AMENDMENTS
309 - 654

Draft report
Evelyne Gebhardt, Axel Voss
(PE592.444v01-00)

Contracts for the supply of digital content

Proposal for a directive
AM_Com_LegReport
(39) In order to ensure that the consumer benefits from effective protection in relation to the right to terminate the contract, the supplier should allow the consumer to retrieve all data uploaded by the consumer, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content. This obligation should extend to data which the supplier is obliged to retain under the contract for the supply of the digital content as well as to data which the supplier has effectively retained in relation to the contract.

{Amendment 309\nAntanas Guoga\nProposal for a directive\nRecital 39

Text proposed by the Commission

(39) In order to ensure that the consumer benefits from effective protection in relation to the right to terminate the contract, the supplier should allow the consumer to retrieve all data uploaded by the consumer, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content. This obligation should extend to data which the supplier is obliged to retain under the contract for the supply of the digital content as well as to data which the supplier has effectively retained in relation to the contract.

{Or. en

Amendment 310\nAxel Voss, Eva Maydell\nProposal for a directive\nRecital 39

Text proposed by the Commission

(39) In order to ensure that the consumer benefits from effective protection in relation to the right to terminate the contract, the supplier should allow the consumer to retrieve all data uploaded by the consumer, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content. This obligation should extend to data which the supplier is obliged to retain under the contract for the supply of the digital content as well as to data which the supplier has effectively retained in relation to the contract.
supplier has effectively retained in relation to the contract.

Amendment  311
Kaja Kallas, Dita Charanzová

Proposal for a directive
Recital 39

_Text proposed by the Commission_

(39) In order to ensure that the consumer benefits from effective protection in relation to the right to terminate the contract, the supplier should allow the consumer to retrieve all data uploaded by the consumer, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content. This obligation should extend to data which the supplier is obliged to retain under the contract for the supply of the digital content as well as to data which the supplier has effectively retained in relation to the contract.

_Or. en_

Amendment  312
Daniel Dalton, Vicky Ford

Proposal for a directive
Recital 39

(39) In order to ensure that the consumer benefits from effective protection in relation to the right to terminate the contract, the supplier should allow the consumer to retrieve all **personal** data uploaded by the consumer, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content, provided that the data in question have not been deleted or rendered anonymous. This obligation should extend to **personal** data which the supplier is obliged to retain under the contract for the supply of the digital content as well as to **personal** data which the supplier has effectively retained in relation to the contract. **The supplier should also allow the consumer to retrieve the content provided by the latter through the use of the digital content, where technically feasible, and where the content is portable to another service, to the extent that it has been retained by the supplier.**

_Or. en_
In order to ensure that the consumer benefits from effective protection in relation to the right to terminate the contract, the supplier should allow the consumer to retrieve all data uploaded by the consumer, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content. This obligation should extend to data which the supplier is obliged to retain under the contract for the supply of the digital content as well as to data which the supplier has effectively retained in relation to the contract.

It is important to add clarity to the text of the directive that it does not seek to override or conflict with Regulation (EU) 2016/679 on general data protection rules and that Regulation’s definition of personal data.

Amendment 313
Jean-Marie Cavada

Proposal for a directive
Recital 39

In order to ensure that the consumer benefits from effective protection in relation to the right to terminate the contract, the supplier should allow the consumer to retrieve all monetisable data uploaded by the supplier, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content. This obligation should extend to data which the supplier is required effectively to retain in relation to the contract for the supply of digital content.

Steps should be taken, however, to ensure that this process does not infringe the...
which the supplier has effectively retained in relation to the contract.

supplier’s intellectual property rights, where relevant, and does not impose too great a technical burden on him.

Amendment 314
Daniel Buda

Proposal for a directive
Recital 39

Text proposed by the Commission

(39) In order to ensure that the consumer benefits from effective protection in relation to the right to terminate the contract, the supplier should allow the consumer to retrieve all data uploaded by the consumer, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content. This obligation should extend to data which the supplier is obliged to retain under the contract for the supply of the digital content as well as to data which the supplier has effectively retained in relation to the contract.

Amendment

(39) In order to ensure that the consumer benefits from effective protection in relation to the right to terminate the contract, the supplier should allow the consumer to retrieve all data uploaded by the consumer, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content or digital services. This obligation should extend to data which the supplier is obliged to retain under the contract for the supply of the digital content or digital services as well as to data which the supplier has effectively retained in relation to the contract.

Or. fr

Amendment 315
Angel Dzhambazki

Proposal for a directive
Recital 39

Text proposed by the Commission

(39) In order to ensure that the consumer benefits from effective protection in relation to the right to terminate the contract, the supplier should allow the consumer to retrieve all data uploaded by

Amendment

(39) In order to ensure that the consumer benefits from effective protection in relation to the right to terminate the contract, the supplier should allow the consumer to retrieve reasonably

Or. ro
the consumer, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content. This obligation should extend to data which the supplier is obliged to retain under the contract for the supply of the digital content as well as to data which the supplier has effectively retained in relation to the contract.

**Identifiable and reasonable retrievable personal data of the consumer, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content.** This obligation should extend to data which the supplier is obliged to retain under the contract for the supply of the digital content as well as to data which the supplier has effectively retained in relation to the contract.

Or. en

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**Amendment 316**

**Marco Zullo**

**Proposal for a directive**

**Recital 39**

*Text proposed by the Commission*

(39) In order to ensure that the consumer benefits from effective protection in relation to the right to terminate the contract, the supplier should allow the consumer to retrieve all data uploaded by the consumer, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content. This obligation should extend to data which the supplier is obliged to retain under the contract for the supply of the digital content as well as to data which the supplier has effectively retained in relation to the contract.

*Amendment*

(39) In order to ensure that the consumer benefits from effective protection in relation to the right to terminate the contract, the supplier should allow the consumer to retrieve all data uploaded by the consumer, *actively* produced by the consumer with the use of the digital content or service or generated through the consumer's use of the digital content or service. This obligation should extend to data which the supplier is obliged to retain under the contract for the supply of the digital content or service as well as to data which the supplier has effectively retained in relation to the contract.

Or. it

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**Amendment 317**

**Virginie Rozière**

**Proposal for a directive**

**Recital 39**

AM\1117404EN.docx 7/167 PE599.502v02-00
(39) In order to ensure that the consumer benefits from effective protection in relation to the right to terminate the contract, the supplier should allow the consumer to retrieve all data uploaded by the consumer, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content. This obligation should extend to data which the supplier is obliged to retain under the contract for the supply of the digital content as well as to data which the supplier has effectively retained in relation to the contract.

Amendment

318
Axel Voss, Eva Maydell

Proposal for a directive
Recital 40

(40) Where, following the termination of the contract because of a lack of conformity with the contract, the supplier provides the consumer with the technical means to retrieve the data, the consumer should be entitled to retrieve the data free of any costs, for example the cost of employing a commonly used data format with the exception of costs generated by the consumer's own digital environment including the costs of a network connection as they are not specifically linked with the retrieval of the data.

Amendment

319
Kaja Kallas, Dita Charanzová

Proposal for a directive
Recital 40

Text proposed by the Commission

(40) Where, following the termination of the contract because of a lack of conformity with the contract, the supplier provides the consumer with the technical means to retrieve the data, the consumer should be entitled to retrieve the data free of any costs, for example the cost of employing a commonly used data format with the exception of costs generated by the consumer's own digital environment including the costs of a network connection as they are not specifically linked with the retrieval of the data.

Amendment

(40) Where, following the termination of the contract because of a lack of conformity with the contract, the supplier provides the consumer with the technical means to retrieve the personal data, and where it is technically feasible and portable to other services, the content, free of any costs, for example the cost of employing a commonly used data format with the exception of costs generated by the consumer's own digital environment including the costs of a network connection as they are not specifically linked with the retrieval of either the personal data or the content.

Or. en

Amendment 320
Angel Dzhambazki

Proposal for a directive
Recital 40

Text proposed by the Commission

(40) Where, following the termination of the contract because of a lack of conformity with the contract, the supplier provides the consumer with the technical means to retrieve the data, the consumer should be entitled to retrieve the data free of any costs, for example the cost of employing a commonly used data format with the exception of costs generated by the consumer's own digital environment including the costs of a network connection as they are not specifically linked with the retrieval of the data.

Amendment

(40) Where, following the termination of the contract because of a lack of conformity with the contract, the supplier provides the consumer with the technical means to retrieve reasonably identifiable and reasonably retrievable personal data, the consumer should be entitled to retrieve this data free of any costs, for example the cost of employing a commonly used data format with the exception of costs generated by the consumer's own digital environment including the costs of a network connection as they are not specifically linked with the retrieval of this data.

specifically linked with the retrieval of this data.

Or. en

Amendment 321
Angelika Niebler

Proposal for a directive
Recital 41

Text proposed by the Commission  
(41) Where the contract is terminated,  
the consumer should not be required to pay  
for the use of digital content which is not in conformity with the contract because that would deprive the consumer of effective protection.  

Amendment
(41) Where the contract is terminated,  
the consumer should not be required to pay for the use of digital content which is not in conformity with the contract because that would deprive the consumer of effective protection.  

However, when rescinding the contract, the economic value of making use of the digital content or digital service should be taken into account. Where the lack of conformity with the contract of the digital content or service renders it unusable in practice, no compensation for use should be payable.

Or. de

Justification

Compensation for use should be ruled out only in the event that the content or service is unusable.

Amendment 322
Daniel Buda

Proposal for a directive
Recital 41

Text proposed by the Commission  
(41) Where the contract is terminated,  
the consumer should not be required to pay for the use of digital content which is not in conformity with the contract because that

Amendment
(41) Where the contract is terminated,  
the consumer should not be required to pay for the use of digital content or digital services which are not in conformity with
would deprive the consumer of effective protection.

Text proposed by the Commission

(41) Where the contract is terminated, the consumer should not be required to pay for the use of digital content which is not in conformity with the contract because that would deprive the consumer of effective protection.

Amendment 323
Axel Voss, Eva Maydell
Proposal for a directive
Recital 41

(41) Where the contract is terminated, the consumer should not be required to pay for the use of digital content or digital services which is not in conformity with the contract because that would deprive the consumer of effective protection.

Or. ro

Amendment 324
Marco Zullo
Proposal for a directive
Recital 41

(41) Where the contract is terminated, the consumer should not be required to pay for the use of digital content or a digital service which is not in conformity with the contract because that would deprive the consumer of effective protection.

Or. it

Amendment 325
Daniel Buda
Proposal for a directive
Recital 42

Text proposed by the Commission

(42) Considering the need to balance legitimate interests of consumers and suppliers, where the digital content provided over a period of time in exchange for a payment of a price, gives rise to the right to terminate, the consumer should be entitled to terminate only the part of the contract which corresponds to the time when the digital content was not in conformity with the contract. However where the digital content is provided against a counter-performance other than money partial termination is not feasible because it is impossible to proportionally apportion a counter-performance other than money.

Amendment

(42) Considering the need to balance legitimate interests of consumers and suppliers, where the digital content or digital services provided over a period of time in exchange for a payment of a price, gives rise to the right to terminate, the consumer should be entitled to terminate only the part of the contract which corresponds to the time when the digital content or digital service was not in conformity with the contract. However where the digital content or digital service is provided against a counter-performance other than money partial termination is not feasible because it is impossible to proportionally apportion a counter-performance other than money.

Proposal for a directive

Recital 42

Text proposed by the Commission

(42) Considering the need to balance legitimate interests of consumers and suppliers, where the digital content provided over a period of time in exchange for a payment of a price, gives rise to the right to terminate, the consumer should be entitled to terminate only the part of the contract which corresponds to the time when the digital content was not in conformity with the contract. However where the digital content is provided against a counter-performance other than money partial termination is not feasible because it is impossible to proportionally apportion a counter-performance other than money.

Amendment

(42) Considering the need to balance legitimate interests of consumers and suppliers, where the digital content or a digital service are provided over a period of time in exchange for a payment of a price, gives rise to the right to terminate, the consumer should be entitled to terminate only the part of the contract which corresponds to the time when the digital content or digital service was not in conformity with the contract. However where the digital content or digital service is provided against data as a counter-performance partial termination is not
apportion a counter-performance other than money.

feasible because it is impossible to proportionally apportion a counter-performance other than money.

Or. en

Amendment 327
Marco Zullo

Proposal for a directive
Recital 42

(42) Considering the need to balance legitimate interests of consumers and suppliers, where the digital content provided over a period of time in exchange for a payment of a price, gives rise to the right to terminate, the consumer should be entitled to terminate only the part of the contract which corresponds to the time when the digital content was not in conformity with the contract. However where the digital content is provided against a counter-performance other than money partial termination is not feasible because it is impossible to proportionally apportion a counter-performance other than money.

Or. it

Amendment 328
Axel Voss, Eva Maydell

Proposal for a directive
Recital 42

(42) Considering the need to balance legitimate interests of consumers and suppliers, where the digital content or service provided over a period of time in exchange for a payment of a price, gives rise to the right to terminate, the consumer should be entitled to terminate only the part of the contract which corresponds to the time when the digital content or service was not in conformity with the contract. However where the digital content or service is provided against a counter-performance other than money partial termination is not feasible because it is impossible to proportionally apportion a counter-performance other than money.

Or. it

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for a payment of a price, gives rise to the right to terminate, the consumer should be entitled to terminate only the part of the contract which corresponds to the time when the digital content was not in conformity with the contract. However where the digital content is provided against a counter-performance other than money partial termination is not feasible because it is impossible to proportionally apportion a counter-performance other than money.

of time in exchange for a payment of a price and gives rise to the right to terminate, the consumer should be entitled to terminate only the part of the contract which corresponds to the time when the digital content or digital services were not in conformity with the contract. However where the digital content or digital services are provided against personal data or any other data partial termination is not feasible because it is impossible to proportionally apportion such data.

Amendment 329
Kaja Kallas, Dita Charanzová, Jean-Marie Cavada

Proposal for a directive
Recital 43

Text proposed by the Commission

(43) Due to its nature the digital content is not subject to wear and tear while being used and it is often supplied over a period of time rather than as a one-off supply. It is, therefore, justified not to provide a period during which the supplier should be held liable for any lack of conformity which exists at the time of the supply of the digital content. Consequently Member States should refrain from maintaining or introducing such a period. Member States should remain free to rely on national prescription rules in order to ensure legal certainty in relation to claims based on the lack of conformity of digital content.

Amendment

(43) Due to its nature the digital content is often supplied over a period of time rather than as a one-off supply. It is, therefore, justified for digital content supplied over a period of time as part of long-term contracts not to provide a period during which the supplier should be held liable for any lack of conformity which exists at the time of the supply of the digital content. Consequently Member States should refrain from maintaining or introducing such a period. However for digital content supplied as a one-off supply, it should be justified to introduce a limitation period of two years as from the time of supply of the digital content. Member States should remain free to rely on national prescription rules in order to ensure legal certainty in relation to claims based on the lack of conformity of digital content.
Amendment  330  
Evelyne Gebhardt, Lucy Anderson, Josef Weidenholzer, Anna Hedh, Christel Schaldemose, Liisa Jaakonsaari, Marc Tarabella, Catherine Stihler, Biljana Borzan, Evelyn Regner

Proposal for a directive  
Recital 43

Text proposed by the Commission  

(43) Due to its nature the digital content is not subject to wear and tear while being used and it is often supplied over a period of time rather than as a one-off supply. It is, therefore, justified not to provide a period during which the supplier should be held liable for any lack of conformity which exists at the time of the supply of the digital content. Consequently Member States should refrain from maintaining or introducing such a period. Member States should remain free to rely on national prescription rules in order to ensure legal certainty in relation to claims based on the lack of conformity of digital content.

Amendment  

(43) Due to its nature digital content or a digital service, except when supplied as embedded software or ancillary software to a tangible good, is not subject to wear and tear while being used and it is often supplied over a period of time rather than as a one-off supply. It is, therefore, justified not to provide a period during which the supplier should be held liable for any lack of conformity which exists at the time of the supply of the digital content.

Amendment  331  
Notis Marias

Proposal for a directive  
Recital 43

Text proposed by the Commission  

(43) Due to its nature the digital content is not subject to wear and tear while being used and it is often supplied over a period of time rather than as a one-off supply. It is, therefore, justified not to provide a period during which the supplier should be held liable for any lack of conformity which exists at the time of the supply of the digital content. Consequently Member

Amendment  

(43) Due to its nature the digital content is not subject to wear and tear while being used and it is often supplied over a period of time rather than as a one-off supply. It is, therefore, justified not to provide a period during which the supplier should be held liable for any lack of conformity which exists at the time of the supply of the digital content. Consequently Member
States should refrain from maintaining or introducing such a period. Member States should remain free to rely on national prescription rules in order to ensure legal certainty in relation to claims based on the lack of conformity of digital content.

Amendment 332
Inese Vaidere
Proposal for a directive
Recital 43

(43) Due to its nature the digital content is not subject to wear and tear while being used and it is often supplied over a period of time rather than as a one-off supply. It is, therefore, justified not to provide a period during which the supplier should be held liable for any lack of conformity which exists at the time of the supply of the digital content. Consequently Member States should refrain from maintaining or introducing such a period. Member States should remain free to rely on national prescription rules in order to ensure legal certainty in relation to claims based on the lack of conformity of digital content.

Amendment

Or. el

Amendment 333
Marco Zullo
Proposal for a directive
Recital 43

(43) Due to its nature the digital content is often supplied over a period of time rather than as a one-off supply. Therefore, in cases where the contract provides for a single act of supply the supplier shall be held liable where the lack of conformity becomes apparent within two years as from the time of supply. In cases where the contract provides for more than one act of supply or for continuous supply, the supplier shall be held liable for any lack of conformity that becomes apparent during the duration of the contract.
(43) Due to its nature the digital content is not subject to wear and tear while being used and it is often supplied over a period of time rather than as a one-off supply. It is, therefore, justified not to provide a period during which the supplier should be held liable for any lack of conformity which exists at the time of the supply of the digital content. Consequently Member States should refrain from maintaining or introducing such a period. Member States should remain free to rely on national prescription rules in order to ensure legal certainty in relation to claims based on the lack of conformity of digital content.

Amendment 334
Angelika Niebler
Proposal for a directive
Recital 43

Text proposed by the Commission

(43) Due to its nature the digital content is not subject to wear and tear while being used and it is often supplied over a period of time rather than as a one-off supply. It is, therefore, justified not to provide a period during which the supplier should be held liable for any lack of conformity which exists at the time of the supply of the digital content. Consequently Member States should refrain from maintaining or introducing such a period. Member States should remain free to rely on national prescription rules in order to ensure legal certainty in relation to claims based on the lack of conformity of digital content.

Amendment

(43) Even digital content may be subject to wear and tear. It may also be subject to external influences which are of crucial importance in determining whether the digital content is in conformity with the contract. Here too, therefore, it is justified to provide a period during which the supplier should be held liable for any lack of conformity which exists at the time of the supply of the digital content. Furthermore, Member States should remain free to rely on national prescription rules in order to ensure legal certainty in relation to claims based on the lack of conformity of digital content.

Or. de
Due to its nature the digital content is not subject to wear and tear while being used and it is often supplied over a period of time rather than as a one-off supply. It is, therefore, justified not to provide a period during which the supplier should be held liable for any lack of conformity which exists at the time of the supply of the digital content. Consequently Member States should refrain from maintaining or introducing such a period. Member States should remain free to rely on national prescription rules in order to ensure legal certainty in relation to claims based on the lack of conformity of digital content.

In order to ensure consistency within the acquis, it is justified to provide a two year period during which the supplier should be held liable for any lack of conformity which exists at the time of the supply of the digital content or digital service. Member States should remain free to rely on national prescription rules in order to ensure legal certainty in relation to claims based on the lack of conformity of digital content or digital services but such rules should not provide for a period shorter than two years from the relevant time of establishing conformity with the contract.

The principle of the supplier's liability for damages is an essential element of the contracts for supply of digital content. In order to increase consumers' trust in digital content this principle should thus be regulated at Union level to ensure that consumers do not suffer a detriment if their hardware or software is damaged by digital content which is not in conformity with the contract. Therefore, consumers should be entitled to a compensation for damages.
caused to the consumer's digital environment by a lack of conformity with the contract or a failure to supply the digital content. However, it should be for Member States to lay down the detailed conditions for the exercise of the right to damages while taking into account that discounts on prices for future supplies of the digital content, especially when offered by suppliers as an exclusive compensation for losses, do not necessarily put the consumer as nearly as possible into the position in which the consumer would have been if the digital content had been duly supplied and been in conformity with the contract.

Amendment 337
Julia Reda

Proposal for a directive
Recital 44

Text proposed by the Commission

(44) The principle of the supplier's liability for damages is an essential element of the contracts for supply of digital content. In order to increase consumers' trust in digital content this principle should thus be regulated at Union level to ensure that consumers do not suffer a detriment if their hardware or software is damaged by digital content which is not in conformity with the contract. Therefore, consumers should be entitled to a compensation for damages caused to the consumer's digital environment by a lack of conformity with the contract or a failure to supply the digital content. However, it should be for Member States to lay down the detailed conditions for the exercise of the right to damages while taking into account that discounts on prices for future supplies of the digital content, especially

Amendment

(44) The principle of the supplier's liability for damages is an essential element of the contracts for supply of digital content. In order to increase consumers' trust in digital content this principle should thus be regulated at Union level to ensure that consumers do not suffer a detriment if their hardware or software is damaged by digital content which is not in conformity with the contract. Therefore, consumers should be entitled to a compensation for damages caused to the consumer's digital environment by a lack of conformity with the contract or a failure to supply the digital content. However, it should be for Member States to lay down the detailed conditions for the exercise of the right to damages while taking into account that discounts on prices for future supplies of the digital content, especially
when offered by suppliers as an exclusive compensation for losses, do not necessarily put the consumer as nearly as possible into the position in which the consumer would have been if the digital content had been duly supplied and been in conformity with the contract.

