised usage of identifiers creates interoperable solution making cross-border transactions faster (e.g. faster customs clearance as parcels can be identified on item level) and easily tracked on item level. Gaps addressed: E18. Harmonised ID, advanced electronic data and item level information exchange on parcels: no information provided.	8.1. Adapt processes and IT systems of the State Customs Service, private parcel delivery and logistics operators, and online retailers to be able to assign and read harmonised identifiers on item level Possible steps: <ol style="list-style-type: none">1. Assess the current state of awareness and preparatory actions for the item-level tracking using harmonised ID system from March 2021²³.2. Identify alternative service providers to implement item-level tracking (ISO/IEC 15459 compliant barcodes, as well as UPU S10 mandatory codes for postal items).3. Assess the current IT systems and prepare for any updates needed to connect to solution to assign and read harmonised identifiers on item level.4. Introduce training programme for stakeholders to assign and read harmonised identifiers on item level. Possible owner: the State Customs Service, Ukrposhta, private postal and logistics operators, online retailers.

5.2 Legislation framework and standards recommendations to enable cross-border eCommerce with the EU

Five key recommendations for Ukraine are presented below including specific actions to be considered on a national level. The recommendations and action points will support Ukraine to harmonise legal and standards frameworks to enable seamless cross-border eCommerce. These recommendation form aspects that must be in place for cross-border eCommerce with the EU to work. The recommendations are based on the best EU and global practices.

The identified gaps have different degree of impact on the cross-border eCommerce between the country and the EU. Several aspects are critical for eCommerce flow. These gaps are important to reduce in order to boost eCommerce. Other gaps serve to improve the local conditions of eCommerce market. They indicate the areas of suitable harmonisation of practices between the country and the EU. In the following section, the identified gaps are classified in two categories according to their priority:

²³ Explanatory notes on item-level tracking rules: <https://standards.iteh.ai/catalog/standards/cen/29395c55-0c81-4a45-8358-059647b5cca7/cen-tr-17535-2020>



Aspects critical for boosting cross-border eCommerce between the country and the EU

Aspects harmonising the difference between the EU and the country's practices in eCommerce

Table 19: Ukraine: Legislation framework and standards recommendations to enable cross-border eCommerce with the EU

Recommendation / Action	Specification
<p>9. Improve the overall legal framework of cross-border eCommerce by introducing fundamental principles and critical requirements.</p> <p>Final goal: the legal framework and main standards related to eCommerce correspond to the EU general framework and the consumers feel safe to shop online.</p> <p>Gaps addressed:</p> <ul style="list-style-type: none">L33. Security requirements and incident notification is partially compatible as it is not required to notify authority and public about serious incidents without delay.L34. Jurisdiction and territoriality of digital service providers are not regulated.L36. Transfers of personal data to third countries or international organisations is partially compatible as no mechanism for data transfer is indicated.L37. Free movement of information society services is not regulated.L38. Liability of intermediary service providers (contracts) is partially compatible as it is not described when service providers are not liable for illegal content.L47. Terms and conditions of providers of online intermediation services are not regulated.L48. Restriction, suspension and termination of online intermediation services are not regulated.L49. Ranking in online intermediation services is not regulated.L51. Specific contractual terms are not regulated.L52. Access to data of business users or consumers provided for the use of the online intermediation services is not regulated.S32. Terms and definitions are not fully aligned with the EU.	
<p>9.1. Align the national legal framework and standards by binding with the fundamental principles allowing cross-border eCommerce between Ukraine and the EU countries</p>	<p><i>Improve the framework of security requirements and incident notification to manage the risks posed to the security of Online marketplace, Online search engine, Cloud computing services:</i></p>