It should be possible for Member States, when laying down the rules in that regard, to provide for a reduced or increased degree of liability for damages in order to differentiate between suppliers that have done everything in their power to limit the possibility of damage, for example by observing industry codes of best practice, security baselines or international standards, and those that have been negligent in this respect.

Amendment 338
Daniel Buda
Proposal for a directive
Recital 44

Text proposed by the Commission

(44) The principle of the supplier's liability for damages is an essential element of the contracts for supply of digital content. In order to increase consumers' trust in digital content this principle should thus be regulated at Union level to ensure that consumers do not suffer a detriment if their hardware or software is damaged by digital content which is not in conformity with the contract. Therefore, consumers should be entitled to a compensation for damages caused to the consumer's digital environment by a lack of conformity with the contract or a failure to supply the digital content. However, it should be for Member States to lay down the detailed conditions for the exercise of the right to damages while taking into

Amendment

(44) The principle of the supplier's liability for damages is an essential element of the contracts for supply of digital content or digital services. In order to increase consumers' trust in digital content and digital services this principle should thus be regulated at Union level to ensure that consumers do not suffer a detriment if their hardware or software is damaged by digital content or digital services which are not in conformity with the contract. Therefore, consumers should be entitled to a compensation for damages caused to the consumer's digital environment by a lack of conformity with the contract or a failure to supply the digital content or digital services. However, it should be for Member States
account that discounts on prices for future supplies of the digital content, especially when offered by suppliers as an exclusive compensation for losses, do not necessarily put the consumer as nearly as possible into the position in which the consumer would have been if the digital content had been duly supplied and been in conformity with the contract.

Amendment 339
Evelyne Gebhardt, Lucy Anderson, Anna Hedh, Josef Weidenholzer, Liisa Jaakonsaari, Marc Tarabella, Evelyn Regner

Proposal for a directive
Recital 44

*Text proposed by the Commission*

(44) The principle of the supplier's liability for damages is an essential element of the contracts for supply of digital content. In order to increase consumers' trust in digital content this principle should thus be regulated at Union level to ensure that consumers do not suffer a detriment if their hardware or software is damaged by digital content which is not in conformity with the contract. Therefore, consumers should be entitled to a compensation for damages caused to the consumer's digital environment by a lack of conformity with the contract or a failure to supply the digital content. However, it should be for Member States to lay down the detailed conditions for the exercise of the right to damages while taking into account that discounts on prices for future supplies of the digital content, especially when offered by suppliers as an exclusive compensation for losses, do not necessarily put the consumer as nearly as possible into the position in which the consumer would have been if the digital content or digital services had been duly supplied and been in conformity with the contract.

*Amendment*

(44) The principle of the supplier's liability for damages is an essential element of the contracts for supply of digital content. In order to increase consumers' trust in digital content this principle should thus be regulated at Union level to ensure that consumers do not suffer a detriment if their hardware or software is damaged by digital content or digital services which is not in conformity with the contract. Therefore, consumers should be entitled to a compensation for material damages caused to the consumer's digital environment and possible non-material damage resulting thereof, by a lack of conformity with the contract or a failure to supply the digital content or a digital service pursuant to the general principle that a claimant is entitled to be put in such a position as if the circumstance that caused her damage had not happened. However, it should be for Member States to lay down the detailed conditions for the
the position in which the consumer would have been if the digital content had been duly supplied and been in conformity with the contract.

exercise of the right to damages, while taking into account that discounts on prices for future supplies of the digital content, especially when offered by suppliers as an exclusive compensation for losses, do not necessarily put the consumer as nearly as possible into the position in which the consumer would have been if the digital content had been duly supplied and been in conformity with the contract.

Amendment 340
Antanas Guoga

Proposal for a directive
Recital 44

Text proposed by the Commission

(44) The principle of the supplier's liability for damages is an essential element of the contracts for supply of digital content. In order to increase consumers' trust in digital content this principle should thus be regulated at Union level to ensure that consumers do not suffer a detriment if their hardware or software is damaged by digital content which is not in conformity with the contract. Therefore, consumers should be entitled to a compensation for damages caused to the consumer's digital environment by a lack of conformity with the contract or a failure to supply the digital content. However, it should be for Member States to lay down the detailed conditions for the exercise of the right to damages caused by a lack of conformity with the contract or a failure to supply the digital content. However, it should be for Member States to lay down the detailed conditions for the exercise of the right to damages while taking into account that discounts on prices for future supplies of the digital content, especially when offered by suppliers as an exclusive compensation for losses, do not necessarily put the consumer as nearly as possible into the position in which the consumer would have been if the digital content had been duly supplied and been in conformity with the contract.

Amendment

(44) The principle of the supplier's liability for damages is an essential element of the contracts for supply of digital content. Consumers should not suffer a detriment if their hardware or software is damaged by digital content which is not in conformity with the contract. Therefore, consumers should be entitled to a compensation for damages caused by a lack of conformity with the contract or a failure to supply the digital content. However, it should be for Member States to lay down the detailed conditions for the exercise of the right to damages while taking into account that discounts on prices for future supplies of the digital content, especially when offered by suppliers as an exclusive compensation for losses, do not necessarily put the consumer as nearly as possible into the position in which the consumer would have been if the digital content had been duly supplied and been in conformity with the contract.
supplied and been in conformity with the contract.

Amendment 341
Marco Zullo

Proposal for a directive
Recital 44

Text proposed by the Commission

(44) The principle of the supplier's liability for damages is an essential element of the contracts for supply of digital content. In order to increase consumers' trust in digital content this principle should thus be regulated at Union level to ensure that consumers do not suffer a detriment if their hardware or software is damaged by digital content which is not in conformity with the contract. Therefore, consumers should be entitled to a compensation for damages caused to the consumer's digital environment by a lack of conformity with the contract or a failure to supply the digital content. However, it should be for Member States to lay down the detailed conditions for the exercise of the right to damages while taking into account that discounts on prices for future supplies of the digital content, especially when offered by suppliers as an exclusive compensation for losses, do not necessarily put the consumer as nearly as possible into the position in which the consumer would have been if the digital content had been duly supplied and been in conformity with the contract.

Amendment

(44) The principle of the supplier's liability for damages is an essential element of the contracts for supply of digital content or a digital service. In order to increase consumers' trust in digital content and services this principle should thus be regulated at Union level to ensure that consumers do not suffer a detriment if their hardware or software is damaged by digital content or services which are not in conformity with the contract. Therefore, consumers should be entitled to a compensation for damages caused to the consumer's digital environment by a lack of conformity with the contract or a failure to supply the digital content or service. However, it should be for Member States to lay down the detailed conditions for the exercise of the right to damages while taking into account that discounts on prices for future supplies of the digital content, especially when offered by suppliers as an exclusive compensation for losses, do not necessarily put the consumer as nearly as possible into the position in which the consumer would have been if the digital content or service had been duly supplied and been in conformity with the contract.

Or. it
Antanas Guoga

Proposal for a directive
Recital 44

Text proposed by the Commission

(44) The principle of the supplier's liability for damages is an essential element of the contracts for supply of digital content. In order to increase consumers' trust in digital content this principle should thus be regulated at Union level to ensure that consumers do not suffer a detriment if their hardware or software is damaged by digital content which is not in conformity with the contract. Therefore, consumers should be entitled to a compensation for damages caused to the consumer's digital environment by a lack of conformity with the contract or a failure to supply the digital content. However, it should be for Member States to lay down the detailed conditions for the exercise of the right to damages while taking into account that discounts on prices for future supplies of the digital content, especially when offered by suppliers as an exclusive compensation for losses, do not necessarily put the consumer as nearly as possible into the position in which the consumer would have been if the digital content had been duly supplied and been in conformity with the contract.

Amendment

(44) The principle of the supplier's liability for damages is an essential element of the contracts for supply of digital content. In order to increase consumers' trust in digital content this principle should thus be regulated at Union level to ensure that consumers do not suffer a detriment if their hardware or software is damaged by digital content which is not in conformity with the contract. Therefore, consumers should be entitled to a compensation for damages caused by a lack of conformity with the contract or a failure to supply the digital content. However, it should be for Member States to lay down the detailed conditions for the exercise of the right to damages while taking into account that discounts on prices for future supplies of the digital content, especially when offered by suppliers as an exclusive compensation for losses, do not necessarily put the consumer as nearly as possible into the position in which the consumer would have been if the digital content had been duly supplied and been in conformity with the contract.

Or. en

Amendment 343
Kaja Kallas, Dita Charanzová

Proposal for a directive
Recital 45

Text proposed by the Commission

(45) Due to technological or other reasons the supplier might be compelled to

Amendment

(45) Due to technological or other reasons the supplier might be compelled to
change features of the digital content supplied over a period of time. These changes are often to the advantage of the consumer as they improve the digital content. Consequently, the parties to the contract may include respective clauses in the contract which allow the supplier to undertake modifications. However, where such modifications negatively affect the way the consumer benefits from main performance features of the digital content, they may disturb the balance of the contract or the nature of the performance due under the contract to an extent that the consumer may not have concluded such a contract. Therefore, in such cases these modifications should be subject to certain conditions.

Amendment 344
Evelyne Gebhardt, Virginie Rozière, Lucy Anderson, Anna Hedh, Christel Schaldemose, Liisa Jaakonsaari, Josef Weidenholzer, Marc Tarabella, Evelyn Regner

Proposal for a directive
Recital 45

(45) Due to technological or other reasons the supplier might be compelled to change features of the digital content supplied over a period of time. These changes are often to the advantage of the consumer as they improve the digital content. Consequently, the parties to the contract may include respective clauses in the contract which allow the supplier to undertake modifications. However, where such modifications negatively affect the way the consumer benefits from main performance features of the digital content, they may disturb the balance of the contract or the nature of the performance due under the contract to an extent that the consumer may not have concluded such a contract.

Or. en
due under the contract to an extent that the consumer may not have concluded such a contract. Therefore, in such cases these modifications should be subject to certain conditions.

balance of the contract or the nature of the performance due under the contract to an extent that the consumer may not have concluded such a contract. Therefore, in such cases these modifications should be subject to certain conditions.

Amendment 345
Axel Voss, Eva Maydell

Proposal for a directive
Recital 45

Text proposed by the Commission

(45) Due to technological or other reasons the supplier might be compelled to change features of the digital content supplied over a period of time. These changes are often to the advantage of the consumer as they improve the digital content. Consequently, the parties to the contract may include respective clauses in the contract which allow the supplier to undertake modifications. However, where such modifications negatively affect the way the consumer benefits from main performance features of the digital content, they may disturb the balance of the contract or the nature of the performance due under the contract to an extent that the consumer may not have concluded such a contract. Therefore, in such cases these modifications should be subject to certain conditions.

Amendment

(45) Due to technological or other reasons the supplier might be compelled to change features of the digital content or digital services supplied over a period of time. These changes are often to the advantage of the consumer as they improve the digital content or digital services. Consequently, the parties to the contract may include respective clauses in the contract which allow the supplier to undertake modifications. However, where such modifications negatively affect the way the consumer benefits from main performance features of the digital content or digital services, they may disturb the balance of the contract or the nature of the performance due under the contract to an extent that the consumer may not have concluded such a contract. Therefore, in such cases these modifications should be subject to certain conditions.

Amendment 346
Marco Zullo

Proposal for a directive
Recital 45

Text proposed by the Commission

(45) Due to technological or other reasons the supplier might be compelled to change features of the digital content supplied over a period of time. These changes are often to the advantage of the consumer as they improve the digital content. Consequently, the parties to the contract may include respective clauses in the contract which allow the supplier to undertake modifications. However, where such modifications negatively affect the way the consumer benefits from main performance features of the digital content, they may disturb the balance of the contract or the nature of the performance due under the contract to an extent that the consumer may not have concluded such a contract. Therefore, in such cases these modifications should be subject to certain conditions.

Amendment

(45) Due to technological or other reasons the supplier might be compelled to change features of the digital content supplied over a period of time. These changes are often to the advantage of the consumer as they improve the digital content. Consequently, the parties to the contract may include respective clauses in the contract which allow the supplier to undertake modifications. However, where such modifications negatively affect the way the consumer benefits from main performance features of the digital content, they may disturb the balance of the contract or the nature of the performance due under the contract to an extent that the consumer may not have concluded such a contract. Therefore, in such cases these modifications should be subject to certain conditions.

Amendment 347
Angel Dzhambazki

Proposal for a directive
Recital 45

Text proposed by the Commission

(45) Due to technological or other reasons the supplier might be compelled to change features of the digital content supplied over a period of time. These changes are often to the advantage of the consumer as they improve the digital content. Consequently, the parties to the contract may include respective clauses in the contract which allow the supplier to undertake modifications. However, where such modifications negatively affect the

Amendment

(45) Due to technological or other reasons the supplier might be compelled to change features of the digital content supplied over a period of time. These changes are often to the advantage of the consumer as they improve the digital content. Consequently, the parties to the contract may include respective clauses in the contract which allow the supplier to undertake modifications. However, where such modifications mean that the digital
way the consumer benefits from main performance features of the digital content, they may disturb the balance of the contract or the nature of the performance due under the contract to an extent that the consumer may not have concluded such a contract. Therefore, in such cases these modifications should be subject to certain conditions.

Due to technological or other reasons the supplier might be compelled to change features of the digital content supplied over a period of time. These changes are often to the advantage of the consumer as they improve the digital content. Consequently, the parties to the contract may include respective clauses in the contract which allow the supplier to undertake modifications. However, where such modifications negatively affect the way the consumer benefits from main performance features of the digital content, they may disturb the balance of the contract or the nature of the performance due under the contract to an extent that the consumer may not have concluded such a contract. Therefore, in such cases these modifications should be subject to certain conditions.

Or. en

Amendment 348
Constance Le Grip

Proposal for a directive
Recital 45

Text proposed by the Commission

(45) Due to technological or other reasons the supplier might be compelled to change features of the digital content supplied over a period of time. These changes are often to the advantage of the consumer as they improve the digital content. Consequently, the parties to the contract may include respective clauses in the contract which allow the supplier to undertake modifications. However, where such modifications negatively affect the way the consumer benefits from main performance features of the digital content, they may disturb the balance of the contract or the nature of the performance due under the contract to an extent that the consumer may not have concluded such a contract. Therefore, in such cases these modifications should be subject to certain conditions.

Or. fr

Amendment 349
Axel Voss, Eva Maydell

Proposal for a directive
Recital 46

Text proposed by the Commission

(46) Competition is an important element for a well-functioning digital single market. In order to stimulate such a competition, consumers should be enabled to respond to competitive offers and to switch between suppliers. In order to make this work in practice, they should be able to do so without being hindered by legal, technical or practical obstacles, including contractual conditions or lack of means for retrieving all data uploaded by the consumer, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content. However, it is also important to protect existing investments and the trust in concluded contracts. Therefore consumers should be given the right to terminate long-term contracts under certain balanced conditions. This does not preclude that consumer contracts may be concluded for longer contractual periods. However, the consumer should be entitled to terminate any contractual relation that altogether lasts for a period longer than 12 months. In order to prevent any circumvention of this right it should cover any contract which results in the consumer being bound by the contract for more than 12 months, irrespective of whether the contract is of indeterminate duration or is extended automatically or following a subsequent agreement by the parties.

Amendment 350
Angel Dzhambazki
Proposal for a directive
Recital 46

Text proposed by the Commission

(46) Competition is an important element for a well-functioning digital single market. In order to stimulate such competition, consumers should be enabled to respond to competitive offers and to switch between suppliers. In order to make this work in practice, they should be able to do so without being hindered by legal, technical or practical obstacles, including contractual conditions or lack of means for retrieving all data uploaded by the consumer, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content. However, it is also important to protect existing investments and the trust in concluded contracts. Therefore consumers should be given the right to terminate long-term contracts under certain balanced conditions. This does not preclude that consumer contracts may be concluded for longer contractual periods. However, the consumer should be entitled to terminate any contractual relation that altogether lasts for a period longer than 12 months. In order to prevent any circumvention of this right it should cover any contract which results in the consumer being bound by the contract for more than 12 months, irrespective of whether the contract is of indeterminate duration or is extended automatically or following a subsequent agreement by the parties.

Amendment

(46) Competition is an important element for a well-functioning digital single market. In order to stimulate such competition, consumers should be enabled to respond to competitive offers and to switch between suppliers. In order to make this work in practice, they should be able to do so without being hindered by legal, technical or practical obstacles, including contractual conditions or lack of means for retrieving all data uploaded by the consumer, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content. However, it is also important to protect existing investments and the trust in concluded contracts. Therefore contracts concluded between consumers and suppliers providing digital content shall not mandate an initial commitment period that exceeds 24 months, without prejudice to the ability of suppliers to charge early termination charges in the event the customer does not subscribe to the contract for the agreed contractual period.

Or. en

Amendment 351
Notis Marias

Proposal for a directive
Recital 46

Proposed by the Commission

(46) **Competition is an important element for a well-functioning digital single market.** In order to stimulate such a competition, consumers should be enabled to respond to competitive offers and to switch between suppliers. In order to make this work in practice, they should be able to do so without being hindered by legal, technical or practical obstacles, including contractual conditions or lack of means for retrieving all data uploaded by the consumer, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content. However, it is also important to protect existing investments and the trust in concluded contracts. Therefore consumers should be given the right to terminate long-term contracts under certain balanced conditions. This does not preclude that consumer contracts may be concluded for longer contractual periods. However, the consumer should be entitled to terminate any contractual relation that altogether lasts for a period longer than **12** months. In order to prevent any circumvention of this right it should cover any contract which results in the consumer being bound by the contract for more than 12 months, irrespective of whether the contract is of indeterminate duration or is extended automatically or following a subsequent agreement by the parties.

Or. el

Amendment 352
Marco Zullo

Proposal for a directive
Recital 46

(46) In order to stimulate competition, consumers should be enabled to respond to competitive offers and to switch between suppliers. In order to make this work in practice, they should be able to do so without being hindered by legal, technical or practical obstacles, including contractual conditions or lack of means for retrieving all data uploaded by the consumer, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content. However, it is also important to protect existing investments and the trust in concluded contracts. Therefore consumers should be given the right to terminate long-term contracts under certain balanced conditions. This does not preclude that consumer contracts may be concluded for longer contractual periods. However, the consumer should be entitled to terminate any contractual relation that altogether lasts for a period longer than **twelve** months. In order to prevent any circumvention of this right it should cover any contract which results in the consumer being bound by the contract for more than 12 months, irrespective of whether the contract is of indeterminate duration or is extended automatically or following a subsequent agreement by the parties.
Competition is an important element for a well-functioning digital single market. In order to stimulate such a competition, consumers should be enabled to respond to competitive offers and to switch between suppliers. In order to make this work in practice, they should be able to do so without being hindered by legal, technical or practical obstacles, including contractual conditions or lack of means for retrieving all data uploaded by the consumer, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content. However, it is also important to protect existing investments and the trust in concluded contracts. Therefore consumers should be given the right to terminate long-term contracts under certain balanced conditions. This does not preclude that consumer contracts may be concluded for longer contractual periods. However, the consumer should be entitled to terminate any contractual relation that altogether lasts for a period longer than 12 months. In order to prevent any circumvention of this right it should cover any contract which results in the consumer being bound by the contract for more than 12 months, irrespective of whether the contract is of indeterminate duration or is extended automatically or following a subsequent agreement by the parties.

Or. it

Amendment 353
Julia Reda
Proposal for a directive
Recital 46

Text proposed by the Commission

Amendment
Competition is an important element for a well-functioning digital single market. In order to stimulate such a competition, consumers should be enabled to respond to competitive offers and to switch between suppliers. In order to make this work in practice, they should be able to do so without being hindered by legal, technical or practical obstacles, including contractual conditions or lack of means for retrieving all data uploaded by the consumer, produced by the consumer with the use of the digital content or generated through the consumer's use of the digital content. However, it is also important to protect existing investments and the trust in concluded contracts. Therefore consumers should be given the right to terminate long-term contracts under certain balanced conditions. This does not preclude that consumer contracts may be concluded for longer contractual periods. However, the consumer should be entitled to terminate any contractual relation that altogether lasts for a period longer than 12 months. In order to prevent any circumvention of this right it should cover any contract which results in the consumer being bound by the contract for more than 12 months, irrespective of whether the contract is of indeterminate duration or is extended automatically or following a subsequent agreement by the parties.

Amendment 354
Julia Reda
Proposal for a directive
Recital 47

Text proposed by the Commission

(47) The lack of conformity with the contract of the final digital content as supplied to the consumer is often due to

Amendment

(47) The lack of conformity with the contract of the final digital content as supplied to the consumer is often due to
one of the transactions in a chain, from the original designer to the final supplier. While the final supplier should be liable towards the consumer in case of lack of conformity with the contract between these two parties, it is important to ensure that the supplier has appropriate rights vis-a-vis different members of the chain of transactions in order to be able to cover his liability towards the consumer. However, it should be for the applicable national law to identify the members of the chains of transactions against which the final supplier can turn and the modalities and conditions of such actions.

Amendment 355
Axel Voss, Eva Maydell

Proposal for a directive
Recital 47

Text proposed by the Commission

(47) The lack of conformity with the contract of the final digital content as supplied to the consumer is often due to one of the transactions in a chain, from the original designer to the final supplier. While the final supplier should be liable towards the consumer in case of lack of conformity with the contract between these two parties, it is important to ensure that the supplier has appropriate rights vis-a-vis different members of the chain of transactions in order to be able to cover his liability towards the consumer. However, it should be for the applicable national law to identify the members of the chains of transactions against which the final supplier can turn and the modalities and conditions of such actions.

Amendment

(47) The lack of conformity with the contract of the final digital content or digital service as supplied to the consumer is often due to one of the transactions in a chain, from the original designer to the final supplier. While the final supplier should be liable towards the consumer in case of lack of conformity with the contract between these two parties, it is important to ensure that the supplier has appropriate rights vis-a-vis different members of the chain of transactions in order to be able to cover his liability towards the consumer. However, it should be for the applicable national law to identify the members of the chains of transactions against which the
supplier can turn and the modalities and conditions of such actions.

final supplier can turn and the modalities and conditions of such actions.

Amendment 356
Kaja Kallas, Dita Charanzová

Proposal for a directive
Recital 47

Text proposed by the Commission

(47) The lack of conformity with the contract of the final digital content as supplied to the consumer is often due to one of the transactions in a chain, from the original designer to the final supplier. While the final supplier should be liable towards the consumer in case of lack of conformity with the contract between these two parties, it is important to ensure that the supplier has appropriate rights vis-a-vis different members of the chain of transactions in order to be able to cover his liability towards the consumer. However, it should be for the applicable national law to identify the members of the chains of transactions against which the final supplier can turn and the modalities and conditions of such actions.

Amendment

(47) The lack of conformity with the contract of the final digital content as supplied to the consumer is often due to one of the transactions in a chain, from the original designer to a third-party supplier. While the third-party supplier should be liable towards the consumer in case of lack of conformity with the contract between these two parties, it is important to ensure that the supplier has appropriate rights vis-a-vis different members of the chain of transactions in order to be able to cover his liability towards the consumer. However, it should be for the applicable national law to identify the members of the chains of transactions against which the third-party supplier can turn and the modalities and conditions of such actions.

Or. en

Justification

The term used in the proposal is third-party supplier to differentiate between suppliers in the chain of transaction and should therefore be used in that context as well

Amendment 357
Julia Reda, Kaja Kallas

Proposal for a directive
Recital 47 a (new)
The Directive does not aim to introduce a legal framework for Free Software licenses, if Free Software is part of the provided digital content, nor does it aim to create an obligation onto a developer only because it has publicly made the software available under a Free Software license.

Proposed for a directive
Recital 48

Persons or organisations regarded under national law as having a legitimate interest in protecting consumer contractual rights should be afforded the right to initiate proceedings, either before a court or before an administrative authority which is competent to decide upon complaints or to initiate appropriate legal proceedings.

Persons or organisations regarded under national law as having a legitimate interest in protecting consumer contractual rights should be afforded the right to initiate proceedings, either before a court or before an administrative authority which is competent to decide upon complaints or to initiate appropriate legal proceedings if these rights are infringed.

Proposal for a directive
Recital 50


should be amended to reflect the scope of this Directive in relation to a durable medium incorporating digital content where it has been used exclusively as carrier of the digital content to the consumer.

Amendment 360
Virginie Rozière
Proposal for a directive
Recital 50

**Text proposed by the Commission**

(50) Directive 1999/44/EC of the European Parliament and of the Council should be amended to reflect the scope of this Directive in relation to a durable medium incorporating digital content where it has been used exclusively as carrier of the digital content to the consumer.

**Amendment**

(50) Directive 1999/44/EC of the European Parliament and of the Council should be amended to reflect the scope of this Directive in relation to digital content or a digital service is embedded and in relation to a tangible medium incorporating digital content where it has been used exclusively as carrier of the digital content to the consumer.


Or. en

Amendment 361
Axel Voss, Eva Maydell
Proposal for a directive
Recital 50

**Text proposed by the Commission**

AM\1117404EN.docx 37/167 PE599.502v02-00
(50) Directive 1999/44/EC of the European Parliament and of the Council should be amended to reflect the scope of this Directive in relation to a durable medium incorporating digital content where it has been used exclusively as carrier of the digital content to the consumer.


(50) Directive 1999/44/EC of the European Parliament and of the Council should be amended to reflect the scope of this Directive in relation to a tangible medium incorporating digital content where it has been used exclusively as carrier of the digital content to the consumer.


Or. en

Amendment 362
Notis Marias

Proposal for a directive
Recital 54

Text proposed by the Commission

(54) Since the objectives of this Directive, namely to contribute to the functioning of the internal market by tackling in a consistent manner contract law-related obstacles for the supply of digital content while preventing legal fragmentation cannot be sufficiently achieved by the Member States but can rather, by reasons of ensuring the overall coherence of the national legislations through harmonised contract law rules which would also facilitate coordinated enforcement actions, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

Amendment

(54) Since the objectives of this Directive, namely to contribute to the smooth functioning of the internal market and European economic invigoration by tackling in a consistent manner contract law-related obstacles for the supply of digital content while preventing legal fragmentation cannot be sufficiently achieved by the Member States but can rather, by reasons of ensuring the overall coherence of the national legislations through harmonised contract law rules which would also facilitate coordinated enforcement actions, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

Or. el
Amendment 363
Axel Voss, Eva Maydell

Proposal for a directive
Recital 54

Text proposed by the Commission

(54) Since the objectives of this Directive, namely to contribute to the functioning of the internal market by tackling in a consistent manner contract law-related obstacles for the supply of digital content while preventing legal fragmentation cannot be sufficiently achieved by the Member States but can rather, by reasons of ensuring the overall coherence of the national legislations through harmonised contract law rules which would also facilitate coordinated enforcement actions, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

Amendment

(54) Since the objectives of this Directive, namely to contribute to the functioning of the internal market by tackling in a consistent manner contract law-related obstacles for the supply of digital content or digital service while preventing legal fragmentation cannot be sufficiently achieved by the Member States but can rather, by reasons of ensuring the overall coherence of the national legislations through harmonised contract law rules which would also facilitate coordinated enforcement actions, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.

Or. en

Amendment 364
Evelyne Gebhardt, Kerstin Westphal, Maria Grapini, Olga Sehnalová, Josef Weidenholzer, Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Catherine Stihler, Evelyn Regner

Proposal for a directive
Recital 54 a (new)

Text proposed by the Commission

(54 a) In the light of the significance of the issues and rights addressed in this
Directive for the internal market and for consumers and citizens of the Union, this Directive should be subject to close scrutiny and review, to include meaningful and detailed consultation and involvement with Member States and consumer, legal and business organisations at Union level.

Amendment 365
Eva Maydell, Andreas Schwab

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

This Directive lays down certain requirements concerning contracts for the supply of digital content to consumers, in particular rules on conformity of digital content with the contract, remedies in case of the lack of such conformity and the modalities for the exercise of those remedies as well as on modification and termination of such contracts.

Amendment

The purpose of this Directive is, through the achievement of a high level of consumer protection, to contribute to the proper functioning of the internal market by laying down certain requirements concerning contracts for the supply of digital content or digital services to consumers, in particular rules on conformity with the contract, remedies in case of the lack of such conformity and the modalities for the exercise of those remedies as well as on modification of the digital content or digital service.

Amendment 366
Marlene Mizzi

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

This Directive lays down certain requirements concerning contracts for the

Amendment

The purpose of this Directive is, whilst providing a high level of consumer
supply of digital content to consumers, in particular rules on conformity of digital content with the contract, remedies in case of the lack of such conformity and the modalities for the exercise of those remedies as well as on modification and termination of such contracts.

protection, to contribute to the proper functioning of the internal market by laying down common rules on contracts for the supply of digital content or digital services to consumers, in particular rules on conformity of digital content or digital services with the contract, remedies in case of failure to supply digital content or digital services or the lack of such conformity and the modalities for the exercise of those remedies as well as on modification of the digital content or digital service and termination of long-term contracts.

Or. en

Amendment 367
Antanas Guoga

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

This Directive lays down certain requirements concerning contracts for the supply of digital content to consumers, in particular rules on conformity of digital content with the contract, remedies in case of the lack of such conformity and the modalities for the exercise of those remedies as well as on modification and termination of such contracts.

Amendment

The purpose of this Directive is to contribute to the proper functioning of the internal market and achieve a high level of consumer protection by laying down common requirements concerning certain rules for the contracts between suppliers and consumers for the supply of digital content and/or digital services, rules on conformity of digital content with the contract, remedies in case of the lack of such conformity or a failure to supply and the modalities for the exercise of those remedies as well as on modification and termination of such contracts.

Or. en

Amendment 368
Daniel Buda
Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

This Directive lays down certain requirements concerning contracts for the supply of digital content to consumers, in particular rules on conformity of digital content with the contract, remedies in case of the lack of such conformity and the modalities for the exercise of those remedies as well as on modification and termination of such contracts.

Amendment

With a view to ensuring the proper functioning of the internal market and a high level of consumer protection, this Directive lays down certain requirements concerning contracts for the supply of digital content and digital services to consumers, in particular rules on conformity of digital content and digital services with the contract, remedies in case of the lack of such conformity and the modalities for the exercise of those remedies as well as on modification and termination of such contracts.

Amendment 369
Evelyne Gebhardt, Olga Sehnalová, Lucy Anderson, Christel Schaldemose, Anna Hedh, Josef Weidenholzer, Liisa Jaakonsaari, Marc Tarabella, Catherine Stihler, Evelyn Regner

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

This Directive lays down certain requirements concerning contracts for the supply of digital content to consumers, in particular rules on conformity of digital content with the contract, remedies in case of the lack of such conformity and the modalities for the exercise of those remedies as well as on modification and termination of such contracts.

Amendment

The purpose of this Directive is the approximation of the laws, regulations and administrative provisions of the Member States on certain aspects concerning contracts for the supply of digital content or digital services to consumers, in particular rules on conformity with the contract, remedies in case of lack of conformity and the modalities for the exercise of those remedies as well as on modification and termination of such contracts.

Amendment 370
Virginie Rozière

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

This Directive lays down certain requirements concerning contracts for the supply of digital content to consumers, in particular rules on conformity of digital content with the contract, remedies in case of the lack of such conformity and the modalities for the exercise of those remedies as well as on modification and termination of such contracts.

Amendment

This Directive lays down a harmonised legal framework for contracts for the supply of digital content or services to consumers, in particular rules on conformity of digital content with the contract, remedies in case of the lack of such conformity and the modalities for the exercise of those remedies as well as on modification and termination of such contracts, with a view to guaranteeing a high degree of consumer protection.

Or. fr

Amendment 371
Marco Zullo

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

This Directive lays down certain requirements concerning contracts for the supply of digital content to consumers, in particular rules on conformity of digital content with the contract, remedies in case of the lack of such conformity and the modalities for the exercise of those remedies as well as on modification and termination of such contracts.

Amendment

This Directive lays down certain requirements concerning contracts for the supply of digital content or a digital service to consumers, in particular rules on conformity of the digital content or service with the contract, remedies in case of the lack of such conformity and the modalities for the exercise of those remedies as well as on modification and termination of such contracts.
Amendment 372
Virginie Rozière

Proposal for a directive
Article 2 – paragraph 1 – point 1 – introductory part

Text proposed by the Commission

1. 'digital content' means

Amendment

1. 'digital content' means data which is produced and supplied in digital form

Or. fr

Amendment 373
Virginie Rozière

Proposal for a directive
Article 2 – paragraph 1 – point 1 – point a

Text proposed by the Commission

(a) data which is produced and supplied in digital form, for example video, audio, applications, digital games and any other software,

Amendment

(a) data which is produced and supplied in digital form, for example video, audio, applications, digital games and any other software,

Or. fr

Amendment 374
Constance Le Grip

Proposal for a directive
Article 2 – paragraph 1 – point 1 – point a

Text proposed by the Commission

(a) data which is produced and supplied in digital form, for example video, audio, applications, digital games and any other software,

Amendment

(a) data which is produced and supplied in digital form,
Amendment 375
Antanas Guoga

Proposal for a directive
Article 2 – paragraph 1 – point 1 – point a

Text proposed by the Commission
(a) data which is produced and supplied in digital form, for example video, audio, applications, digital games and any other software,

Amendment
(a) data which is produced and supplied in digital form;

Or. fr

Amendment 376
Philippe Juvin

Proposal for a directive
Article 2 – paragraph 1 – point 1 – point a

Text proposed by the Commission
(a) data which is produced and supplied in digital form, for example video, audio, applications, digital games and any other software,

Amendment
(a) data which is produced and supplied in digital form, for example video files, audio files, applications, digital games and any other software,

Or. fr

Amendment 377
Daniel Buda

Proposal for a directive
Article 2 – paragraph 1 – point 1 – point a

Text proposed by the Commission
(a) data which is produced and supplied in digital form, for example video,

Amendment
(a) data which is produced and supplied in digital form, for example video, audio, applications and digital games,
audio, applications, digital games and any other software,

Amendment 378
Virginie Rozière

Proposal for a directive
Article 2 – paragraph 1 – point 1 – point b

Text proposed by the Commission

(b) a service allowing the creation, processing or storage of data in digital form, where such data is provided by the consumer, and

Amendment

deleted

Or. fr

Amendment 379
Daniel Buda

Proposal for a directive
Article 2 – paragraph 1 – point 1 – point b

Text proposed by the Commission

(b) a service allowing the creation, processing or storage of data in digital form, where such data is provided by the consumer, and

Amendment

deleted

Or. ro

Amendment 380
Marco Zullo

Proposal for a directive
Article 2 – paragraph 1 – point 1 – point b

Text proposed by the Commission

Amendment
(b) a service allowing the creation, processing or storage of data in digital form, where such data is provided by the consumer, and

Or. it

Amendment 381
Julia Reda

Proposal for a directive
Article 2 – paragraph 1 – point 1 – point b

Text proposed by the Commission

(b) a service allowing the creation, processing or storage of data in digital form, where such data is provided by the consumer, and

Or. en

Amendment 382
Antanas Guoga

Proposal for a directive
Article 2 – paragraph 1 – point 1 – point b

Text proposed by the Commission

(b) digital service allowing the creation, processing or storage of data in digital form, where such data is provided by the consumer, and

Or. en

Amendment 383
Virginie Rozière

Proposal for a directive
Article 2 – paragraph 1 – point 1 – point c
Text proposed by the Commission

(c) a service allowing sharing of and any other interaction with data in digital form provided by other users of the service;

Amendment

Or. fr

Amendment 384
Daniel Buda

Proposal for a directive
Article 2 – paragraph 1 – point 1 – point c

Text proposed by the Commission

Amendment

(c) a service allowing sharing of and any other interaction with data in digital form provided by other users of the service;

Or. ro

Amendment 385
Marco Zullo

Proposal for a directive
Article 2 – paragraph 1 – point 1 – point c

Text proposed by the Commission

Amendment

(c) a service allowing sharing of and any other interaction with data in digital form provided by other users of the service;

Or. it

Amendment 386
Julia Reda

Proposal for a directive
Article 2 – paragraph 1 – point 1 – point c

Text proposed by the Commission

(c) a service allowing sharing of and any other interaction with data in digital form provided by other users of the service;

Amendment

deleted

Proposed for a directive

Amendment 387
Antanas Guoga

Proposal for a directive

Article 2 – paragraph 1 – point 1 – point c

Text proposed by the Commission

(c) a service allowing sharing of and any other interaction with data in digital form provided by other users of the service;

(c) digital service allowing sharing of and any other interaction with data in digital form provided by other users of the service;

Or. en

Amendment 388
Marco Zullo

Proposal for a directive

Article 2 – paragraph 1 – point 1 a (new)

Text proposed by the Commission

1a. 'digital service' means
(a) a service allowing the creation, processing or storage of data in digital form, where such data is provided by the consumer, for example cloud storage or file hosting services, and

(b) a service allowing sharing of and any other interaction with data in digital form provided by other users of the service, for example social media, instant messaging services, websites and video or audio-
sharing platforms which fall outside the scope of electronic communication services;

Or. it

Amendment 389
Daniel Buda

Proposal for a directive
Article 2 – paragraph 1 – point 1 a (new)

Text proposed by the Commission

Ia. 'digital service' means:
(a) a service allowing the creation, processing or storage of data in digital form, where such data is created by the consumer, and
(b) a service allowing sharing of and any other interaction with data in digital form that is created by the consumer or by other users of the service.

Or. ro

Amendment 390
Julia Reda

Proposal for a directive
Article 2 – paragraph 1 – point 1 a (new)

Text proposed by the Commission

I a. 'digital service' means
(a) a service allowing the creation, processing or storage of data in digital form, where such data is provided by the consumer, and
(b) a service allowing sharing of and any other interaction with data in digital form provided by other users of the service.
Amendment 391
Virginie Rozière

Proposal for a directive
Article 2 – paragraph 1 – point 1 a (new)

Text proposed by the Commission

Amendment

1a. 'digital service' means any economic activity performed on a self-employed basis involving the creation, processing, conservation or sharing of data in digital form;

Or. fr

Amendment 392
Daniel Dalton, Vicky Ford

Proposal for a directive
Article 2 – paragraph 1 – point 1 a (new)

Text proposed by the Commission

Amendment

1 a. 'embedded digital content' means all forms of digital content pre-installed in a good.

Or. en

Justification

In light of the addition in other amendments that this Directive should apply to all digital content, including embedded digital content, in the interests of consumer protection and clarity, a definition of embedded digital content is provided here.

Amendment 393
Róża Gräfin von Thun und Hohenstein, Tadeusz Zwiefka

Proposal for a directive
Article 2 – paragraph 1 – point 2 a (new)
 Amendment

Virginie Rozière

Proposal for a directive
Article 2 – paragraph 1 – point 1 b (new)

Text proposed by the Commission

2. 'integration' means linking together different components of a digital environment to act as a coordinated whole in conformity with its intended purpose;

Amendment

2 a. 'embedded digital content' means pre-installed digital content which operates as an integral part of the goods and cannot easily be de-installed by the consumer;

Or. en

394

Marco Zullo

Proposal for a directive
Article 2 – paragraph 1 – point 2

Text proposed by the Commission

2. 'integration' means full interoperability between the digital content or service provided and the various components of a digital environment to act as a coordinated whole in conformity with its intended purpose;

Or. it
Amendment 396
Antanas Guoga

Proposal for a directive
Article 2 – paragraph 1 – point 2

Text proposed by the Commission

2. 'integration' means linking together different components of a digital environment to act as a coordinated whole in conformity with its intended purpose;

Amendment

2. 'integration' means linking and incorporating together different digital content components with the components of digital environment to use digital content in accordance with the contract;

Or. en

Amendment 397
Eva Maydell, Andreas Schwab

Proposal for a directive
Article 2 – paragraph 1 – point 2 a (new)

Text proposed by the Commission

2 a. 'embedded software' means pre-installed digital content which operates as an integral part of the goods and cannot easily be de-installed by the consumer;

Amendment

2 a. 'embedded digital content' means digital content within the meaning of this directive, which has been installed by or with the assent of the seller, producer or another person in the chain of

Or. en

Amendment 398
Marietje Schaake

Proposal for a directive
Article 2 – paragraph 1 – point 2 a (new)

Text proposed by the Commission

2 a. 'embedded digital content' means digital content within the meaning of this directive, which has been installed by or with the assent of the seller, producer or another person in the chain of
transactions and which (i) operates as an integral part of the goods and cannot easily be de-installed by the average consumer using this type of goods; or (ii) is necessary for the conformity of the goods with the contract;

Or. en

Amendment 399
Julia Reda, Kaja Kallas

Proposal for a directive
Article 2 – paragraph 1 – point 2 a (new)

Text proposed by the Commission

2 a. 'embedded digital content' means pre-installed digital content which operates as an integral part of the goods or which is necessary for the conformity of the good with the contract;

Or. en

Amendment 400
Daniel Dalton, Vicky Ford

Proposal for a directive
Article 2 – paragraph 1 – point 3

Text proposed by the Commission

3. 'supplier' means any natural or legal person, irrespective of whether privately or publicly owned, who is acting, including through any other person acting in his name or on his behalf, for purposes relating to that person’s trade, business, craft, or profession;

3. 'supplier' means any natural or legal person, irrespective of whether privately or publicly owned, who is acting, including through any other person acting in his name or on his behalf, for purposes relating to that person’s trade, business, craft, or profession; For the purposes of this Directive, a trader does not supply digital content to a consumer merely because the trader supplies a service by which digital content reaches the consumer;
Justification

For example, an online video platform service for user-generated content is not a digital content supplier or provider.