- L33. The digital service providers established on the national territory and offering services of Online marketplace, Online search engine, Cloud computing services should be responsible to identify and take appropriate and proportionate technical and organisational measures to manage the risks posed to the security of network and information systems. They must be required to notify the competent authority without undue delay of any incident having a substantial impact on the provision of a service that they offer within the national territory and/or abroad. The competent national authority may have authority to inform the public about individual incidents or require the digital service provider to do so, where public awareness is necessary in order to prevent an incident or to deal with an ongoing incident, or where disclosure of the incident is otherwise in the public interest.
[Directive \(EU\) 2016/1148](#) concerning measures for a high common level of security of network and information systems, Art 16
- L34. Require a legal representative in the country of foreign digital service provider of marketplace, search engines, cloud computing.
[Directive \(EU\) 2016/1148](#) on the level of security of network and information systems.
- L36. Any transfer of personal data which are undergoing processing or are intended for processing after transfer to a third country shall take place only if the conditions are complied with by the controller and processor. Indicate legible mechanisms or any special tools for transfer of personal data to third countries (e.g. approved Codes of Conduct and approved certification mechanisms entailing binding commitments by the controllers and processors receiving the data in the third country).
Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, Art 44, 46
- L37. Establish the general principle of the freedom to provide information society services by a service provider established in a third country.
- L38. Establish the general conditions under which information society service providers cannot be held liable for a third-party illegal content. The liability limitations may apply to all forms of illegal activities (copyright and trademark infringements, defamation, misleading advertising etc.).
[Directive 2000/31/EC](#) on legal aspects of information society services, Art 3, 9-11.
- L47. Establish the requirements to the terms and conditions of providers of online intermediation services.
- L48. Stipulate that where a provider of online intermediation services decides to restrict or suspend the provision of its online intermediation services to a given business user in relation to individual goods or services offered by that business user, it shall provide the business user concerned, prior to or at the time of the restriction or suspension taking effect, with a statement of reasons for that decision on a durable medium.



Recommendation / Action	Specification
	<ul style="list-style-type: none">• L49. Require that providers of online intermediation services shall set out in their terms and conditions the main parameters determining ranking of products on the marketplace and the reasons for the relative importance of those main parameters as opposed to other parameters.• L51. Require that providers of online intermediation services include specific contractual terms in order to ensure that contractual relations between providers of online intermediation services and business users are conducted in good faith and based on fair dealing.• L52. Require that the providers of online intermediation services shall include in their terms and conditions a description of the technical and contractual access, or absence thereof, of business users to any personal data or other data, or both, which business users or consumers provide for the use of the online intermediation services concerned. Regulation (EU) 2019/1150 on promoting fairness and transparency for business users of online intermediation services, Art 3-5, 8-9. <i>To standardise terms and definitions with international eCommerce practices</i><ul style="list-style-type: none">• S32. Align national eCommerce terms and definitions with the EU and international standards. Regulation 2018/644 on Cross-border parcel delivery services.

10. Improve online marketing and electronic sales capacities of Ukrainian traders to improve visibility for the EU customers by introducing legislative and standardisation compliance aspects of eCommerce marketplaces and platforms.

Final goal: products of Ukraine are presented on the marketplaces selling in the EU, clearly identifiable and promoted to the potential target segments.

Gaps addressed:

L3. Recourse to the codes of conduct (Unfair commercial practices) is not regulated.

L4. Adequate and effective means to combat unfair commercial practices is partially compatible as possibility to address unfair practices if the trader and the consumer are located in different countries is not specified.

L6. Compulsory information to provide before placing an online order is partially compatible as it is not required to acknowledge that the order implies an obligation to pay and for trader to indicate delivery restrictions.

L13. Misleading commercial practices of paid advertisement (Consumer protection) is partially compatible as misleading paid advertisement is not described as a misleading practice.

L14. Misleading omissions for products offered on online marketplaces (Consumer protection) is not regulated as online marketplace is not defined.

L15. Information requirements for distance contracts of digital content and digital service (Consumer protection) is not regulated.

L16. Information requirements for distance contracts when price is personalised on the basis of automated decision-making are not regulated.

L17. Fake price reductions (Consumer protection) is partially compatible as timeline to indicate prior price is not specified.



Recommendation / Action	Specification
<p>L18. Misleading omissions about consumer reviews of products is not regulated.</p> <p>L21. Consumer protection in the indication of the prices of products offered to consumers is partially compatible as price per unit is not required.</p> <p>L28. Authenticity logo for online sale of medicines is not regulated.</p> <p>L29. Transparency of cross-border tariffs for parcels is partially compatible as transparency is not regulated.</p> <p>L35. Unjustified blocking and limiting a customer's access to the trader's online interface are not regulated.</p> <p>S30. Trustmark for ethical standards in the digital marketplace is not regulated.</p> <p>S31. Certification mechanisms for CE marking of products is not implemented.</p>	
<p>10.1 Legally define online marketplaces and introducing rules of their accessibility</p>	<p><i>Improve the legal framework for better enforcement and modernisation of consumer protection rules by introducing the rules and practices of operating online marketplaces and sales of products on marketplaces:</i></p> <ul style="list-style-type: none">• L14. Legalise the principle of online marketplace operated by or on behalf of a trader which allows consumers to conclude distance contracts with other traders or consumers. Require that the consumer must be informed whether the third party offering the products on a marketplace is a trader or not. Directive 2005/29/EC concerning unfair business-to-consumer commercial practices in the internal market. <p><i>Improve the legal protection and accessibility of foreign consumers to Ukraine-based online marketplaces:</i></p> <ul style="list-style-type: none">• L35. Prohibit unjustified blocking or limiting a customer's access to the trader's online interface. Regulation (EU) 2018/302 on addressing unjustified geo-blocking.
<p>10.2 Improve protection consumers buying eCommerce platforms in Ukraine when on the of digital platforms</p>	<p><i>Improve the legal framework in the identified critical aspects of consumer protection when buying on eCommerce platforms against unfair commercial practices:</i></p> <ul style="list-style-type: none">• L3. Encourage the control of unfair commercial practices by recourse to the national bodies providing codes of conduct.• L4. Include legal provisions under which persons or organisations having a legitimate interest in combating unfair commercial practices may take legal action and/or bring such unfair commercial practices before a competent administrative authority regardless of whether the consumer affected is in the country where the trader is located or in another. Directive 2005/29/EC on unfair commercial practices, Art 5-11. <p><i>Improve the legislation on consumer rights:</i></p> <ul style="list-style-type: none">• L6. For a contract concluded online that requires a payment from the consumer, require the consumer, when placing his order, to explicitly acknowledge that the order implies an obligation to pay. Require that the trader explicitly indicates whether any delivery restrictions apply, and which means of payment are accepted before the consumer places his order.



Recommendation / Action	Specification
	<p><i>Provide better enforcement, modernisation of consumer protection rules:</i></p> <ul style="list-style-type: none">• L15. Define digital content and service supplied by the trader to the consumer. Include provisions of consumer rights protection where the trader supplies or undertakes to supply digital content which is not supplied on a tangible medium or a digital service to the consumer and the consumer provides or undertakes to provide personal data to the trader.• L16. Introduce the requirement for the trader to inform in case when the price is personalised by automated decision-making. Directive (EU) 2019/2161 on consumer rights. Art 4. <p><i>Improve the acceptance of national products for online sale on the EU markets:</i></p> <ul style="list-style-type: none">• S30. Implement a national trust mark certification scheme or adopt an international one to improve the level of trust by local and international consumers. This scheme authenticates that an eCommerce company established on the national territory has made a commitment to work in compliance with the national (or regional, international) Code of Conduct, guaranteeing ethical standards in the digital marketplace. The Ecommerce Europe Trustmark.• S31. Provide independent conformity assessment and certification mechanisms for CE marking of products manufactured by local manufacturers. CE marking Blue Guide - Comprehensive guidance on the implementation of EU product rules.
10.3 Enhance the performance of national platforms by enforcement and modernisation of consumer protection rules	<p><i>Provide better enforcement of consumer protection rules for online sale:</i></p> <ul style="list-style-type: none">• L13. Introduce cases when paid advertisement is considered as a misleading commercial practice: providing search results in response to a consumer's online search query without clearly disclosing any paid advertisement or payment specifically for achieving higher ranking of products within the search results.• L17. Require indicating the prior price applied by the trader for a determined period of time prior to the price reduction. Define a determined period of time prior to the application of the price reduction.• L18. Require informing about the ways of collecting reviews on products by actual customers and their authenticity. Directive (EU) 2019/2161 on better enforcement of consumer protection rules. <p><i>Assure consumer protection in the indication of the prices of products:</i></p> <ul style="list-style-type: none">• L21. Stipulate the indication of the selling price and the price per unit of measurement of products offered by traders to consumers to facilitate comparison. Directive 98/6/EC on consumer protection in the indication of the prices of products offered to consumers, Art 1, 3, 5.