Amendment 401
Antanas Guoga

Proposal for a directive
Article 2 – paragraph 1 – point 3

Text proposed by the Commission

3. 'supplier' means any natural or legal person, irrespective of whether privately or publicly owned, who is acting, including through any other person acting in his name or on his behalf, for purposes relating to that person’s trade, business, craft, or profession;

Amendment

3. 'supplier' means any natural or legal person, irrespective of whether privately or publicly owned, who is acting, including through any other person acting in his name or on his behalf, for purposes relating to his trade, business, craft, or profession in relation to contracts covered by this Directive;

Amendment 402
Constance Le Grip

Proposal for a directive
Article 2 – paragraph 1 – point 3

Text proposed by the Commission

3. 'supplier' means any natural or legal person, irrespective of whether privately or publicly owned, who is acting, including through any other person acting in his name or on his behalf, for purposes relating to that person’s trade, business, craft, or profession;

Amendment

3. 'supplier' means any natural or legal person, irrespective of whether privately or publicly owned, who by an act of supply is providing access to digital content or making digital content available;
Amendment 403
Dennis de Jong

Proposal for a directive
Article 2 – paragraph 1 – point 3

Text proposed by the Commission

3. 'supplier' means any natural or legal person, irrespective of whether privately or publicly owned, who is acting, including through any other person acting in his name or on his behalf, for purposes relating to that person’s trade, business, craft, or profession;

Amendment

3. 'supplier' or 'seller' means any natural or legal person, irrespective of whether privately or publicly owned, who is acting, including through any other person acting in his name or on his behalf, for purposes relating to that person’s trade, business, craft, or profession;

Or. en

Amendment 404
Antanas Guoga

Proposal for a directive
Article 2 – paragraph 1 – point 4

Text proposed by the Commission

4. 'consumer' means any natural person who in contracts covered by this Directive, is acting for purposes which are outside that person's trade, business, craft, or profession;

Amendment

4. 'consumer' means any natural person who in relation to contracts covered by this Directive, is acting for purposes which are outside that person's trade, business, craft, or profession;

Or. en

Amendment 405
Julia Reda

Proposal for a directive
Article 2 – paragraph 1 – point 4

Text proposed by the Commission

4. 'consumer' means any natural person who in contracts covered by this Directive, is acting for purposes which are

Amendment

4. 'consumer' means any natural person who in contracts covered by this Directive, is acting for purposes which are
outside that person's trade, business, craft, or profession; primarily outside that person's trade, business, craft, or profession;

Amendment 406
Axel Voss, Eva Maydell

Proposal for a directive
Article 2 – paragraph 1 – point 5

Text proposed by the Commission

5. 'damages' means a sum of money to which consumers may be entitled as compensation for economic damage to their digital environment;

Amendment

deleted

5. 'damages' means a sum of money to which consumers may be entitled as compensation for economic damage to their digital environment;

Or. en

Amendment 407
Julia Reda

Proposal for a directive
Article 2 – paragraph 1 – point 5

Text proposed by the Commission

5. 'damages' means a sum of money to which consumers may be entitled as compensation for economic damage to their digital environment;

5. 'damages' means a sum of money to which consumers may be entitled as compensation for economic or pecuniary damage to their digital environment;

Amendment

Or. en

Amendment 408
Antanas Guoga

Proposal for a directive
Article 2 – paragraph 1 – point 5

Text proposed by the Commission

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5. 'damages' means a sum of money to which consumers may be entitled as compensation for *economic damage to their digital environment*;

5. 'damages' means a sum of money to which consumers may be entitled as compensation for *the harm caused*;

Or. en

**Amendment 409**
Virginie Rozière

Proposal for a directive
Article 2 – paragraph 1 – point 5

*Text proposed by the Commission*

5. 'damages' means a sum of money to which consumers may be entitled as compensation for *economic damage to their digital environment*;

*Amendment*

5. 'damages' means a sum of money to which consumers may be entitled as compensation for damage to their digital environment;

Or. fr

**Amendment 410**
Evelyne Gebhardt, Nicola Danti, Marc Tarabella, Catherine Stihler, Evelyn Regner

Proposal for a directive
Article 2 – paragraph 1 – point 5

*Text proposed by the Commission*

5. 'damages' means a sum of money to which consumers may be entitled as compensation for *economic damage to their digital environment*;

*Amendment*

5. 'damages' means a sum of money to which consumers may be entitled as compensation for *material and non-material damage*;

Or. en

*Justification*

*Alignment with Article 14 of New Package travel Directive.*
Proposal for a directive
Article 2 – paragraph 1 – point 6

Text proposed by the Commission
6. ‘price’ means money that is due in exchange for digital content supplied;

Amendment
6. ‘price’ means money that is due in exchange for digital content supplied;

Or. en

Amendment 412
Marlene Mizzi

Proposal for a directive
Article 2 – paragraph 1 – point 6

Text proposed by the Commission
6. ‘price’ means money that is due in exchange for digital content supplied;

Amendment
6. ‘price’ means money or a digital representation of value including a virtual currency or another counter-performance such as data that is due in exchange for the supply of digital content or a digital service;

Or. en

Amendment 413
Antanas Guoga

Proposal for a directive
Article 2 – paragraph 1 – point 6

Text proposed by the Commission
6. ‘price’ means money that is due in exchange for digital content supplied;

Amendment
6. ‘price’ means money or any other type of representation of value that is due in exchange for digital content supplied;

Or. en

Amendment 414
Marco Zullo

Proposal for a directive
Article 2 – paragraph 1 – point 6

Text proposed by the Commission

6. 'price' means money that is due in exchange for digital content supplied;

Amendment

6. 'price' means money that is due in exchange for digital content or a digital service supplied;

Or. it

Amendment 415
Axel Voss, Eva Maydell

Proposal for a directive
Article 2 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

6 a. 'personal data' means personal data as defined by Article 4 (1) of Regulation (EU) 2016/679 of the European Parliament and of the Council (Data Protection Regulation)[1]

Amendment


Or. en

Amendment 416
Marlene Mizzi

Proposal for a directive
Article 2 – paragraph 1 – point 6 a (new)
Text proposed by the Commission

6 a. personal or other data means data as defined by Article 4(1) of Regulation (EU) 2016/679;

Amendment

Or. en

Amendment 417
Julia Reda

Proposal for a directive
Article 2 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

6 a. 'personal data' means personal data as defined by point (1) of article 4 of Regulation (EU) 2016/679;

Amendment

Or. en

Amendment 418
Antanas Guoga

Proposal for a directive
Article 2 – paragraph 1 – point 6 a (new)

Text proposed by the Commission

6 a. 'personal data' means personal data as defined by Article 4(1) of Regulation (EU) 2016/679;

Amendment

Or. en

Amendment 419
Evelyne Gebhardt, Kerstin Westphal, Marlene Mizzi, Josef Weidenholzer, Lucy Anderson, Christel Schaldemose, Liisa Jaakonsaari, Anna Hedh, Nicola Danti, Marc Tarabella, Catherine Stihler, Evelyn Regner

Proposal for a directive
Article 2 – paragraph 1 – point 6 a (new)
Text proposed by the Commission

6 a. "data as counter-performance" means personal data or other data provided by the consumer to the supplier in the context of the conclusion or performance of the contract, including data generated by the consumer's use of any digital content or digital service supplied, and which the supplier or a third party uses, on the basis of the consumer's consent or otherwise.

Amendment

Justification

Data as counter-performance should not cover aggregation of anonymised users’ data in order to improve the digital content or service, but only the use of data as an integral part of an earning model for the supplier himself or a third party.

Amendment 420
Axel Voss, Eva Maydell

Proposal for a directive
Article 2 – paragraph 1 – point 7

Text proposed by the Commission

7. 'contract' means an agreement intended to give rise to obligations or other legal effects;

Amendment

deleted

Or. en

Amendment 421
Marco Zullo

Proposal for a directive
Article 2 – paragraph 1 – point 8

Text proposed by the Commission

8. 'digital environment' means hardware, digital content and any network

Amendment

8. 'digital environment' means hardware, digital content and services and

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connection to the extent that they are within the control of the user; any network connection to the extent that they are within the control of the user;

Or. it

Amendment 422
Antanas Guoga

Proposal for a directive
Article 2 – paragraph 1 – point 8

Text proposed by the Commission

8. 'digital environment' means hardware, digital content and any network connection to the extent that they are within the control of the user;

Amendment

8. 'digital environment' means hardware, software and any network connection used by the consumer;

Or. en

Amendment 423
Julia Reda

Proposal for a directive
Article 2 – paragraph 1 – point 8

Text proposed by the Commission

8. 'digital environment' means hardware, digital content and any network connection to the extent that they are within the control of the user;

Amendment

8. 'digital environment' means hardware, software, digital content and any network connection to the extent that they are within the control of the user;

Or. en

Amendment 424
Daniel Dalton, Vicky Ford

Proposal for a directive
Article 2 – paragraph 1 – point 8

Text proposed by the Commission

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8. 'digital environment' means hardware, digital content and any network connection to the extent that they are within the control of the user;

Or. en

Amendment 425
Kaja Kallas, Dita Charanzová

Proposal for a directive
Article 2 – paragraph 1 – point 8

Text proposed by the Commission
Amendment

8. 'digital environment' means hardware, digital content and any network connection to the extent that they are within the control of the user;

Or. en

Justification

this is not possible for a supplier to consider any network connection that a consumer would have when installing its product, especially in light of the increase of connected devices

Amendment 426
Constance Le Grip

Proposal for a directive
Article 2 – paragraph 1 – point 9

Text proposed by the Commission
Amendment

9. 'interoperability' means the ability of digital content to perform all its functionalities in interaction with a concrete digital environment;

deleted

Or. fr

Amendment 427
Lucy Anderson, Maria Grapini, Marc Tarabella, Afzal Khan, Maria Arena, Mary Honeyball, Victor Negrescu

Proposal for a directive
Article 2 – paragraph 1 – point 9

Text proposed by the Commission

9. ‘interoperability’ means the ability of digital content to perform all its functionalities in interaction with a concrete digital environment;

Amendment

9. ‘interoperability’ means the compatibility of the digital content and its functions with a standard hardware and software environment other than the one in which it is supplied including the fact that consumers can access digital content without having to use applications or other technologies to convert the content they want to have access to.

Or. en

Amendment 428
Virginie Rozière

Proposal for a directive
Article 2 – paragraph 1 – point 9

Text proposed by the Commission

9. ‘interoperability’ means the ability of digital content to perform all its functionalities in interaction with a concrete digital environment;

Amendment

9. ‘interoperability’ means the ability of legally purchased digital content to function with other existing products or systems with no access or operating restrictions;

Or. fr

Amendment 429
Philippe Juvin

Proposal for a directive
Article 2 – paragraph 1 – point 9

Text proposed by the Commission

9. ‘interoperability’ means the ability of digital content to perform all its

Amendment

9. ‘interoperability’ means the compatibility of digital content and its
functionalities in interaction with a concrete digital environment; functionalities with a physical and software environment other than that in which it is supplied;

Amendment 430
Marco Zullo
Proposal for a directive
Article 2 – paragraph 1 – point 9

Text proposed by the Commission

9. ‘interoperability’ means the ability of digital content to perform all its functionalities in interaction with a concrete digital environment;

Amendment

9. ‘interoperability’ means the ability of digital content or a digital service to perform all its functionalities in interaction with a concrete digital environment;

Amendment 431
Antanas Guoga
Proposal for a directive
Article 2 – paragraph 1 – point 9

Text proposed by the Commission

9. ‘interoperability’ means the ability of digital content to perform all its functionalities in interaction with a concrete digital environment;

Amendment

9. ‘interoperability’ means the ability of digital content to perform all its functionalities in interaction with a standard hardware and software environment;

Amendment 432
Jean-Marie Cavada
Proposal for a directive
Article 2 – paragraph 1 – point 9
9. 'interoperability' means the ability of digital content to perform all its functionalities in interaction with a concrete digital environment;

9. 'compatibility' means the ability of digital content to perform all its functionalities in interaction with a concrete digital environment;

Amendment 433
Virginie Rozière
Proposal for a directive
Article 2 – paragraph 1 – point 9 a (new)

Text proposed by the Commission

9a. 'compatibility' means the ability of digital content to perform all its functionalities in interaction with a concrete digital environment;

Amendment 434
Philippe Juvin
Proposal for a directive
Article 2 – paragraph 1 – point 9 a (new)

Text proposed by the Commission

9a. 'interoperability of a digital book file' means the compatibility of a digital book file and its functionalities with a physical and software environment other than that in which it is supplied, with no restriction on duration and supplied exclusively in an open standard;

Amendment 435
Philippe Juvin
Proposal for a directive
Article 2 – paragraph 1 – point 9 b (new)

Text proposed by the Commission

9b. ‘open standard’ means an interoperable data format whose technical specifications have been published and which can be freely accessed and used;

Amendment

Or. fr

Constance Le Grip
Proposal for a directive
Article 2 – paragraph 1 – point 10

Text proposed by the Commission

10. ‘supply’ means providing access to digital content or making digital content available;

Deleted

Amendment

Or. en

Daniel Buda
Proposal for a directive
Article 2 – paragraph 1 – point 10

Text proposed by the Commission

10. ‘supply’ means providing access to digital content and/or digital services or making digital content and/or digital services available;

Amendment

Or. ro
Amendment 438  
Marco Zullo

Proposal for a directive  
Article 2 – paragraph 1 – point 10

Text proposed by the Commission

10. 'supply' means providing access to digital content or making digital content available;

Amendment

10. 'supply' means providing access to digital content or a digital service or making digital content or a digital service available;

Or. it

Amendment 439  
Virginie Rozière

Proposal for a directive  
Article 2 – paragraph 1 – point 10

Text proposed by the Commission

10. 'supply' means providing access to digital content or making digital content available;

Amendment

10. 'supply' means providing access to digital content or a digital service or making digital content or a digital service available;

Or. fr

Amendment 440  
Victor Negrescu

Proposal for a directive  
Article 2 – paragraph 1 – point 10 a (new)

Text proposed by the Commission

10 a. 'transaction' means of buying or selling something, taking also into consideration the existence of free transactions where content is provided free of charge;

Amendment

Or. en

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Amendment 441
Daniel Dalton, Vicky Ford

Proposal for a directive
Article 2 – paragraph 1 – point 11

Text proposed by the Commission

11. ‘durable medium’ means any instrument which enables the consumer or the supplier to store information addressed personally to that person in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored.

Amendment

11. ‘tangible medium’ means any instrument which enables the consumer or the supplier to store information addressed personally to that person in a way accessible for future reference for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored.

Or. en

Amendment 442
Julia Reda

Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer actively provides counter-performance other than money in the form of personal data or any other data.

Amendment

1. This Directive shall apply to any contract where the supplier supplies digital content or a digital service to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer provides counter-performance other than money by making available his or her personal data or any other data insofar as this is possible in accordance with Regulation (EU) 2016/679 where such data is processed with a profit-making interest. The contract shall explicitly indicate which data are exchanged for the content supplied.

Or. en
Amendment 443
Marietje Schaake

Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer actively provides counter-performance other than money in the form of personal data or any other data.

Amendment

1. This Directive shall apply to any contract where the supplier supplies digital content, or digital content that is embedded in goods to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer actively provides counter-performance other than money in the form of personal data or any other data.

Or. en

Amendment 444
Vicky Ford

Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer actively provides counter-performance other than money in the form of personal data or any other data.

Amendment

1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid. Payment as a counter-performance other than money in the form of personal data or any other data will be considered for the inclusion in the Directive as part of the future review process.

Or. en

Justification

Further research is needed to ascertain whether or not data should be used as a counter-performance and be included within the scope of the Directive.
Amendment 445
Angel Dzhambazki

Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer actively provides counter-performance other than money in the form of personal data or any other data.

Amendment

1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, of monetary payment.

Or. en

Amendment 446
Virginie Rozière

Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer actively provides counter-performance other than money in the form of personal data or any other data.

Amendment

1. This Directive shall apply to any contract where the supplier supplies digital content or a digital service to the consumer in exchange for payment of a price or counter-performance other than money, such as personal or other data supplied by the consumer or collected by the supplier or a third party in the interest of the supplier.

Or. fr

Amendment 447
Daniel Dalton, Vicky Ford

Proposal for a directive
Article 3 – paragraph 1
Text proposed by the Commission

1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer actively provides counter-performance other than money in the form of personal data or any other data.

Amendment

1. This Directive shall apply to any contract where the supplier supplies digital content or a good with embedded digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid.

Or. en

Justification

The Digital Content Directive should apply to all paid digital content, including all embedded digital content, to provide clarity for consumers and suppliers over the status of digital content provided embedded within a tangible good, but not to content provided free of charge, for which consumers do not necessarily expect or require the same level of reliability as from paid-for content. Placing restrictive burdens on small free digital content providers would be a disproportionate response to redress issues consumers have in some European countries.

Amendment 448
Daniel Buda

Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer actively provides counter-performance other than money in the form of personal data or any other data.

Amendment

1. This Directive shall apply to any contract where the supplier supplies digital content or digital services to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer actively provides counter-performance other than money in the form of personal data or any other data.

Or. ro

Amendment 449
Eva Maydell, Róža Gräfin von Thun und Hohenstein, Andreas Schwab

Proposal for a directive

AM\1117404EN.docx 73/167 PE599.502v02-00
Article 3 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer actively provides counter-performance other than money in the form of personal data or any other data.

Amendment

1. This Directive shall apply to any contract under which the supplier supplies digital content or a digital service to the consumer in exchange for the payment of a price or for the provision of personal data.

Or. en

Amendment 450
Marco Zullo

Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer actively provides counter-performance other than money in the form of personal data or any other data.

Amendment

1. This Directive shall apply to any contract where the supplier supplies digital content or a digital service to the consumer or undertakes to do so and, in exchange, a price is to be paid and/or the consumer actively provides counter-performance other than money in the form of personal data or any other data.

Or. it

Amendment 451
Jean-Marie Cavada

Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid

Amendment

1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid
or the consumer actively provides counter-performance other than money in the form of personal data or any other data.

Amendment 452
Evelyne Gebhardt, Marlene Mizzi, Olga Sehnalová, Josef Weidenholzer, Christel Schaldemose, Anna Hedh, Lucy Anderson, Liisa Jaakonsaari, Nicola Danti, Marc Tarabella, Catherine Stihler, Evelyn Regner

Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer actively provides counter-performance other than money in the form of personal data or any other data.

Amendment

1. This Directive shall apply to any contract where the supplier supplies or undertakes to supply digital content or a digital service to the consumer in exchange for payment of a price and/or personal data or other data provided by the consumer or collected by the supplier or a third party.

Or. en

Amendment 453
Maria Grapini

Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer actively provides counter-performance other than money in the form of personal data or any other data.

Amendment

1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid and/or personal data or any other economically valuable data is to be provided by the consumer or collected by the supplier or by a third party.

Or. ro
Amendment 454
Antanas Guoga

Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission
1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer actively provides counter-performance other than money in the form of personal data or any other data.

Amendment
1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer actively provides counter-performance other than money in the form of personal data.

Or. en

Amendment 455
Kaja Kallas, Dita Charanzová

Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission
1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer actively provides counter-performance other than money in the form of personal data or any other data.

Amendment
1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer actively provides counter-performance other than money in the form of personal data.

Or. en

Justification

"Any other data" cannot be considered as a counterperformance given that the benefits and the value of the processing of any other data are often a consequence of a collaborative effort between users and suppliers

Amendment 456
Inese Vaidere
Proposal for a directive
Article 3 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer actively provides counter-performance other than money in the form of personal data or any other data.

Amendment

1. This Directive shall apply to any contract where the supplier supplies digital content to the consumer or undertakes to do so and, in exchange, a price is to be paid or the consumer actively provides counter-performance other than money in the form of personal data.

Or. en

Amendment 457
Marco Zullo

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission

2. This Directive shall apply to any contract for the supply of digital product developed according to consumer's specifications.

Amendment

2. This Directive shall apply to any contract for the supply of digital content or a digital service developed according to the consumer's specifications.

Or. it

Amendment 458
Virginie Rozière

Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission

2. This Directive shall apply to any contract for the supply of digital product developed according to consumer's specifications.

Amendment

2. This Directive shall apply to any contract for the supply of digital content or a digital service developed according to consumer's specifications.

Or. fr
Proposal for a directive
Article 3 – paragraph 2

Text proposed by the Commission

2. This Directive shall apply to any contract for the supply of digital product developed according to consumer's specifications.

Amendment

2. This Directive shall apply to any contract for the supply of digital content developed according to consumer's specifications.

Or. en

Proposal for a directive
Article 3 – paragraph 2 a (new)

Text proposed by the Commission

2 a. Where a contract is concluded for the provision of digital content, this shall be considered as a sales contract.

Amendment

2 a. Where a contract is concluded for the provision of digital content, this shall be considered as a sales contract.

Or. en

Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission

3. With the exception of Articles 5 and 11, this Directive shall apply to any durable medium incorporating digital content where the durable medium has been used exclusively as carrier of digital content.

Amendment

3. With the exception of Articles 5 and 11, this Directive shall apply to any durable medium incorporating digital content where the durable medium has been used exclusively as carrier of digital content.

deleted

EN
Amendment 462
Marco Zullo

Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission

3. With the exception of Articles 5 and 11, **this Directive shall apply to any durable medium incorporating digital content where the durable medium has been used exclusively as carrier of digital content.**

Amendment

3. **deleted** With the exception of Articles 5 and 11, this Directive shall apply to any durable medium incorporating digital content where the durable medium has been used exclusively as carrier of digital content.

Or. fr

Amendment 463
Róża Gräfin von Thun und Hohenstein, Tadeusz Zwiefka

Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission

3. **deleted** With the exception of Articles 5 and 11, this Directive shall apply to any durable medium incorporating digital content where the durable medium has been used exclusively as carrier of digital content.

Amendment

3. This Directive shall **not** apply to any durable medium incorporating digital content where the durable medium has been used exclusively as carrier of digital content.

Or. it

Amendment 464
Evelyne Gebhardt, Axel Voss, Marlene Mizzi, Lucy Anderson, Christel Schaldemose, Anna Hedh, Josef Weidenholzer, Liisa Jaakonsaari, Olga Sehnalová, Nicola Danti, Marc Tarabella, Catherine Stihler, Evelyn Regner

Proposal for a directive
Article 3 – paragraph 3

AM\1117404EN.docx 79/167 PE599.502v02-00
3. With the exception of Articles 5 and 11, this Directive shall apply to any durable medium incorporating digital content where the durable medium has been used exclusively as carrier of digital content.

Amendment 465
Antanas Guoga

Proposal for a directive
Article 3 – paragraph 3

Text proposed by the Commission

3. With the exception of Articles 5 and 11, this Directive shall apply to goods in which a digital content is embedded unless the supplier proves that the lack of conformity lies in the hardware of the good. This Directive shall also apply to tangible media which serve exclusively as carrier of digital content, unless the supplier proves that the lack of conformity lies in the tangible medium.

Or. en

Amendment 466
Eva Maydell, Pascal Arimont, Andreas Schwab

Proposal for a directive
Article 3 – paragraph 3 a (new)

Text proposed by the Commission

3 a. Where digital content is supplied on a tangible medium or is embedded in a good, this Directive, with the exception of Articles 5 and 11, shall apply to any lack of conformity unless the supplier proves
that the lack of conformity lies in the tangible medium or the hardware of the good.

Amendment 467
Andreas Schwab

Proposal for a directive
Article 3 – paragraph 3 a (new)

Text proposed by the Commission

3a. The provisions of this directive shall also apply to digital content incorporated into goods. Irrespective of any separate contractual relationships, the provider of the goods shall be liable to the consumer for meeting his obligations in respect of the digital content.

Justification

The requirements of contractual conformity of digital content and the legal redress available to consumers for lack of conformity are a sensible and appropriate benchmark and should therefore also apply to digital content incorporated into physical goods. To make it easier for the consumer to assert his rights, the seller of the goods should assume liability for lack of conformity with the contract irrespective of any separate contractual relationships.

Amendment 468
Virginie Rozière

Proposal for a directive
Article 3 – paragraph 3 a (new)

Text proposed by the Commission

3a. This Directive shall apply to any contract for the supply of embedded digital content or an embedded digital service, unless the supplier proves that the
lack of conformity lies in the hardware of the product.

Or. fr

Amendment 469
Marco Zullo

Proposal for a directive
Article 3 – paragraph 3 a (new)

*Text proposed by the Commission*  
Amendment

3a. This Directive shall apply to goods in which digital content is embedded unless the supplier proves that the lack of conformity does not lie in the hardware of the good.

Or. it

Amendment 470
Róża Gräfin von Thun und Hohenstein, Tadeusz Zwiefka

Proposal for a directive
Article 3 – paragraph 3 a (new)

*Text proposed by the Commission*  
Amendment

3a. This Directive shall not apply to embedded digital content.

Or. en

Amendment 471
Eva Maydell, Róża Gräfin von Thun und Hohenstein

Proposal for a directive
Article 3 – paragraph 4

*Text proposed by the Commission*  
Amendment
4. This Directive shall not apply to digital content provided against counter-performance other than money to the extent the supplier requests the consumer to provide personal data the processing of which is strictly necessary for the performance of the contract or for meeting legal requirements and the supplier does not further process them in a way incompatible with this purpose. It shall equally not apply to any other data the supplier requests the consumer to provide for the purpose of ensuring that the digital content is in conformity with the contract or of meeting legal requirements, and the supplier does not use that data for commercial purposes.
Amendment 473
Angel Dzhambazki

Proposal for a directive
Article 3 – paragraph 4

Text proposed by the Commission

4. This Directive shall not apply to digital content provided against counter-performance other than money to the extent the supplier requests the consumer to provide personal data the processing of which is strictly necessary for the performance of the contract or for meeting legal requirements and the supplier does not further process them in a way incompatible with this purpose. It shall equally not apply to any other data the supplier requests the consumer to provide for the purpose of ensuring that the digital content is in conformity with the contract or of meeting legal requirements, and the supplier does not use that data for commercial purposes.

Amendment

4. This Directive shall not apply where personal data or other data provided by the consumer are used by the supplier for the primary purpose of supplying the whole or part of the digital content or service or to meet legal requirements to which the supplier is subject and the supplier does not process the personal data or other data for any other unrelated purpose.

Or. en

Justification

Greater clarity is required, as "data the processing of which is strictly necessary for the performance of the contract or for meeting legal requirements is very narrow and data could be used for legitimate commercial purposes beyond marketing.

Amendment 474
Kaja Kallas

Proposal for a directive
Article 3 – paragraph 4

Text proposed by the Commission

4. This Directive shall not apply to digital content provided against counter-performance other than money to the extent the supplier requests the consumer

Amendment

4. This Directive shall not apply to digital content provided against counter-performance other than money to the extent that the supplier requests the
to provide personal data the processing of which is strictly necessary for the performance of the contract or for meeting legal requirements and the supplier does not further process them in a way incompatible with this purpose. It shall equally not apply to any other data the supplier requests the consumer to provide for the purpose of ensuring that the digital content is in conformity with the contract or of meeting legal requirements, and the supplier does not use that data for commercial purposes.

Or. en

Justification

There is no legal framework for the processing of any other data, therefore creating a parallel between the lawful processing of personal data and any other data creates legal uncertainty. It should also be clarified that a data relationship created under the GDPR does not necessarily mean that a contractual relationship has been established, meaning that the simple act of collecting data does not include this data relationship in the scope of the Directive.

Amendment 475
Marco Zullo

Proposal for a directive
Article 3 – paragraph 4

Text proposed by the Commission

4. This Directive shall not apply to digital content provided against counter-performance other than money to the extent the supplier requests the consumer to provide personal data the processing of which is strictly necessary for the performance of the contract or for meeting legal requirements and the supplier does not further process them in a way incompatible with this purpose. It shall equally not apply to any other data the supplier requests the consumer to provide for the purpose of ensuring that the digital content is in conformity with the contract

Amendment

4. This Directive shall not apply to digital content provided against counter-performance other than money to the extent the supplier requests the consumer to provide personal data the processing of which is strictly necessary for the performance of the contract or for meeting legal requirements and the supplier does not further process them in a way incompatible with this purpose. It shall equally not apply to any other data, such as photographs, poems, songs and other user-produced items, the supplier requests the consumer to provide for the purpose of
or of meeting legal requirements, and the supplier does not use that data for commercial purposes.

Amendment 476
Dita Charanzová

Proposal for a directive
Article 3 – paragraph 4

Text proposed by the Commission

4. This Directive shall not apply to digital content provided against counter-performance other than money to the extent the supplier requests the consumer to provide personal data the processing of which is strictly necessary for the performance of the contract or for meeting legal requirements and the supplier does not further process them in a way incompatible with this purpose. It shall equally not apply to any other data the supplier requests the consumer to provide for the purpose of ensuring that the digital content is in conformity with the contract or of meeting legal requirements, and the supplier does not use that data for commercial purposes.

Amendment

4. This Directive shall not apply to digital content provided against counter-performance other than money to the extent the supplier requests the consumer to provide personal data the processing of which is strictly necessary for the performance of the contract or for meeting legal requirements and the supplier does not further process them in a way incompatible with this purpose. It shall equally not apply to personal data the supplier requests the consumer to provide which is neither communicated, transferred, shared, licensed or otherwise transmitted by the supplier to third parties.

Or. en

Amendment 477
Julia Reda

Proposal for a directive
Article 3 – paragraph 4

Text proposed by the Commission

4. This Directive shall not apply to digital content provided against counter-

Amendment

4. This Directive shall not apply to digital content provided against counter-
performance other than money to the extent the supplier requests the consumer to provide personal data the processing of which is strictly necessary for the performance of the contract or for meeting legal requirements and the supplier does not further process them in a way incompatible with this purpose. It shall equally not apply to any other data the supplier requests the consumer to provide for the purpose of ensuring that the digital content is in conformity with the contract or of meeting legal requirements, and the supplier does not use that data for commercial purposes.

4. This Directive shall not apply to digital content or services provided against counter-performance other than money to the extent the supplier requests the consumer to provide personal data the processing of which is strictly necessary for the performance of the contract or for meeting legal requirements and the supplier does not further process them in a way incompatible with this purpose. It shall equally not apply to any other data the supplier requests the consumer to provide for the purpose of ensuring that the digital content is in conformity with the contract or of meeting legal requirements, and the supplier does not use that data for commercial purposes.

Amendment 478
Marco Zullo

Proposal for a directive
Article 3 – paragraph 4

Text proposed by the Commission

4. This Directive shall not apply to digital content provided against counter-performance other than money to the extent the supplier requests the consumer to provide personal data the processing of which is strictly necessary for the performance of the contract or for meeting legal requirements and the supplier does not further process them in a way incompatible with this purpose. It shall equally not apply to any other data the supplier requests the consumer to provide for the purpose of ensuring that the digital content is in conformity with the contract or of meeting legal requirements, and the supplier does not use that data for commercial purposes.

Amendment

4. This Directive shall not apply to digital content or services provided against counter-performance other than money to the extent the supplier requests the consumer to provide personal data the processing of which is strictly necessary for the performance of the contract or for meeting legal requirements and the supplier does not further process them in a way incompatible with this purpose. It shall equally not apply to any other data the supplier requests the consumer to provide for the purpose of ensuring that the digital content is in conformity with the contract or of meeting legal requirements, and the supplier does not use that data for commercial purposes.

Or. en

Or. it
Amendment 479
Daniel Dalton, Vicky Ford

Proposal for a directive
Article 3 – paragraph 4

Text proposed by the Commission

4. This Directive shall not apply to digital content provided against counter-performance other than money to the extent the supplier requests the consumer to provide personal data the processing of which is strictly necessary for the performance of the contract or for meeting legal requirements and the supplier does not further process them in a way incompatible with this purpose. It shall equally not apply to any other data the supplier requests the consumer to provide for the purpose of ensuring that the digital content is in conformity with the contract or of meeting legal requirements, and the supplier does not use that data for commercial purposes.

Amendment

4. This Directive shall not apply to digital content provided against counter-performance other than money to the extent the supplier requests the consumer to provide personal data the processing of which is strictly necessary for the performance of the contract or for meeting legal requirements and the supplier does not further process them in a way incompatible with Regulation (EU) 2016/679. It shall equally not apply to any other data the supplier requests the consumer to provide for the purpose of ensuring that the digital content is in conformity with the contract or of meeting legal requirements, and the supplier does not use that data for commercial purposes.

Or. en

Justification

It is important to add clarity to the text of the directive that it does not seek to override or conflict with Regulation (EU) 2016/679 on general data protection rules.

Amendment 480
Virginie Rozière

Proposal for a directive
Article 3 – paragraph 4

Text proposed by the Commission

4. This Directive shall not apply to digital content provided against counter-performance other than money to the extent the supplier requests the consumer to provide personal data the processing of which is strictly necessary for the performance of the contract or for meeting legal requirements and the supplier does not further process them in a way incompatible with this purpose. It shall equally not apply to any other data the supplier requests the consumer to provide for the purpose of ensuring that the digital content is in conformity with the contract or of meeting legal requirements, and the supplier does not use that data for commercial purposes.

Amendment

4. This Directive shall not apply to digital content or digital services provided against counter-performance other than money to the extent the processing of personal data or other data supplied by the consumer is necessary for the conclusion or performance of the contract.
legal requirements and the supplier does not further process them in a way incompatible with this purpose. It shall equally not apply to any other data the supplier requests the consumer to provide for the purpose of ensuring that the digital content is in conformity with the contract or of meeting legal requirements, and the supplier does not use that data for commercial purposes.

or for meeting legal requirements and the supplier does not further process them in a way incompatible with this purpose. It shall equally not apply to any other data the supplier requests the consumer to provide for the purpose of ensuring that the digital content is in conformity with the contract or of meeting legal requirements, and the supplier does not use that data for any other purpose.

Amendment 481
Marco Zullo

Proposal for a directive
Article 3 – paragraph 5 – point a

Text proposed by the Commission

(a) services performed with a predominant element of human intervention by the supplier where the digital format is used mainly as a carrier;

Amendment

(a) services other than the supply of digital content or services;

Amendment 482
Andreas Schwab

Proposal for a directive
Article 3 – paragraph 5 – point a

Text proposed by the Commission

(a) services performed with a predominant element of human intervention by the supplier where the digital format is used mainly as a carrier;

Amendment

(a) services performed with a predominant element of human intervention by the supplier where the digital format is used mainly as a carrier, such as legal services;

Or. de
Justification

This clarification makes it possible - in an area which is normally covered by the exception in Article 3(5)(a), because the characteristic performance of such services does not consist in the provision of digital content - to avoid legal difficulties and create legal certainty.

Amendment 483
Eva Maydell
Proposal for a directive
Article 3 – paragraph 5 – point a

Text proposed by the Commission
(a) services performed with a predominant element of human intervention by the supplier where the digital format is used mainly as a carrier;

Amendment
(a) services where the main subject matter is not the supply of digital content or digital services and where the digital format is used mainly for the provision of such services;

Or. en

Amendment 484
Daniel Buda
Proposal for a directive
Article 3 – paragraph 5 – point a

Text proposed by the Commission
(a) services performed with a predominant element of human intervention by the supplier where the digital format is used mainly as a carrier;

Amendment
(a) services performed with a predominant element of human intervention by the supplier where the digital format is used mainly as a carrier, such as legal services;

Or. ro

Amendment 485
Antanas Guoga
Proposal for a directive
Article 3 – paragraph 5 – point a
(a) services performed with a predominant element of human intervention by the supplier where the digital format is used mainly as a carrier;

(a) services where the digital format is used mainly as a carrier or for making such service available;

Or. en

Amendment 486
Virginie Rozière

Proposal for a directive
Article 3 – paragraph 5 – point a a (new)

Text proposed by the Commission

Amendment

(aa) non-economic services of general interest;

Or. fr

Amendment 487
Virginie Rozière

Proposal for a directive
Article 3 – paragraph 5 – point a b (new)

Text proposed by the Commission

Amendment

(ab) activities forming part of the exercise of public authority in accordance with Article 45 of the Treaty;

Or. fr

Amendment 488
Evelyne Gebhardt, Josef Weidenholzer, Anna Hedh, Lucy Anderson, Christel Schaldemose, Liisa Jaakonsaari, Nicola Danti, Marc Tarabella, Catherine Stihler, Evelyn Regner

Proposal for a directive
Article 3 – paragraph 5 – point b
(b) electronic communication services as defined in Directive 2002/21/EC; with the exception of number-independent interpersonal communication services which are covered by this Directive.

Justification

Online communication services like Skype and WhatsApp should be covered by this directive, particularly in what concerns conformity rules and contract duration. Therefore, the amendment intends to take into account the Commission’s proposal for a Directive establishing the European Electronic Communications Code (recast) by introducing an exception to the exclusion of electronic communication services of the amended Directive 2002/21/EC.

Amendment 489
Julia Reda, Dita Charanzová, Kaja Kallas

Proposal for a directive
Article 3 – paragraph 5 – point e a (new)

Text proposed by the Commission

(e a) the provision of digital content under a free or open licence insofar as no contractual relations and obligations exist beyond the adherence to the terms of the licence.

Or. en

Amendment 490
Othmar Karas

Proposal for a directive
Article 3 – paragraph 5 a (new)

Text proposed by the Commission

5a. the provision of excerpts from public registers established by by a public
office-holder who, or authority which, has a statutory obligation to be independent and impartial and does not exercise any trade, business, craft or professional activity but operates within the framework of the state justice system.

Justification

A similar paragraph is also included in Article 3 of Directive 2011/83/EU (the Consumer Rights Directive).

Amendment 491
Philippe Juvin

Proposal for a directive
Article 3 – paragraph 5 a (new)

Text proposed by the Commission

5a. services consisting of public performances in which the digital content is one of the elements of the artistic performance or spectacle, such as cinematographic projections or live spectacles.

Amendment

5a. This directive shall not apply to the provision of public registers established in electronic form and of excerpts from such registers.

Or. fr

Amendment 492
Andreas Schwab

Proposal for a directive
Article 3 – paragraph 5 a (new)

Text proposed by the Commission

5a. This directive shall not apply to the provision of public registers established in electronic form and of excerpts from such registers.

Amendment

5a. services consisting of public performances in which the digital content is one of the elements of the artistic performance or spectacle, such as cinematographic projections or live spectacles.

Or. de
Amendment 493
Daniel Buda

Proposal for a directive
Article 3 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. This Directive shall not apply to the provision of digital extracts from public registers.

Or. ro

Amendment 494
Daniel Buda

Proposal for a directive
Article 3 – paragraph 6

Text proposed by the Commission

Amendment

6. Where a contract includes elements in addition to the supply of digital content, this Directive shall only apply to the obligations and remedies of the parties as supplier and consumer of the digital content.

6. Where the contract for the supply of digital content or digital services includes additional contractual obligations, this Directive shall only apply to the obligations and rights of the parties and the remedies available to them as supplier and consumer of the digital content or digital services.

Or. ro

Amendment 495
Eva Maydell

Proposal for a directive
Article 3 – paragraph 6

Text proposed by the Commission

Amendment

6. Where a contract includes elements in addition to the supply of digital content, this Directive shall only apply to the

6. Where a contract provides for both the supply of digital content or digital services and other goods or services, this
obligations and **remedies** of the parties as supplier and consumer of the digital content.

Directive shall only apply to the obligations and **rights** of the parties as supplier and consumer of the digital content **or digital service concerned**.

**Amendment 496**
Antanas Guoga

Proposal for a directive
**Article 3 – paragraph 6**

*Text proposed by the Commission*

6. Where a contract includes *elements* in addition to the supply of digital content, this Directive shall only apply to the obligations and remedies of the parties as supplier and consumer of the digital content.

*Amendment*

6. Where a contract for the supply of digital content includes additional contractual obligations in addition to the supply of digital content, this Directive shall only apply to the obligations and remedies of the parties as supplier and consumer of the digital content.

**Or. en**

**Amendment 497**
Virginie Rozière

Proposal for a directive
**Article 3 – paragraph 6**

*Text proposed by the Commission*

6. Where a contract includes elements in addition to the supply of digital content, this Directive shall only apply to the obligations and remedies of the parties as supplier and consumer of the digital content.

*Amendment*

6. Where a contract includes elements in addition to the supply of digital content **or a digital service**, this Directive shall only apply to the obligations and remedies of the parties as supplier and consumer of the digital content **or digital service**.

**Or. fr**

**Amendment 498**
Marco Zullo

Proposal for a directive
Article 3 – paragraph 6

Text proposed by the Commission

6. Where a contract includes elements in addition to the supply of digital content, this Directive shall only apply to the obligations and remedies of the parties as supplier and consumer of the digital content.

Amendment

6. Where a contract includes elements in addition to the supply of digital content or a digital service, this Directive shall only apply to the obligations and remedies of the parties as supplier and consumer of the digital content.

Or. it

Amendment 499
Jean-Marie Cavada

Proposal for a directive
Article 3 – paragraph 6

Text proposed by the Commission

6. Where a contract includes elements in addition to the supply of digital content, this Directive shall only apply to the obligations and remedies of the parties as supplier and consumer of the digital content.

Amendment

6. Where a contract includes obligations in addition to the supply of digital content, this Directive shall only apply to the rights and obligations of the parties as supplier and consumer of the digital content.

Or. fr

Amendment 500
Eva Maydell

Proposal for a directive
Article 3 – paragraph 7

Text proposed by the Commission

7. If any provision of this Directive conflicts with a provision of another Union act governing a specific sector or subject matter, the provision of that other Union

Amendment

7. If any provision of this Directive conflicts with a provision of another Union act governing a specific sector or subject matter, the provision of that other Union
act shall *take precedence over this Directive*. act shall *prevail and shall apply to those specific sectors*.

**Amendment  501**

Antanas Guoga

Proposal for a directive
Article 3 – paragraph 7

*Text proposed by the Commission*

7. If any provision of this Directive conflicts with a provision of another Union act governing a specific sector or subject matter, the provision of that other Union act shall *take precedence over this Directive*.

*Amendment*

7. If any provision of this Directive conflicts with a provision of another Union act governing a specific sector or subject matter, the provision of that other Union act shall *prevail*.

**Amendment  502**

Maria Grapini

Proposal for a directive
Article 3 – paragraph 8

*Text proposed by the Commission*

8. This Directive is without prejudice to the protection of individuals with regard to the processing of personal data.

*Amendment*

8. This Directive is without prejudice to the protection of individuals with regard to the processing of personal data. *Consumer rights under Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC shall not be affected and may be exercised in accordance with the conditions stipulated*
8. **This Directive is without prejudice to** the protection of individuals with regard to the processing of personal data.

Amendment

8. **No provision of this Directive or of any act transposing it into national law shall in any way reduce or undermine** the protection of individuals with regard to the processing of personal data **as provided for in Regulation (EU) 2016/679 and in Directive 2002/58/EC.**

Or. en

Amendment 504
Daniel Dalton, Vicky Ford

Proposal for a directive
Article 3 – paragraph 8

Text proposed by the Commission

8. This Directive is without prejudice to the protection of individuals with regard to the processing of personal data.

Amendment

8. This Directive is without prejudice to the protection of individuals with regard to the processing of personal data **as provided for by Directive 95/46/EC and by Regulation (EU) 2016/679.**

Or. en

Amendment 505
Eva Maydell, Andreas Schwab

Proposal for a directive
Article 3 – paragraph 8

Text proposed by the Commission

8. This Directive is without prejudice to the protection of individuals with regard to the processing of personal data.

Amendment
8. This Directive is without prejudice to the protection of *individuals with regard to the processing of personal data.*


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**Amendment 506**

**Antanas Guoga**

**Proposal for a directive**
**Article 3 – paragraph 8**

*Text proposed by the Commission*  
8. This Directive is without prejudice to the protection of *individuals with regard to the processing of personal data.*

*Amendment*  
8. This Directive is without prejudice to the protection of *personal data as provided for by Regulation (EU) 2016/679.*

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**Amendment 507**

**Daniel Buda**

**Proposal for a directive**
**Article 3 – paragraph 9**

*Text proposed by the Commission*  
9. In so far as not regulated in this Directive, this Directive shall not affect national general contract laws such as rules on formation, the validity or effects of contracts, including the consequences of the termination of a contract.