Recommendation / Action	Specification
	<p><i>Create the legal framework enhancements on parcels delivery related to non-fiscal aspects of support of local traders and the consumer protection of both EU and local buyers:</i></p> <ul style="list-style-type: none">• L28. Introduce a common logo for legally operating online pharmacies/retailers.• L29. Require that for distance contracts for online sale of goods, all traders concluding sales contracts with consumers that include the sending of cross-border parcels shall make available, at the pre-contractual stage, information about the cross-border delivery options in relation to the specific sales contract and charges payable by consumers for the cross-border parcel delivery.
11. Enhance the security aspects of Ukraine eCommerce platforms and their attractiveness for the EU customers by introducing legislative and standardisation compliance aspects of <u>electronic payment</u>.	<p>Final goal: assure maximum consumer protection when using electronic payment on eCommerce platforms.</p> <p>Gaps addressed:</p> <p>L41. Transparency and information requirement for payment services is partially compatible as there are no specified requirements for transparency of conditions and information requirements for payment services applied to framework contracts and payment transactions covered by them.</p> <p>L43. Reduced liability for unauthorised payment transactions is not regulated.</p> <p>L45. Removal of surcharges for the use of credit cards and debit cards is not regulated.</p> <p>L46. Development of regulatory technical standards on strong customer authentication and secure communication channels (payments) is not regulated.</p>
11.1 Improve consumer protection mechanisms by enhancing requirements applied to electronic payment on eCommerce platforms	<p><i>Improve the legal framework on the critical aspects of secure electronic payment on eCommerce platforms:</i></p> <ul style="list-style-type: none">• L41. Introduce conditions and information requirements for payment services applied to framework contracts and payment transactions covered by them.• L43. Impose a limit that the payer may be obliged to bear due to the losses relating to any unauthorised payment transactions, resulting from the use of a lost or stolen payment instrument. Directive (EU) 2015/2366 on payment services in the internal market, Title I, II, III, IV, Articles 73-74.• L45. Require that payment service providers shall not offer or request a per transaction interchange fee of more than a certain fixed percentage. Regulation (EU) 2015/751 on interchange fees for card-based payment transactions.• L46. Assign responsibility of a regulatory authority to develop technical standards on strong customer authentication with which all payment service providers must comply. Directive (EU) 2015/2366 on payment services.



Recommendation / Action	Specification
<p>12. Improve the time of cross-border <u>parcel delivery</u> between Ukraine and the EU countries by implementing standardised electronic data interexchange.</p> <p>Final goal: allow processing of all cross-border data on parcels between Ukraine and the EU countries in standardised electronic format in advance.</p> <p>Gaps addressed:</p> <p>L31. Postal security requirements for the provision of electronic advance data (UPU) is not regulated.</p> <p>L32. Security measures for cargo or mail that fly from / to the country outside the EU into the EU is not regulated.</p> <p>S1. Measurement of the transit time of end-to-end services for single piece priority mail and first-class mail is partially compliant as it applies only to the national post.</p> <p>S4. Method for measurement of parcel transit time for cross-border parcels is not regulated.</p> <p>S5. Re-forwarding is partially compliant as there are no national standards in this area, except standards for the national post.</p> <p>S7. Information available on postal services is not regulated.</p> <p>S8. Measurement of loss and substantial delay in priority and first-class single piece mail using a survey of test letters is partially compliant as there are no national standards in this area.</p> <p>S12. Framework for secure, trustworthy and user-friendly opening systems for parcel boxes for home use is not regulated.</p> <p>S13. Requirements for electronic advanced data (EAD) in postal operations (Interoperability) is partially compliant as standards do not define requirements for electronic advanced data submission in domestic or international postal operations.</p> <p>S14. Properties for packaging of boxable items is not regulated.</p> <p>S15. Requirements for electronic advanced data (EAD) in postal operations, in particular compliant to security and customs requirements are not regulated.</p> <p>S16. Interfaces between the e-merchant and logistic operators for cross border parcels are not regulated</p> <p>S17. UN / EDIFACT Exchange Specification is not implemented.</p> <p>S18. Information Exchanges based on the EU customs model is not implemented.</p> <p>S24. CUSITM V1 Customs Item pre-advice message to Customs is not implemented.</p> <p>S25. CURSRSP Customs Response is not implemented.</p> <p>S26. ITMREF V1 – Item referral is not implemented.</p> <p>S27. REFRSP V1 – Referral response message specification is not implemented.</p>	