*Amendment*  
9. In so far as not regulated in this Directive, this Directive shall not affect national general contract laws such as rules on formation, the validity or effects of contracts, including the consequences of the termination *or rescinding* of a contract.

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**Amendment 508**

**Eva Maydell**

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EN
Proposal for a directive
Article 3 – paragraph 9

Text proposed by the Commission

9. In so far as not regulated in this Directive, this Directive shall not affect national general contract laws such as rules on formation, the validity or effects of contracts, including the consequences of the termination of a contract.

Amendment

9. This Directive shall not affect national general contract laws such as rules on formation, the validity or effects of contracts, including the consequences of the termination of a contract, in so far as not regulated in this Directive.

Or. en

Amendment 509
Evelyne Gebhardt, Maria Grapini, Josef Weidenholzer, Anna Hedh, Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Evelyn Regner

Proposal for a directive
Article 4

Text proposed by the Commission

Article 4

Level of harmonisation

Member States shall not maintain or introduce provisions diverging from those laid down in this Directive, including more or less stringent provisions to ensure a different level of consumer protection.

Amendment

Article 4 deleted

Or. en

Amendment 510
Mylène Troszczynski

Proposal for a directive
Article 4 – paragraph 1

Text proposed by the Commission

Member States shall not maintain or introduce provisions diverging from those laid down in this Directive, including

Amendment

deleted

Or. en

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more or less stringent provisions to ensure a different level of consumer protection.

Justification

Clause contrary to the subsidiarity principle. Member States must remain free to introduce into their national law any provisions they believe need to be introduced in the sole interest of their populace.

Amendment 511
Dennis de Jong

Proposal for a directive
Article 4 – paragraph 1

Text proposed by the Commission

Member States shall not maintain or introduce provisions diverging from those laid down in this Directive, including more or less stringent provisions to ensure a different level of consumer protection.

Amendment

Member States may maintain more stringent provisions already in force for the protection of consumers, and the implementation of this Directive shall under no circumstances constitute grounds for the reduction of protection for consumers in fields covered by the scope of Union law. This Directive shall be without prejudice to general substantive and procedural rights which consumers may invoke under national rules governing contractual or non-contractual liability.

Justification

Full harmonisation can only be in the interest of the public when the highest level of consumer protection is maintained.

Amendment 512
Julia Reda

Proposal for a directive
Article 4 – paragraph 1
Text proposed by the Commission

Member States shall not maintain or introduce provisions diverging from those laid down in this Directive, including more or less stringent provisions to ensure a different level of consumer protection.

Amendment

Member States may maintain or introduce more stringent provisions diverging from those laid down in this Directive to ensure a higher level of consumer protection.

Or. en

Amendment 513
Daniel Buda

Proposal for a directive
Article 4 – paragraph 1

Text proposed by the Commission

Member States shall maintain or introduce provisions diverging from those laid down in this Directive, including more or less stringent provisions to ensure a different level of consumer protection.

Amendment

Member States shall maintain or introduce provisions diverging from those laid down in this Directive, including more or less stringent provisions to ensure a uniform level of consumer protection.

Or. ro

Amendment 514
Daniel Dalton, Vicky Ford

Proposal for a directive
Article 4 – paragraph 1

Text proposed by the Commission

Member States shall maintain or introduce provisions diverging from those laid down in this Directive, including more or less stringent provisions to ensure a different level of consumer protection.

Amendment

Member States shall not introduce provisions diverging from those laid down in this Directive, including more or less stringent provisions to ensure a different level of consumer protection.

Or. en
Justification

In the interests of consumer clarity established national regimes governing the rules surrounding the provision of digital content should not be disrupted or overturned.

Amendment 515
Marco Zullo
Proposal for a directive
Article 4 a (new)

Text proposed by the Commission

Amendment

Article 4a
Contract terms detrimental to the consumer’s data protection rights

A contract term that concerns the processing of personal data provided by the consumer to the supplier or collected by the supplier or a third party in the interest of the supplier in the context of the conclusion or performance of the contract, and which violates any right afforded to the consumer as a data subject under Directive 95/46/EC and Regulation (EU) 2016/679, including any term defining the functionality, interoperability and other performance features of the digital content or digital service in a way that is not in conformity with Directive 95/46/EC and Regulation (EU) 2016/679, shall not be binding upon the consumer. The contract shall continue to bind the parties as regards the rest of its terms if it is capable of continuing in existence without the non-binding term.

Or. it

Amendment 516
Virginie Rozière
Proposal for a directive
Article 4 a (new)
Text proposed by the Commission

Article 4a.

Information requirements

Before the consumer is bound by a contract for the provision of digital content or a digital service, the supplier shall give the consumer the information required under Articles 6 and 8 of Directive 2011/83/EU in a clear and comprehensible form.

Or. fr

Amendment 517
Philippe Juvin

Proposal for a directive
Article 4a (new)

Text proposed by the Commission

Article 4a.

10. This directive does not affect intellectual property rights, in particular, as regards the rights of the author, the rights and obligations set out under Directive 2001/29/CE.

Or. fr

Amendment 518
Daniel Buda

Proposal for a directive
Article 5 – title

Text proposed by the Commission

Supply of the digital content

Supply of the digital content or the digital services

Or. ro
Amendment 519
Eva Maydell

Proposal for a directive
Article 5 – title

*Text proposed by the Commission*  
Supply of the digital content  

*Amendment*  
Supply of the digital content *or digital service*

Or. en

Amendment 520
Marco Zullo

Proposal for a directive
Article 5 – title

*Text proposed by the Commission*  
Supply of the digital content  

*Amendment*  
Supply of the digital content *or digital service*

Or. it

Amendment 521
Virginie Rozière

Proposal for a directive
Article 5 – title

*Text proposed by the Commission*  
Supply of the digital content  

*Amendment*  
Supply of the digital content *or service*

Or. fr

Amendment 522
Daniel Buda

Proposal for a directive
Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

1. When performing the contract for the supply of digital content, the supplier shall supply the digital content to

Amendment

1. When performing the contract for the supply of digital content *or services*, the supplier shall supply the digital content *or services* to

Or. ro

Amendment 523
Marco Zullo

Proposal for a directive
Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

1. When performing the contract for the supply of digital content, the supplier shall supply the digital content to

Amendment

1. When performing the contract for the supply of the digital content *or digital service*, the supplier shall supply the digital content *or digital service* to

Or. it

Amendment 524
Constance Le Grip

Proposal for a directive
Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

1. When performing the contract for the supply of digital content, the supplier shall supply the digital content to

Amendment

1. When performing the contract for the supply of digital content, the supplier shall supply the digital content to the consumer.

Or. en

Amendment 525
Virginie Rozière
Proposal for a directive
Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

1. When performing the contract for the supply of digital content, the supplier shall supply the digital content to

Amendment

1. When performing the contract for the supply of digital content or a digital service, the supplier shall supply the digital content to

Or. fr

Amendment 526
Constance Le Grip

Proposal for a directive
Article 5 – paragraph 1 – point a

Text proposed by the Commission

(a) the consumer; or

Amendment

deleted

Or. en

Amendment 527
Constance Le Grip

Proposal for a directive
Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) a third party which operates a physical or virtual facility making the digital content available to the consumer or allowing the consumer to access it and which has been chosen by the consumer for receiving the digital content.

Amendment

deleted

Or. en

Amendment 528
Proposal for a directive
Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) a third party which operates a physical or virtual facility making the digital content available to the consumer or allowing the consumer to access it and which has been chosen by the consumer for receiving the digital content.

Amendment

(b) a third party which operates a physical or virtual facility making the digital content or digital service available to the consumer or allowing the consumer to access it and which has been chosen by the consumer for receiving the digital content or digital service.

Or. ro

Amendment 529
Marco Zullo

Proposal for a directive
Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) a third party which operates a physical or virtual facility making the digital content available to the consumer or allowing the consumer to access it and which has been chosen by the consumer for receiving the digital content.

Amendment

(b) a third party which operates a physical or virtual facility making the digital content or digital service available to the consumer or allowing the consumer to access it and which has been chosen by the consumer for receiving the digital content or digital service.

Or. it

Amendment 530
Marco Zullo

Proposal for a directive
Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) a third party which operates a physical or virtual facility making the digital content available to the consumer or allowing the consumer to access it and which has been chosen by the consumer for receiving the digital content.

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allowing the consumer to access it and which has been chosen by the consumer for receiving the digital content; or

Or. it

Amendment 531
Marco Zullo

Proposal for a directive
Article 5 – paragraph 1 – point b a (new)

Text proposed by the Commission

(ba) a third party chosen by the consumer.

Or. it

Amendment 532
Constance Le Grip

Proposal for a directive
Article 5 – paragraph 2

2. The supplier shall supply the digital content immediately after the conclusion of the contract, unless the parties have agreed otherwise. The supply shall be deemed to take place when the digital content is supplied to the consumer or, where point (b) of paragraph 1 applies, to the third party chosen by the consumer, whichever is the earlier.

Or. en

Amendment 533
Eva Maydell

Proposal for a directive
Article 5 – paragraph 2

Text proposed by the Commission

2. The supplier shall supply the digital content immediately after the conclusion of the contract, unless the parties have agreed otherwise. The supply shall be deemed to take place when the digital content is supplied to the consumer or, where point (b) of paragraph 1 applies, to the third party chosen by the consumer, whichever is the earlier.

Amendment

2. Unless the consumer and supplier have agreed otherwise, the supplier shall supply the digital content or digital service immediately after the conclusion of the contract without undue delay. The supplier shall have fulfilled his obligation to supply when the digital content or digital service is made available or is accessible to the consumer or, where point (b) or (c) of paragraph 1 applies, to the third party chosen by the consumer, whichever is the applicable.

Or. en

Amendment 534
Daniel Buda

Proposal for a directive
Article 5 – paragraph 2

Text proposed by the Commission

2. The supplier shall supply the digital content immediately after the conclusion of the contract, unless the parties have agreed otherwise. The supply shall be deemed to take place when the digital content is supplied to the consumer or, where point (b) of paragraph 1 applies, to the third party chosen by the consumer, whichever is the earlier.

Amendment

2. Unless the parties have agreed otherwise, the supplier shall supply the digital content or digital service without undue delay and not later than 30 days from the conclusion of the contract. The supply shall be deemed to take place when the digital content or service is supplied to the consumer or, where point (b) of paragraph 1 applies, to the third party chosen by the consumer, whichever is the earlier.

Or. ro

Amendment 535
Evelyne Gebhardt, Marlene Mizzi, Josef Weidenholzer, Lucy Anderson, Christel Schaldemose, Anna Hedh, Liisa Jaakonsaari, Maria Grapini, Marc Tarabella, Catherine Stihler, Evelyn Regner
Proposal for a directive
Article 5 – paragraph 2

Text proposed by the Commission

2. The supplier shall supply the digital content immediately after the conclusion of the contract, unless the parties have agreed otherwise. The supply shall be deemed to take place when the digital content is supplied to the consumer or, where point (b) of paragraph 1 applies, to the third party chosen by the consumer, whichever is the earlier.

Amendment

2. The supplier shall supply the digital content or digital service immediately after the conclusion of the contract, unless the parties have agreed otherwise. The supplier shall have fulfilled his obligation to supply when the digital content or digital service is made available or is accessible to the consumer or, where point (b) or (c) of paragraph 1 applies, to the third party chosen by the consumer, whichever is applicable.

Or. en

Justification

Alignment with Art. 18 (1) CRD.

Amendment 536
Marco Zullo

Proposal for a directive
Article 5 – paragraph 2

Text proposed by the Commission

2. The supplier shall supply the digital content immediately after the conclusion of the contract, unless the parties have agreed otherwise. The supply shall be deemed to take place when the digital content is supplied to the consumer or, where point (b) of paragraph 1 applies, to the third party chosen by the consumer, whichever is the earlier.

Amendment

2. The supplier shall supply the digital content or digital service within one month of the contract being concluded, unless the parties have agreed otherwise. The supply shall be deemed to take place when the digital content or digital service is made accessible to the consumer or, where point (b) of paragraph 1 applies, to the third party chosen by the consumer, whichever is the earlier.

Or. it

Amendment 537
Antanas Guoga

Proposal for a directive
Article 5 – paragraph 2

Text proposed by the Commission

2. The supplier shall supply the digital content immediately after the conclusion of the contract, unless the parties have agreed otherwise. The supply shall be deemed to take place when the digital content is supplied to the consumer or, where point (b) of paragraph 1 applies, to the third party chosen by the consumer, whichever is the earlier.

Amendment

2. The supplier shall supply the digital content without undue delay after the conclusion of the contract, unless the parties have agreed otherwise. The supply shall be deemed to take place when the digital content is supplied to the consumer or, where point (b) of paragraph 1 applies, to the third party chosen by the consumer, whichever is the earlier.

Or. en

Amendment 538
Kaja Kallas, Dita Charanzová

Proposal for a directive
Article 5 – paragraph 2

Text proposed by the Commission

2. The supplier shall supply the digital content immediately after the conclusion of the contract, unless the parties have agreed otherwise. The supply shall be deemed to take place when the digital content is supplied to the consumer or, where point (b) of paragraph 1 applies, to the third party chosen by the consumer, whichever is the earlier.

Amendment

2. The supplier shall supply the digital content without undue delay after the conclusion of the contract, unless the parties have agreed otherwise. The supply shall be deemed to take place when the digital content is supplied to the consumer or, where point (b) of paragraph 1 applies, to the third party chosen by the consumer, whichever is the earlier.

Or. en

Amendment 539
Virginie Rozière

Proposal for a directive
Article 5 – paragraph 2 a (new)
2a. When digital content or a digital service is to be supplied immediately after the contract is concluded, the supplier shall duly inform the consumer that he will lose his right of withdrawal, in line with Article 16 (m) of Directive 2011/83/EU on consumer rights.

Amendment  540
Jean-Marie Cavada, Kaja Kallas

Proposal for a directive
Article 5 – paragraph 2 a (new)

2a. The supplier of digital content shall only be held accountable for delays to the provision of content if it is shown that those delays were not caused by problems with the distribution platform or internet access.

Amendment  541
Evelyne Gebhardt, Lucy Anderson, Anna Hedh, Christel Schaldemose, Liisa Jaakonsaari, Josef Weidenholzer, Maria Grapini, Marc Tarabella, Catherine Stihler, Evelyn Regner

Proposal for a directive
Article 5 a (new)

Article 5 a

Conformity of the digital content or digital service with the contract

1. In order to conform with the contract, the digital content or digital service must
meet the requirements of Articles 6, 6a, 7 and 8.

2. In the case of contracts where the digital content or digital service is to be supplied over a period of time, the digital content or digital service shall be in conformity with the contract throughout the duration of that period. Temporary interruptions to the supply of the digital content or digital service which fall within the responsibility of the supplier shall be treated as cases of non-conformity.

3. Unless otherwise agreed, digital content or a digital service shall be supplied in conformity with the most recent version of the digital content or digital service which was available at the time of conclusion of the contract.

4. The supplier must ensure that the consumer is notified of, and supplied with, updates to digital content or a digital service that are necessary in order to bring the digital content or digital service into conformity with the contract. Where the consumer chooses to remain with his or her present version of the digital content or the digital service, that present version shall remain available or accessible within a reasonable timeframe.

Justification

A more readable structure is suggested: Article 5a contains the chapeau introducing conformity and some horizontal issues, Article 6 the subjective requirements, Article 7 the objective requirements, etc.

Amendment 542
Daniel Buda

Proposal for a directive
Article 6 – title

Text proposed by the Commission

Amendment
Conformity of the digital content or digital service with the contract

Amendment 543
Eva Maydell

Proposal for a directive
Article 6 – title

Text proposed by the Commission

Conformity of the digital content with the contract

Amendment

Conformity of the digital content or digital service with the contract

Or. ro

Amendment 544
Marco Zullo

Proposal for a directive
Article 6 – title

Text proposed by the Commission

Conformity of the digital content with the contract

Amendment

Conformity of the digital content or digital service with the contract

Or. it

Amendment 545
Virginie Rozière

Proposal for a directive
Article 6 – title

Text proposed by the Commission

Conformity of the digital content with the contract

Amendment

Conformity of the digital content or service with the contract

Or. fr
Proposal for a directive
Article 6 – title

Text proposed by the Commission

Conformity of the digital content with the contract

Amendment

Requirements for conformity of the digital content with the contract

Or. en

Proposal for a directive
Article 6 – paragraph -1 (new)

Text proposed by the Commission

-1. The supplier shall give the consumer the same digital content or digital service set out in the contract.

Amendment

Or. fr

Proposal for a directive
Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

1. In order to conform with the contract, the digital content shall, where relevant:

Amendment

1. The contract shall include all relevant characteristics for the assessment of the conformity of the digital content or digital service, as well as all relevant information regarding the processing of personal data in compliance with the obligation under Regulation (EU) 2016/679.
In order to conform with the contract, the digital content shall, where relevant:

**Or. en**

**Amendment 549**
Daniel Buda

Proposal for a directive
Article 6 – paragraph 1 – introductory part

*Text proposed by the Commission

1. In order to conform with the contract, the digital content shall, where relevant:

*Amendment

1. In order to conform with the contract, the digital content *or digital service* shall, where relevant:

**Or. ro**

**Amendment 550**
Marco Zullo

Proposal for a directive
Article 6 – paragraph 1 – introductory part

*Text proposed by the Commission

1. In order to conform with the contract, the digital content shall, where relevant:

*Amendment

1. In order to conform with the contract, the digital content *or digital service* shall, where relevant:

**Or. it**

**Amendment 551**
Antanas Guoga

Proposal for a directive
Article 6 – paragraph 1 – introductory part

*Text proposed by the Commission

1. In order to conform with the contract, the digital content shall, where relevant:

*Amendment
1. In order to conform with the contract, the digital content shall, where relevant:

Or. en

Amendment 552
Virginie Rozière

Proposal for a directive
Article 6 – paragraph 1 – introductory part

Text proposed by the Commission

1. In order to conform with the contract, the digital content shall, where relevant:

Amendment

1. In order to conform with the contract, the digital content or service shall:

Or. fr

Amendment 553
Marco Zullo

Proposal for a directive
Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) be of the quantity, quality, duration and version and shall possess functionality, interoperability and other performance features such as accessibility, continuity and security, as required by the contract including in any pre-contractual information which forms integral part of the contract;

Amendment

(a) be of the quantity, quality, duration and version and shall possess functionality, interoperability and other performance features such as accessibility, continuity and security, as required by the contract, including in any pre-contractual information forming an integral part of the contract or in any advertising communication attributable to the supplier, unless the supplier proves it had not been informed thereof;

Or. it

Amendment 554
Virginie Rozière

Proposal for a directive
Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) be of the quantity, quality, duration and version and shall possess functionality, interoperability and other performance features such as accessibility, continuity and security, *as required* by the *contract including in any pre-contractual information which forms integral part of the contract*;

Amendment

(a) be of the quantity, quality, *description*, duration and version and shall possess functionality, interoperability and other performance features such as the accessibility, continuity and security *provided by the supplier*;

Or. fr

Amendment  555
Maria Grapini

Proposal for a directive
Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) be of the quantity, quality, description, duration and version and shall possess functionality, interoperability and other performance features such as accessibility, continuity and security, *as required by the contract including in any pre-contractual information which forms integral part of the contract*;

Amendment

(a) be of the quantity, quality, *description*, duration and version and shall possess functionality, interoperability and other performance features such as accessibility, continuity and security, *as required by the contract including in any pre-contractual information which forms integral part of the contract*;

Or. ro

Amendment  556
Philippe Juvin

Proposal for a directive
Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) be of the quantity, quality, description, duration and version and shall possess functionality, interoperability and other performance features such as accessibility, continuity and security, *as required by the contract including in any pre-contractual information which forms integral part of the contract*;

Amendment

(a) be of the quantity, quality, *description*, duration and version and shall possess functionality, interoperability and other performance features such as accessibility, continuity and security, *as required by the contract including in any pre-contractual information which forms integral part of the contract*;
(a) be of the quantity, quality, duration and version and shall possess functionality, interoperability and other performance features such as accessibility, continuity and security, as required by the contract including in any pre-contractual information which forms integral part of the contract;

(a) be of the quantity, quality of the file, description, duration and version and shall possess functionality, interoperability and other performance features such as accessibility, continuity and security, as required by the contract including in any pre-contractual information which forms integral part of the contract;

Or. fr

Amendment  557
Jean-Marie Cavada

Proposal for a directive
Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) be of the quantity, quality, duration and version and shall possess functionality, interoperability and other performance features such as accessibility, continuity and security, as required by the contract including in any pre-contractual information which forms integral part of the contract;

(a) be of the quantity, quality, duration, functionality and compatibility and other performance features such as accessibility, continuity and security, as required by the contract including in any pre-contractual information which forms integral part of the contract;

Or. fr

Amendment  558
Constance Le Grip

Proposal for a directive
Article 6 – paragraph 1 – point a

Text proposed by the Commission

(a) be of the quantity, quality, duration and version and shall possess functionality, interoperability and other performance features such as accessibility, continuity and security, as required by the contract including in any pre-contractual information which forms integral part of the contract;

(a) be of the quantity, quality, duration and version and shall possess functionality and other features such as performance, accessibility, continuity and security, as required by the contract including in any pre-contractual information which forms integral part of the contract;
information which forms integral part of the contract;

Amendment 559
Daniel Dalton, Vicky Ford

Proposal for a directive
Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) be fit for any particular purpose for which the consumer requires it and which the consumer made known to the supplier at the time of the conclusion of the contract and which the supplier accepted;

Amendment

(b) conform with the consumer's legitimate expectations and be fit for any particular purpose for which the consumer requires it;

Or. fr

Amendment 560
Virginie Rozière

Proposal for a directive
Article 6 – paragraph 1 – point b

Text proposed by the Commission

(b) be fit for any particular purpose for which the consumer requires it and which the consumer made known to the supplier at the time of the conclusion of the contract and which the supplier accepted;

Amendment

(b) be fit for any particular purpose for which the consumer requires it and which the consumer made known to the supplier at the latest, and which the supplier accepted;

Or. fr

Amendment 561
Julia Reda

Proposal for a directive
Article 6 – paragraph 1 – point b a (new)
(b a) be fit for the purposes for which digital content of the same description would normally be used and shall possess the qualities including its functionality, interoperability and other performance features such as accessibility, continuity and security, which consumers may reasonably expect, taking into account:

(1) consumers’ legitimate expectations

(2) any existing international or European technical standards or, in the absence of such technical standards, applicable industry codes of conduct and good practices; and

(3) any existing best practices relating to the security of information systems and digital environments

(4) any public statement made by or on behalf of the supplier or other persons in earlier links of the chain of transactions unless the supplier shows that

   (i) he was not, and could not reasonably have been, aware of the statement in question;

   (ii) by the time of conclusion of the contract the statement had been corrected and the consumer made explicitly aware by the trader of this correction;

   (iii) the decision to acquire the digital content could not have been influenced by the statement.

Or. en
Text proposed by the Commission

Amendment

(ba) be fit for the purposes for which digital content or services of the same type are normally used;

Or. fr

Amendment 563
Virginie Rozière

Proposal for a directive
Article 6 – paragraph 1 – point b b (new)

Text proposed by the Commission

Amendment

(bb) show the quality and performance which are usual for content or services of the same type and which the consumer can reasonably expect, given the nature of the content or service and taking into account any public statements about the specific characteristics of the content or service made about them by the supplier or a third party representing the supplier, particularly in advertising or on labelling.

Or. fr

Amendment 564
Eva Maydell

Proposal for a directive
Article 6 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) be supplied along with any instructions and customer assistance as stipulated by the contract; and

deleted

Or. en
Proposal for a directive
Article 6 – paragraph 1 – point c

Text proposed by the Commission

(c) be supplied along with any instructions and customer assistance as stipulated by the contract; and

Amendment

(c) be supplied along with all the accessories, installation instructions and customer assistance as stipulated by the contract; and

Amendment 566
Eva Maydell

Proposal for a directive
Article 6 – paragraph 1 – point d

Text proposed by the Commission

(d) be updated as stipulated by the contract.

Amendment

deleted

Or. en

Proposal for a directive
Article 6 – paragraph 1 – point d

Text proposed by the Commission

(d) be updated as stipulated by the contract.

Amendment

(d) be updated as stipulated by the contract, pre-contractual information, advertising or labelling.

Or. fr
Maria Grapini

Proposal for a directive
Article 6 – paragraph 1 – point d a (new)

Text proposed by the Commission

(da) meet consumers’ legitimate expectations;

Amendment

Virginie Rozière

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

2. To the extent that the contract does not stipulate, where relevant, in a clear and comprehensive manner, the requirements for the digital content under paragraph 1, the digital content shall be fit for the purposes for which digital content of the same description would normally be used including its functionality, interoperability and other performance features such as accessibility, continuity and security, taking into account:

(a) whether the digital content is supplied in exchange for a price or other counter-performance than money;

(b) where relevant, any existing international technical standards or, in the absence of such technical standards, applicable industry codes of conduct and good practices; and

(c) any public statement made by or on behalf of the supplier or other persons in earlier links of the chain of transactions unless the supplier shows that
(i) he was not, and could not reasonably have been, aware of the statement in question;

(ii) by the time of conclusion of the contract the statement had been corrected;

(iii) the decision to acquire the digital content could not have been influenced by the statement.

Or. fr

Amendment  570
Marco Zullo

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

2. To the extent that the contract does not stipulate, where relevant, in a clear and comprehensive manner, the requirements for the digital content under paragraph 1, the digital content shall be fit for the purposes for which digital content of the same description would normally be used including its functionality, interoperability and other performance features such as accessibility, continuity and security, taking into account:

(a) whether the digital content is supplied in exchange for a price or other counter-performance than money;

(b) where relevant, any existing international technical standards or, in the absence of such technical standards, applicable industry codes of conduct and good practices; and

(c) any public statement made by or on behalf of the supplier or other persons in earlier links of the chain of transactions unless the supplier shows that
(i) he was not, and could not reasonably have been, aware of the statement in question;

(ii) by the time of conclusion of the contract the statement had been corrected;

(iii) the decision to acquire the digital content could not have been influenced by the statement.

Or. it

Amendment 571
Eva Maydell

Proposal for a directive
Article 6 – paragraph 2

Text proposed by the Commission

2. To the extent that the contract does not stipulate, where relevant, in a clear and comprehensive manner, the requirements for the digital content under paragraph 1, the digital content shall be fit for the purposes for which digital content of the same description would normally be used including its functionality, interoperability and other performance features such as accessibility, continuity and security, taking into account:

(a) whether the digital content is supplied in exchange for a price or other counter-performance than money;

(b) where relevant, any existing international technical standards or, in the absence of such technical standards, applicable industry codes of conduct and good practices; and

(c) any public statement made by or on behalf of the supplier or other persons in earlier links of the chain of transactions unless the supplier shows that
(i) he was not, and could not reasonably have been, aware of the statement in question;

(ii) by the time of conclusion of the contract the statement had been corrected;

(iii) the decision to acquire the digital content could not have been influenced by the statement.

Amendment 572
Kaja Kallas, Dita Charanzová

Proposal for a directive
Article 6 – paragraph 2 – introductory part

Text proposed by the Commission

2. To the extent that the contract does not stipulate, where relevant, in a clear and comprehensive manner, the requirements for the digital content under paragraph 1, the digital content shall be fit for the purposes for which digital content of the same description would normally be used including its functionality, interoperability and other performance features such as accessibility, continuity and security, taking into account:

Amendment

2. To the extent that the contract does not stipulate, where relevant, in a clear and comprehensive manner, the requirements for the digital content under paragraph 1, the digital content shall be fit for the purposes for which digital content of the same description would normally be used, including its functionality, interoperability and other performance features such as accessibility, continuity and security and meet the standards which the consumer could reasonably expect, taking into account:

Justification

Consumers expectations vary widely depending on the type and the use of digital content and services and should therefore be objectively ascertained, having regard to the nature and purpose of the contract, the circumstances of the case, in particular in light of the fast-evolving business models of companies in the digital sector, and the fast-moving pace of innovation of digital content and services and to the usages and practices of the parties involved.
2. To the extent that the contract does not stipulate, where relevant, in a clear and comprehensive manner, the requirements for the digital content under paragraph 1, the digital content shall be fit for the purposes for which digital content of the same description would normally be used including its functionality, interoperability and other performance features such as accessibility, continuity and security, taking into account:

2. To the extent that the contract does not stipulate, where relevant, in a clear and comprehensive manner, the requirements for the digital content under paragraph 1, the digital content shall be fit for the purposes that consumers could reasonably expect or for which digital content of the same description would normally be used including its functionality, interoperability and other performance features such as accessibility, continuity and security, taking into account:

Or. en

2. To the extent that the contract does not stipulate, where relevant, in a clear and comprehensive manner, the requirements for the digital content under paragraph 1, the digital content shall be fit for the purposes for which digital content of the same description would normally be used including its functionality, interoperability and other performance features such as accessibility, continuity and security, taking into account:

2. To the extent that the contract does not stipulate, where relevant, in a clear and comprehensive manner, the requirements for the digital content under paragraph 1, the digital content shall be fit for the purposes for which digital content of the same description would normally be used including its functionality and other features such as performance, accessibility, continuity and security, taking into account:

Or. fr
Amendment  575  
Birgit Collin-Langen  

Proposal for a directive  
Article 6 – paragraph 2 – point a  

Text proposed by the Commission  
Amendment  

(a) whether the digital content is deleted supplied in exchange for a price or other counter-performance than money;  

Or. de  

Amendment  576  
Antanas Guoga  

Proposal for a directive  
Article 6 – paragraph 2 – point a  

Text proposed by the Commission  
Amendment  

(a) whether the digital content is deleted supplied in exchange for a price or other counter-performance than money;  

Or. en  

Amendment  577  
Julia Reda  

Proposal for a directive  
Article 6 – paragraph 2 – point a  

Text proposed by the Commission  
Amendment  

(a) whether the digital content is deleted supplied in exchange for a price or other counter-performance than money;  

Or. en  

Amendment  578  

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Lucy Anderson, Maria Grapini, Marc Tarabella, Marlene Mizzi, Afzal Khan, Maria Arena, Mary Honeyball, Victor Negrescu

Proposal for a directive
Article 6 – paragraph 2 – point a

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) whether the digital content is supplied in exchange for a price or other counter-performance than money;</td>
<td>(a) The interoperability that the consumer may reasonably expect from an electronic file supplied for an unlimited period of time requires, whatever the provisions of the contract may be, that this electronic file shall be supplied in an open format only. The supplier of such a file which uses proprietary technological protection measures shall make available to other suppliers of files or digital services which so request, the information which is necessary for the purpose of interoperability. It shall not impose other hardware or software limitations preventing the access and use to a file in a digital environment other than the one in which it has been supplied, meaning that consumers can access digital content without having to use applications or other technologies to convert the content they want to have access to.</td>
</tr>
</tbody>
</table>

Amendment 579
Julia Reda

Proposal for a directive
Article 6 – paragraph 2 – point b

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(b) where relevant, any existing international technical standards or, in the absence of such technical standards, applicable industry codes of conduct and good practices; and</td>
<td>deleted</td>
</tr>
</tbody>
</table>

Or. en
Amendment 580
Marlene Mizzi

Proposal for a directive
Article 6 – paragraph 2 – point b

Text proposed by the Commission

(b)  where relevant, any existing international technical standards or, in the absence of such technical standards, applicable industry codes of conduct and good practices; and

Amendment

(b)  where relevant, any existing technical standards or, in the absence of such technical standards, applicable industry codes of conduct and good practices; and

Or. en

Amendment 581
Julia Reda

Proposal for a directive
Article 6 – paragraph 2 – point c – point i

Text proposed by the Commission

(i)  he was not, and could not reasonably have been, aware of the statement in question;

Amendment

(i)  deleted

Or. en

Amendment 582
Julia Reda

Proposal for a directive
Article 6 – paragraph 2 – point c – point ii

Text proposed by the Commission

(ii)  by the time of conclusion of the contract the statement had been corrected;

Amendment

(ii)  deleted

Or. en
Amendment 583
Julia Reda

Proposal for a directive
Article 6 – paragraph 2 – point c – point iii

Text proposed by the Commission

(iii) the decision to acquire the digital content could not have been influenced by the statement.

Amendment

deleted

Or. en

Amendment 584
Andreas Schwab

Proposal for a directive
Article 6 – paragraph 3

Text proposed by the Commission

3. Where the contract stipulates that the digital content shall be supplied over a period of time, the digital content shall be in conformity with the contract throughout the duration of that period.

Amendment

3. Where the contract stipulates that the digital content shall be supplied over a period of time, the digital content shall be in conformity with the contract throughout the duration of that period. Digital content that is incorporated into goods must be updated by the provider for the normal lifetime of the goods, where and to the extent that this is necessary under statutory requirements in order to use the goods as intended.

Or. de

Justification

The requirements of contractual conformity of digital content and the legal redress available to consumers in the event of lack of conformity are a sensible and appropriate benchmark and should therefore also apply to digital content incorporated into physical goods. To make it easier for the consumer to assert his rights, the seller of the goods should assume liability for lack of conformity with the contract irrespective of any separate contractual relationships between the consumer and the provider of the digital content.
Amendment  585
Julia Reda

Proposal for a directive
Article 6 – paragraph 3

Text proposed by the Commission

3. Where the contract stipulates that the digital content shall be supplied over a period of time, the digital content shall be in conformity with the contract throughout the duration of that period.

Amendment

3. Where the contract stipulates that the digital content or digital service shall be supplied over a period of time, the digital content or digital service including where necessary, security updates to be provided by the supplier, shall be in conformity with the contract throughout the duration of that period.

Or. en

Amendment  586
Eva Maydell

Proposal for a directive
Article 6 – paragraph 3

Text proposed by the Commission

3. Where the contract stipulates that the digital content shall be supplied over a period of time, the digital content shall be in conformity with the contract throughout the duration of that period.

Amendment

3. Where the contract stipulates that the digital content or digital service shall be supplied over a period of time, the digital content or digital service shall be in conformity with the contract throughout the duration of that period.

Or. en

Amendment  587
Marco Zullo

Proposal for a directive
Article 6 – paragraph 3

Text proposed by the Commission

3. Where the contract stipulates that the digital content shall be supplied over a

Amendment

3. Where the contract stipulates that the digital content shall be supplied over a
period of time, the digital content shall be in conformity with the contract throughout the duration of that period.

Or. it

**Amendment 588**  
Marietje Schaake

**Proposal for a directive**  
**Article 6 – paragraph 3 – point 1 (new)**

*Text proposed by the Commission*

(1) If digital content shall be supplied over a fixed period of time, and that digital content is embedded in a good, the supplier of the good shall ensure that the embedded digital content remains in conformity with the contract as stipulated in paragraph 1 of this Article or is fit for the purposes within the meaning of paragraph 2 of this Article, including by updating embedded digital content, as the consumer may expect given the nature of the good and the contract, the counter-performance provided by the consumer and potential security risks.

*Amendment*

Or. en

**Amendment 589**  
Eva Maydell

**Proposal for a directive**  
**Article 6 – paragraph 4**

*Text proposed by the Commission*

4. Unless otherwise agreed, digital deleted content shall be supplied in conformity with the most recent version of the digital content which was available at the time of the conclusion of the contract.
Amendment 590
Kaja Kallas, Dita Charanzová

Proposal for a directive
Article 6 – paragraph 4

Text proposed by the Commission

4. Unless otherwise agreed, digital content shall be supplied in conformity with the most recent version of the digital content which was available at the time of the conclusion of the contract.

Amendment

Deleted:

4. Unless otherwise agreed, digital content shall be supplied in conformity with the most recent version of the digital content which was available at the time of the conclusion of the contract.

Justification

The version provided should be the one agreed between the supplier and the consumer based on technical requirements and interoperability of the content with the digital environment of the consumer.

Amendment 591
Julia Reda

Proposal for a directive
Article 6 – paragraph 4

Text proposed by the Commission

4. Unless otherwise agreed, digital content shall be supplied in conformity with the most recent version of the digital content which was available at the time of the conclusion of the contract.

Amendment

4. Unless otherwise agreed, digital content or digital service shall be supplied in conformity with the most recent version of the digital content or digital service which was available at the time of the conclusion of the contract.

Amendment 592
Jean-Marie Cavada
Proposal for a directive
Article 6 – paragraph 4 a (new)

Text proposed by the Commission

4a. If the contract concerns cultural content, and therefore works necessarily protected by copyright, the conformity of the contract implies that all copyright laws have been complied with.

Amendment

Or. fr

Amendment 593
Julia Reda

Proposal for a directive
Article 6 – paragraph 5

Text proposed by the Commission

5. In order to conform with the contract the digital content must also meet the requirements of Articles 7 and 8.

Amendment

5. In order to conform with the contract the digital content or digital service must also meet the requirements of Articles 7 and 8 and respect the principle of data protection by design and default as set out in Article 25 of Regulation (EU) 2016/679.

Or. en

Amendment 594
Eva Maydell

Proposal for a directive
Article 6 – paragraph 5

Text proposed by the Commission

5. In order to conform with the contract the digital content must also meet the requirements of Articles 7 and 8.

Amendment

5. In order to conform with the contract the digital content or digital service must also meet the requirements of Articles 6a, 7 and 8.

Or. en
Amendment 595
Marco Zullo

Proposal for a directive
Article 6 – paragraph 5

Text proposed by the Commission

5. In order to conform with the contract the digital content must also meet the requirements of Articles 7 and 8.

Amendment

5. In order to conform with the contract the digital content must also meet the requirements of Articles 6a, 7 and 8.

Or. it

Amendment 596
Philippe Juvin

Proposal for a directive
Article 6 – paragraph 5

Text proposed by the Commission

5. In order to conform with the contract the digital content must also meet the requirements of Articles 7 and 8.

Amendment

5. In order to conform with the contract the digital content must also meet the requirements of Article 7.

Or. fr

Amendment 597
Constance Le Grip

Proposal for a directive
Article 6 – paragraph 5

Text proposed by the Commission

5. In order to conform with the contract the digital content must also meet the requirements of Articles 7 and 8.

Amendment

5. In order to conform with the contract the digital content must also meet the requirements of Article 7.

Or. fr
Amendment 598
Jean-Marie Cavada

Proposal for a directive
Article 6 – paragraph 5

Text proposed by the Commission

5. In order to conform with the contract the digital content must also meet the requirements of Articles 7 and 8.

Amendment

5. In order to conform with the contract the digital content must also meet the requirements of Article 7.

Or. fr

Amendment 599
Tadeusz Zwiefka, Róża Gräfin von Thun und Hohenstein

Proposal for a directive
Article 6 – paragraph 5 a (new)

Text proposed by the Commission

5 a. Parties to the contract may agree to deviate from the objective criteria required in accordance with paragraphs 1 and 3 under the condition that, at the time of the conclusion of the contract, the consumer knew of this specific characteristic of the digital content and expressly agreed to it when concluding the contract.

Amendment

Or. en

Amendment 600
Marco Zullo

Proposal for a directive
Article 6 a (new)

Text proposed by the Commission

Article 6a

Conformity criteria for the digital content or digital service
1. The digital content or digital service must:

(a) be fit for any particular purpose made known to the seller at the time of the conclusion of the contract, except where the circumstances show that the buyer did not rely, or that it was unreasonable for the buyer to rely, on the seller’s skill and judgement;

(b) be fit for the purposes for which digital content or digital services of the same description would ordinarily be used;

(c) be supplied along with such accessories, installation instructions or other instructions as are stipulated in the contract;

(d) possess the qualities and performance capabilities indicated in any pre-contractual statement or advertising notice;

2. To the extent that the contract does not stipulate, where relevant, in a clear and comprehensive manner, the requirements for the digital content or digital service under paragraph 1, it shall be fit for the purposes for which digital content or digital services of the same description would normally be used including its functionality, interoperability and other performance features such as accessibility, continuity and security, taking into account:

(a) whether the digital content or digital service is supplied in exchange for a price or other counter-performance than money;

(b) where relevant, any existing international technical standards or, in the absence of such technical standards, applicable industry codes of conduct and good practices; and

(c) any public statement made by or on behalf of the supplier or other persons in
earlier links of the chain of transactions unless the supplier shows that:

i) it was not, and could not reasonably have been, aware of the statement in question;

ii) by the time of conclusion of the contract the statement had been corrected;

iii) the decision to acquire the digital content or service could not have been influenced by the statement.

Or. it

Amendment  601
Eva Maydell

Proposal for a directive
Article 6 a (new)

Text proposed by the Commission

Amendment

Article 6 a

Objective requirements for conformity with the contract

1. The digital content or digital service shall, where applicable:

(a) be fit for the purposes for which digital content of the same description would ordinarily be used taking into account, where relevant, any existing technical standards or, in the absence of such technical standards, applicable industry codes of conduct and good practices;

(b) possess the qualities, functionality, interoperability and other performance features such as accessibility, continuity and security, which are normal in digital content or a digital service of the same
type and which the consumer may reasonably expect given the nature of the digital content or digital service, taking into account: any public statement made by or on behalf of the supplier or other persons in earlier links of the chain of transactions unless the supplier shows that

(i) he was not, and could not reasonably have been, aware of the statement in question;

(ii) by the time of conclusion of the contract the statement had been corrected;

(iii) the decision to acquire the digital content or digital service could not have been influenced by the statement.

(c) be updated in order to be fit for purpose and which the consumer may reasonably expect given the nature of the digital content or digital service.

(2) Digital content or a digital service shall be supplied in conformity with the most recent version of the digital content or digital service which was available at the time of the conclusion of the contract.

Amendment 602
Axel Voss, Eva Maydell

Proposal for a directive
Article 7 – title

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Integration of the digital content</td>
<td>Integration of the digital content or digital services</td>
</tr>
</tbody>
</table>

Amendment 603

PE599.502v02-00 142/167 AM\1117404EN.docx
Marco Zullo

Proposal for a directive
Article 7 – paragraph 1 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the digital content is incorrectly integrated into the consumer's digital environment, any lack of conformity resulting from the incorrect integration shall be regarded as lack of conformity of the digital content if:</td>
<td>Where the digital content or digital service is incorrectly integrated into the consumer's digital environment, any lack of conformity resulting from the incorrect integration shall be regarded as lack of conformity of the digital content or digital service if:</td>
</tr>
</tbody>
</table>

Or. it

Amendment  604
Evelyne Gebhardt, Nicola Danti, Josef Weidenholzer, Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Anna Hedh, Marc Tarabella, Evelyn Regner

Proposal for a directive
Article 7 – paragraph 1 – introductory part

<table>
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<tr>
<th>Text proposed by the Commission</th>
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<tbody>
<tr>
<td>Where the digital content is incorrectly integrated into the consumer's digital environment, any lack of conformity resulting from the incorrect integration shall be regarded as lack of conformity of the digital content if:</td>
<td>Where the digital content or digital service is incorrectly integrated into the consumer's digital environment, any lack of conformity resulting from the incorrect integration shall be regarded as lack of conformity with the contract if:</td>
</tr>
</tbody>
</table>

Or. en

Amendment  605
Axel Voss, Eva Maydell

Proposal for a directive
Article 7 – paragraph 1 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the digital content is incorrectly integrated into the consumer's digital environment, any lack of conformity</td>
<td>Where the digital content or digital service is incorrectly integrated into the consumer's digital environment, any lack of</td>
</tr>
</tbody>
</table>

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resulting from the incorrect integration shall be regarded as lack of conformity of the digital content if:

conformity resulting from the incorrect integration shall be regarded as lack of conformity with the contract if:

Amendment 606
Axel Voss, Eva Maydell

Proposal for a directive
Article 7 – paragraph 1 – point a

Text proposed by the Commission

(a) the digital content was integrated by the supplier or under the supplier’s responsibility; or

Amendment

(a) the digital content or digital service was integrated by the supplier or under the supplier’s responsibility; or

Or. en

Amendment 607
Evelyne Gebhardt, Nicola Danti, Josef Weidenholzer, Anna Hedh, Lucy Anderson, Christel Schaldemose, Liisa Jaakonsaari, Marc Tarabella, Evelyn Regner

Proposal for a directive
Article 7 – paragraph 1 – point a

Text proposed by the Commission

(a) the digital content was integrated by the supplier or under the supplier’s responsibility; or

Amendment

(a) the digital content or digital service was integrated by the supplier or under the supplier's responsibility; or

Or. en

Amendment 608
Marco Zullo

Proposal for a directive
Article 7 – paragraph 1 – point a

Text proposed by the Commission

Amendment
(a) the digital content was integrated by the supplier or under the supplier’s responsibility; or

(b) the digital content or digital service was intended to be integrated by the consumer and the incorrect integration was due to shortcomings in the integration instructions where those instructions were supplied in accordance with point (c) of Article 6(1) or should have been supplied in accordance with Article 6(2).