Recommendation / Action	Specification
12.1 Improve the legal framework for faster and more reliable cross-border parcels delivery	<p><i>Improve postal security requirements for the provision of electronic advance data:</i></p> <ul style="list-style-type: none">• L31. Require the national designated postal operator exchanging advance data with the customs authorities of the country via electronic data interchange (EDI) messaging before the parcel-post item is sent in order to help streamline customs clearance. Require the national designated postal operator exchanging advance data about parcel-post items with the other authorities of the country (sanitary, phytosanitary, quality standards, IPR) via electronic data interchange messaging. Consider the use of the Customs Declaration System (CDS), created by the UPU's Postal Technology Centre, that helps streamline customs clearance by allowing participating posts and customs authorities to exchange advance data.• L32. Require that air carriers that fly from the country must ensure that all cargo and mail carried to the EU is physically screened or comes from a secure supply chain which is validated according to the EU regulation. Require that air carriers that fly from the EU countries must ensure that all cargo and mail carried to the country's national territory is physically screened or comes from a secure supply chain which is validated according to the national regulation. <p>UPU Convention Manual, Article 8.1.</p>
12.2 Accelerate processing of cross-border data on parcels by implementing Digital Postal Services and electronic data interexchange standards	<p><i>Improve the quality of delivery services by learning from the international standards:</i></p> <ul style="list-style-type: none">• S1. Introduce a standard method for measuring of the transit time of end-to-end services for single piece priority mail. Provide a standardised measurement method that assure that the measurements are done in an objective and equal way for all operators, CEN/EN13850.• S4. Introduce quality of service measurement for transit time of cross-border parcels, based on tracking and tracing events, CEN/TS 15472:2016.• S5. Specify methods for measuring the quality of a re-forwarding service of domestic addressed mail that is delivered by any national postal service operators to an address that deviates from the one presented on the postal item, CEN/TR 16894.• S7. The national regulatory authority for the postal sector should provide a methodology for the quality of services measurement of information available on postal services and conditions of access to such information, CEN/TS15511:2008 – Postal services – Quality of services.• S8. The national regulatory authority for the postal sector should provide a a national standard methodology for the quality of services measurement of loss and substantial delay in priority and first-class single piece mail collected, processed and distributed by postal service operators, CEN/TS 14773:2004. <p><i>Assure the interoperability of parcels delivery between the EU and Ukraine by introducing national standards for:</i></p> <ul style="list-style-type: none">• S12. Unattended delivery solutions (i.e. parcel locker systems/ parcel boxes) for home use (requires prior consent by the recipient), CEN/TS 17457.• S13. Define the national requirements for electronic advance data submission in domestic or international postal operations (for all commercial items sent to consumers) as a pre-requisite for digital customs or transport security related declaration (Requirements for



Recommendation / Action	Specification
	<p>electronic advanced data (EAD) in postal operations compliant with UPU-WCO customs data model and the EU Customs Data Model). Prepare requirements for electronic advanced data in postal operations regarding commercial items which will be a pre-requisite for any digital customs or transport security related declaration sent to EU authorities prior to any border crossing into the EU (Measure will be applied by the EU in 2021), CEN/TR 17535.</p> <ul style="list-style-type: none">• S14. Introduce a national standard framework defining physical properties and characteristics for the packaging of boxable items to be delivered directly into private letter boxes, as well as environmental aspects of such packaging, applicable to all national postal/courier operators, CEN/TR 17535. <p><i>Introduce Digital Postal Service's standards :</i></p> <ul style="list-style-type: none">• S15. Define semantic mapping description of information on commercial single items compliant to the UPU-WCO customs model and the EU customs data model, CEN/TR 17536.• S16. Provide technical specifications (of physical label and electronic exchanges, as well data formats used within delivery chain) for an interface between the e-merchant and logistic operators, CEN/TS17073:2017.• S17 and S18. Please see the Recommendation 6 in the Ecosystem part. <p><i>Implement Electronic Data Interchange between postal handling organisations based on UPU electronic exchange messaging standards in line with the mandatory UPU-WCO data model:</i></p> <ul style="list-style-type: none">• S24. CUSITM V1 Customs Item pre-advice message to Customs, UPU M43.• S25. CUSRSP Customs response to postal operator on mail items, UPU M44.• S26. ITMREF which supports the communication from the destination postal operator to the origin postal operator, UPU M53.• S27. REFRSP supports the communication from the origin postal operator to the destination postal operator, UPU M54.
13. Set up the required conditions to assure eCommerce <u>customer service</u> by creating online Alternative Dispute Resolution mechanism and assuring transparency in case of serious security incidents.	<p>Final goal: assure the maximum level of consumer support in case of disputes and security incidents.</p> <p>Gaps addressed:</p> <p>L22 Availability of procedures for the out-of-court resolution of domestic and cross-border disputes concerning contractual obligations (ADR) is not regulated.</p> <p>L23. Availability of an online dispute resolution platform for consumer disputes (ADR) is not regulated.</p> <p>L53. Internal complaint handling system by the providers of online intermediation services is not regulated.</p> <p>S2. Complaints handling principles is not regulated. The regulatory authority for the postal sector does not enforce the application of a national standard for complaints handling related to domestic and cross-border postal services.</p>



Recommendation / Action	Specification
<p>13.1 Assure the availability of online procedures for the out-of-court resolution of domestic and cross-border disputes concerning eCommerce contractual obligations</p>	<p><i>Create a national legal framework of Alternative Dispute Resolution (ADR) for consumer disputes supporting eCommerce:</i></p> <ul style="list-style-type: none">• L22. Introduce alternative dispute resolution (ADR) means that allow settling a complaint out of court with the assistance of an impartial dispute resolution body. Establish harmonised quality requirements for ADR entities and ADR procedures in order to ensure that consumers have access to high-quality, transparent, effective and fair out-of-court redress mechanisms to provide a higher level of consumer protection. Introduce the type of ADR such as Conciliation, Ombudsmen, Arbitration, and Complaints boards.• L23. Using the European Commission best practices and experience in setting up an Online Dispute Resolution (ODR) platform, lay down rules for online dispute resolution platform for consumer disputes facilitating the independent, impartial, transparent, effective, fast and fair out-of-court resolution of disputes between consumers and traders online. Provide a possibility for out-of-court resolution of disputes concerning contractual obligations stemming from online sales or service contracts between a consumer and a trader established in the country through an online dispute resolution platform. Require that the national ODR platform shall be a single point of entry for consumers and traders seeking the out-of-court resolution of disputes. It shall be an interactive website, which can be accessed electronically and free of charge²⁴.• Directive 2013/11/EU on alternative dispute resolution. / Regulation (EU) No 524/2013 on consumer Online Dispute Resolution <p><i>Create a mechanism of handling complaints by providers of eCommerce platforms and intermediation services:</i></p> <ul style="list-style-type: none">• L53. Introduce a requirement for providers of online intermediation services to provide an internal system for handling complaints. Regulation (EU) 2019/1150 on promoting fairness for business users of online intermediation services.
<p>13.2 Improve the quality of customer services for parcels delivery by introducing quality standards</p>	<ul style="list-style-type: none">• S2. Enforce the application of a national standard for complaints handling related to domestic and cross-border postal services. Request that the standard's guidelines for compensation and redress procedures are mandatory to be applied by the postal organisations of the country, CEN/TS14012.

6 The next steps and considerations

As the next step, the beneficiaries in the Eastern partner countries should use this report to consider implementing the recommendations.

²⁴ Alternative dispute resolution (ADR) means settling a complaint out of court with the assistance of an impartial dispute resolution body. The European Commission (EC) developed an online dispute resolution (ODR) platform as a single point of entry for consumers and traders seeking out-of-court resolution of disputes. The EC ODR platform allows to submit a complaint online to an ADR body in any language and in any EU country. Usually, the process happens entirely online, takes about 90 days following the choice of ADR body, and is provided for free or for a nominal charge (for more details, please, see in [the EU legal baseline](#) the section 2.2.2. Consumer protection, in particular, Directive on consumer alternative dispute resolution and Regulation on consumer online dispute resolution for more details).



Recommendations in legal and standards areas include specific points for specific government authorities to use as an input to make necessary changes. These recommendations and action points are presented in *chapter 5.2* of this report.

Recommendations in ecosystem area should be considered by the relevant government and non-government ecosystem stakeholders, who should include the recommendations in national economy development plans for practical actions. These recommendations are presented in *chapter 5.1* of this report.

In addition, this report is considered by the European Commission for possible activation of the recommendations on bi-lateral and regional levels.

The next step of the EU4Digital Facility is to launch a pilot to facilitate cross-border eCommerce. Recommendation #1 of this report – Establish a virtual warehouse as a re-usable database to list goods for sale in the EU and other Eastern Partnership countries – is confirmed to be a pilot solution, which will support countries to list products on the foreign marketplaces and complete cross-border eCommerce transactions. The pilot activity is scheduled to start in January 2021 and to be completed by April 2021. Updates on the activities are published on eufordigital.eu.