Or. it

Amendment 609
Axel Voss, Eva Maydell

Proposal for a directive
Article 7 – paragraph 1 – point b

Text proposed by the Commission

(b) the digital content was intended to be integrated by the consumer and the incorrect integration was due to shortcomings in the integration instructions where those instructions were supplied in accordance with point (c) of Article 6(1) or should have been supplied in accordance with Article 6(2).

Amendment

(b) the digital content or digital service was intended to be integrated by the consumer and the incorrect integration was due to shortcomings in the integration instructions where those instructions were supplied in accordance with point (b) of Article 6(a1) or should have been supplied in accordance with point (c) of Article 6(a1).

Or. en

Amendment 610
Evelyne Gebhardt, Nicola Danti, Lucy Anderson, Anna Hedh, Christel Schaldemose, Josef Weidenholzer, Liisa Jaakonsaari, Marc Tarabella, Evelyn Regner

Proposal for a directive
Article 7 – paragraph 1 – point b

Text proposed by the Commission

(b) the digital content was intended to be integrated by the consumer and the incorrect integration was due to shortcomings in the integration instructions where those instructions were supplied in accordance with point (c) of Article 6(1) or should have been supplied in accordance with Article 6(2).

Amendment

(b) the digital content or digital service was intended to be integrated by the consumer and the incorrect integration was due to shortcomings in the integration instructions where those instructions were supplied in accordance with point (b) of Article 6(1) or should have been supplied in accordance with point (c) of Article 6(1).
(b) the digital content was intended to be integrated by the consumer and the incorrect integration was due to shortcomings in the integration instructions where those instructions were supplied in accordance with point (c) of Article 6(1) or should have been supplied in accordance with Article 6(2).

Amendment 612
Marco Zullo

Proposal for a directive
Article 7 – paragraph 1 – point b

(b) the digital content or digital service was intended to be integrated by the consumer and the incorrect integration was due to shortcomings in the integration instructions where those instructions were supplied in accordance with point (c) of Article 6(1) or should have been supplied in accordance with Article 6(2).

Amendment 613
Jean-Marie Cavada

Proposal for a directive
Article 7 – paragraph 1 – subparagraph 2 (new)

Text proposed by the Commission

It is therefore essential that the supplier and the consumer conclude a contract on the compatibility of the content with the consumer's digital environment.

Amendment

Or. fr

Amendment 614
Philippe Juvin

Proposal for a directive
Article 7 a (new)

Text proposed by the Commission

Article 7a.

Interoperability of digital books

1. Digital books provided for an unlimited duration of time must be interoperable and must therefore be provided in an open format.

2. If the supplier uses technical protection measures, it shall make the necessary interoperability information available to other digital book file suppliers if they request it.

Amendment

Or. fr

Amendment 615
Angelika Niebler

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission

1. At the time the digital content is supplied to the consumer, the digital content shall be free of any right of a third

Amendment

1. At the time the digital content is supplied to the consumer, the digital content shall be free of any right of a third
party, including based on intellectual property, so that the digital content can be used in accordance with the contract.

party who could prevent the consumer from using the digital content in accordance with the contract, including any right based on intellectual property, so that the digital content can be used in accordance with the contract.

Or. de

Justification

As worded here, the digital content would have to be free of all rights. However, it is sufficient that it should be free of opposing rights.

Amendment 616
Axel Voss, Eva Maydell

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission

1. At the time the digital content is supplied to the consumer, the digital content shall be free of any right of a third party, including based on intellectual property, so that the digital content can be used in accordance with the contract.

Amendment

1. The digital content or digital service shall be free from any restriction resulting from any right of a third party, including based on intellectual property rights, that may prevent the consumer from using the digital content or digital service in accordance with the contract.

Or. en

Amendment 617
Evelyne Gebhardt, Marlene Mizzi, Olga Sehnalová, Anna Hedh, Lucy Anderson, Christel Schaldemose, Liisa Jaakonsaari, Josef Weidenholzer, Marc Tarabella, Catherine Stihler, Evelyn Regner

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission

1. At the time the digital content is supplied to the consumer, the digital content shall be free of any right of a third party, including based on intellectual

Amendment

1. The digital content or digital service shall be free from any restriction resulting from any right of a third party, including based on intellectual property
property, so that the digital content can be used in accordance with the contract.

rights, that may prevent the consumer using the digital content or digital service in accordance with the contract.

Or. en

Amendment 618
Philippe Juvin

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission

1. At the time the digital content is supplied to the consumer, the digital content shall be free of any right of a third party, including based on intellectual property, so that the digital content can be used in accordance with the contract.

Amendment

1. At the time the digital content is supplied to the consumer, the digital content shall respect the rights of third parties, including those based on intellectual property.

Or. fr

Amendment 619
Marco Zullo

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission

1. At the time the digital content is supplied to the consumer, the digital content shall be free of any right of a third party, including based on intellectual property, so that the digital content can be used in accordance with the contract.

Amendment

1. At the time it is supplied to the consumer, the digital content or digital service shall be free of any right of a third party, including based on intellectual property, so that it can be used in accordance with the contract.

Or. it

Amendment 620
Angel Dzhambazki
Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission

1. At the time the digital content is supplied to the consumer, the digital content shall be free of any right of a third party, including based on intellectual property, so that the digital content can be used in accordance with the contract.

Amendment

1. At the time the digital content is supplied to the consumer, the digital content shall not be infringing any third party rights, including based on intellectual property, so that the digital content can be used in accordance with the contract.

Or. en

Amendment 621
Constance Le Grip

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission

1. At the time the digital content is supplied to the consumer, the digital content shall be free of any right of a third party, including based on intellectual property, so that the digital content can be used in accordance with the contract.

Amendment

1. At the time the digital content is supplied to the consumer, the digital content shall not violate any right of a third party, including based on intellectual property, so that the digital content can be used in accordance with the contract.

Or. fr

Amendment 622
Jean-Marie Cavada

Proposal for a directive
Article 8 – paragraph 1

Text proposed by the Commission

1. At the time the digital content is supplied to the consumer, the digital content shall be free of any right of a third party, including based on intellectual property, so that the digital content can be used in accordance with the contract.

Amendment

1. At the time the digital content is supplied to the consumer, the digital content shall respect all the rights of third parties, including those based on intellectual property, so that the digital content can be used in accordance with the contract.
property, so that the digital content can be used in accordance with the contract.

Amendment 623
Axel Voss, Eva Maydell

Proposal for a directive
Article 8 – paragraph 2

Text proposed by the Commission

2. Where the digital content is supplied over a period of time, the supplier shall, for the duration of that period, keep the digital content supplied to the consumer free of any right of a third party, including that based on intellectual property, so that the digital content can be used in accordance with the contract.

Amendment

2. Where the digital content is supplied over a period of time, the supplier shall, for the duration of that period, ensure that the digital content supplied to the consumer respects the rights of third parties, including those based on intellectual property.

Or. fr
Amendment 625
Evelyne Gebhardt, Josef Weidenholzer, Anna Hedh, Christel Schaldemose, Lucy Anderson, Liisa Jaakonsaari, Marc Tarabella, Evelyn Regner

Proposal for a directive
Article 8 – paragraph 2

Text proposed by the Commission

2. Where the digital content is supplied over a period of time, the supplier shall, for the duration of that period, keep the digital content supplied to the consumer free of any right of a third party, including that based on intellectual property, so that the digital content can be used in accordance with the contract.

Amendment

2. Where the digital content supplied over a period of time, the supplier shall, for the duration of that period, keep the digital content supplied to the consumer free of any right of a third party, including rights following from the terms of a license, that may prevent the consumer from using the digital content or digital service in accordance with the contract.

Or. en

Amendment 626
Marco Zullo

Proposal for a directive
Article 8 – paragraph 2

Text proposed by the Commission

2. Where the digital content is supplied over a period of time, the supplier shall, for the duration of that period, keep the digital content supplied to the consumer free of any right of a third party, including that based on intellectual property, so that the digital content can be used in accordance with the contract.

Amendment

2. Where the digital content or digital service is supplied over a period of time, the supplier shall, for the duration of that period, keep it supplied to the consumer free of any right of a third party, including that based on intellectual property, so that it can be used in accordance with the contract.

Or. it

Amendment 627
Angel Dzhambazki

Proposal for a directive
Article 8 – paragraph 2
2. Where the digital content is supplied over a period of time, the supplier shall, for the duration of that period, keep the digital content supplied to the consumer free of any right of a third party, including that based on intellectual property, so that the digital content can be used in accordance with the contract.

Or. en

Amendment 628
Constance Le Grip

Proposal for a directive
Article 8 – paragraph 2

Text proposed by the Commission

2. Where the digital content is supplied over a period of time, the supplier shall, for the duration of that period, keep the digital content supplied to the consumer free of any right of a third party, including that based on intellectual property, so that the digital content can be used in accordance with the contract.

Amendment

2. Where the digital content is supplied over a period of time, the supplier shall, for the duration of that period, ensure that the digital content supplied to the consumer does not violate the rights of a third party, including those based on intellectual property, so that the digital content can be used in accordance with the contract.

Or. fr

Amendment 629
Jean-Marie Cavada

Proposal for a directive
Article 8 – paragraph 2

Text proposed by the Commission

2. Where the digital content is supplied over a period of time, the supplier shall, for the duration of that period, keep the digital content supplied to the consumer free of any right of a third party, including that based on intellectual property, so that the digital content can be used in accordance with the contract.

Amendment

2. Where the digital content is supplied over a period of time, the supplier shall, for the duration of that period,
the digital content supplied to the consumer free of any right of a third party, including that based on intellectual property, so that the digital content can be used in accordance with the contract.

ensure that the digital content supplied to the consumer respects the rights of third parties, including those based on intellectual property, so that the digital content can be used in accordance with the contract.

Amendment 630
Julia Reda
Proposal for a directive
Article 8 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. Any failure by the supplier to ensure that such digital content is free of any right of a third party cannot lead to termination of the contract if the consumer has not consented to such termination.

Amendment 631
Marco Zullo
Proposal for a directive
Article 8 a (new)

Text proposed by the Commission

Amendment

Article 8a

Relevant time for establishing conformity with the contract

1. The supplier shall be liable for any lack of conformity with the contract which exists at the time when:

(a) the consumer or a third party indicated by the consumer and other than the carrier has acquired the physical
possession of the digital content or digital service; or

(b) the digital content or digital service is handed over to the carrier chosen by the consumer, where that carrier was not proposed by the seller or where the seller proposes no means of carriage.

2. In cases where the goods were installed by the supplier or under the supplier's responsibility, the time when the installation is complete shall be considered as the time when the consumer has acquired physical possession of the digital content or digital service. In a case where the digital content or digital service was intended to be installed by the consumer, the time when the consumer had reasonable time for the installation but in any case not later than 30 days after the time indicated in paragraph 1 shall be considered as the time when the consumer has acquired the physical possession of the goods.

3. Any lack of conformity with the contract which becomes apparent within two years from the time indicated in paragraphs 1 and 2 is presumed to have existed at the time indicated in paragraphs 1 and 2 unless this is incompatible with the nature of the digital content or digital service or with the nature of the lack of conformity.

Or. it

Amendment 632
Axel Voss, Eva Maydell

Proposal for a directive
Article 8 a (new)

Text proposed by the Commission

Amendment

Article 8 a
Relevant time for establishing conformity with the contract

The supplier shall be liable for any lack of conformity which exists at the time when

(a) a consumer or a third party indicated by the consumer and other than the carrier has acquired physical possession of a tangible medium in which the digital content or digital service is embedded,

(b) the tangible medium in which the digital content or digital service is embedded is handed over to the carrier chosen by the consumer, where that carrier was not proposed by the supplier or where the supplier proposes no means of carriage, without prejudice to the rights of the consumer against the carrier,

(c) a consumer or third party pursuant to Article 5 (1) has obtained control of the digital content or digital service, or

(d) the digital service or the digital content was supplied in accordance with Article 5, where control of the digital content or digital service cannot be obtained.

Amendment 633
Dennis de Jong

Proposal for a directive
Article 8 a (new)

Text proposed by the Commission

Amendment

Article 8 a

Relevant time for establishing conformity with the contract

1. The seller shall be liable for any lack of conformity with the contract which exists at the time when:

(a) the consumer or a third party indicated by the consumer and other than the carrier...
the carrier has acquired the physical possession of the goods; or
(b) the goods are handed over to the carrier chosen by the consumer, where that carrier was not proposed by the seller.

2. In cases where the goods were installed by the seller or under the seller’s responsibility, the time when the installation is complete shall be considered as the time when the consumer has acquired the physical possession of the goods. In a case where the goods were intended to be installed by the consumer, after a time period of 30 days shall be considered as the time when the consumer has acquired the physical possession of the goods.

Amendment 634
Evelyne Gebhardt, Biljana Borzan, Marc Tarabella, Catherine Stihler, Evelyn Regner

Proposal for a directive
Article 8(a) (new)

Text proposed by the Commission

Amendment

Article 8(a)

Commercial guarantees

1. Any commercial guarantee shall be binding on the guarantor under the conditions laid down in:

(a) pre-contractual information provided by the seller, including any pre-contractual statement which forms an integral part of the contract;

(b) advertising available at the time of or before the conclusion of the contract; and

(c) the guarantee statement.

2. The guarantee statement shall be made available in writing or in another durable
medium and drafted in plain, intelligible language. It shall include the following:

(a) a clear statement of the legal rights of the consumer as provided for in this Directive and a clear statement that those rights are not affected by the commercial guarantee; and

(b) the terms of the commercial guarantee that go beyond the legal rights of the consumer, information about the duration, transferability, territorial scope and existence of any charges which the consumer might incur in order to benefit from the commercial guarantee, the name and address of the guarantor and, if different from the guarantor, the person against whom any claim is to be made and the procedure by which the claim is to be made.

Amendment 635
Evelyne Gebhardt, Kerstin Westphal, Nicola Danti, Virginie Rozière, Maria Grapini, Olga Sehnalová, Josef Weidenholzer, Christel Schaldemose, Anna Hedh, Lucy Anderson, Liisa Jaakonsaari, Biljana Borzan, Marc Tarabella, Catherine Stihler, Evelyn Regner

Proposal for a directive
Article 8 b (new)

Text proposed by the Commission

Amendment

Article 8 b

Commercial guarantees for lifespan

1. The producer of a technical good in which digital content or a digital service is embedded shall guarantee to the consumer the fitness of the product for its foreseeable minimum life span and indicate how long this life span is. The indicated timeframe shall not be shorter than the legal prescription period of the Member State where the consumer has his habitual residence and shall reflect
the expectations of a reasonable and typical consumer.

2. When the producer does not fulfil his obligations according to paragraph 1, he shall have the same obligations to the consumer as the supplier.

Or. en

Amendment 636
Angelika Niebler

Proposal for a directive
Article 9

Text proposed by the Commission
Amendment

Article 9 deleted

Burden of proof
1. The burden of proof with respect to the conformity with the contract at the time indicated in Article 10 shall be on the supplier.

2. Paragraph 1 shall not apply where the supplier shows that the digital environment of the consumer is not compatible with interoperability and other technical requirements of the digital content and where the supplier informed the consumer of such requirements before the conclusion of the contract.

3. The consumer shall cooperate with the supplier to the extent possible and necessary to determine the consumer's digital environment. The obligation to cooperate shall be limited to the technically available means which are the least intrusive for the consumer. Where the consumer fails to cooperate, the burden of proof with respect to the non-conformity with the contract shall be on the consumer.

Or. de
Justification

For reasons of clarity the provisions of Articles 9 and 10 should be combined into a single article. This amendment therefore needs to be considered in conjunction with the amendment to Article 10.

Amendment 637
Dennis de Jong

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

1. The burden of proof with respect to the conformity with the contract at the time indicated in Article 10 shall be on the supplier.

Amendment

1. The burden of proof with respect to the conformity with the contract at the time indicated in Article 10 shall be on the supplier or the seller in the case of a tangible good with embedded software. Any lack of conformity with the contract which becomes apparent within the expected lifespan of the product from the time indicated in Article 8a (1) and (2) is presumed to have existed at the time indicated in Article 10 unless this is incompatible with the nature of the goods or with the nature of the lack of conformity.

Or. en

Amendment 638
Dietmar Köster

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

1. The burden of proof with respect to the conformity with the contract at the time indicated in Article 10 shall be on the supplier.

Amendment

1. Any lack of conformity with the contract which becomes apparent within six years from the time indicated in Article 10 is presumed to have existed at this time unless this is incompatible with the nature
of the goods or with the nature of the lack of conformity.

Or. en

Amendment 639
Kaja Kallas, Dita Charanzová, Jean-Marie Cavada

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

1. The burden of proof with respect to the conformity with the contract at the time indicated in Article 10 shall be on the supplier.

Amendment

1. The burden of proof with respect to conformity with the contract at the time indicated in Article 10 shall be on the supplier within the first six months from the time when the digital content is supplied.

Or. en

Amendment 640
Lambert van Nistelrooij

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

1. The burden of proof with respect to the conformity with the contract at the time indicated in Article 10 shall be on the supplier.

Amendment

1. The burden of proof with respect to the conformity with the contract at the time indicated in Article 10 shall be on the supplier, for 6 months after the delivery.

Or. en

Amendment 641
Birgit Collin-Langen

Proposal for a directive
Article 9 – paragraph 1
Text proposed by the Commission

1. The burden of proof with respect to the conformity with the contract at the time indicated in Article 10 shall be on the supplier.

Amendment

1. The burden of proof with respect to the conformity with the contract at the time indicated in Article 10 shall be on the supplier for the first six months.

Or. de

Amendment 642
Andreas Schwab

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

1. The burden of proof with respect to the conformity with the contract at the time indicated in Article 10 shall be on the supplier.

Amendment

1. The burden of proof with respect to the conformity with the contract at the time indicated in Article 10 shall be on the supplier for a period of six months.

Or. de

Justification

A burden of proof on the provider for six months seems to provide adequate consumer protection while also taking providers' interests into account.

Amendment 643
Lara Comi, Elisabetta Gardini, Stefano Maullu

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

1. The burden of proof with respect to the conformity with the contract at the time indicated in Article 10 shall be on the supplier.

Amendment

1. Where a lack of conformity becomes apparent within two years from the time indicated in paragraph 10, the supplier shall be liable in respect of that lack of conformity.

Or. it
Amendment 644
Axel Voss, Eva Maydell

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

1. The burden of proof with respect to the conformity with the contract at the time indicated in Article 10 shall be on the supplier.

Amendment

1. Any lack of conformity with the contract which becomes apparent within six months after supply shall be presumed to have existed at the time of supply.

Or. en

Amendment 645
Antanas Guoga

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

1. The burden of proof with respect to the conformity with the contract at the time indicated in Article 10 shall be on the supplier.

Amendment

1. The burden of proof with respect to whether the digital content was supplied in accordance with Article 5 shall be on the supplier.

Or. en

Amendment 646
Lara Comi, Elisabetta Gardini, Stefano Maullu

Proposal for a directive
Article 9 – paragraph 1 a (new)

Text proposed by the Commission

1a. The consumer shall forfeit his rights under this Directive if he fails to inform the seller of the lack of conformity within a period of two months from the date on which the defect was detected or
could have been detected exercising normal care and attention.

Amendment 647
Lara Comi, Elisabetta Gardini, Stefano Maullu

Proposal for a directive
Article 9 – paragraph 1 b (new)

Text proposed by the Commission

1b. Unless there is evidence to the contrary, any lack of conformity that becomes apparent within six months from the time indicated in Article 10 shall be presumed to have already existed at that time.

Amendment

Or. it

Amendment 648
Angel Dzhambazki

Proposal for a directive
Article 9 – paragraph 2

Text proposed by the Commission

2. Paragraph 1 shall not apply where the supplier shows that the digital environment of the consumer is not compatible with interoperability and other technical requirements of the digital content and where the supplier informed the consumer of such requirements before the conclusion of the contract.

Amendment

2. Paragraph 1 shall not apply where the digital environment of the consumer is not compatible with interoperability and other technical requirements of the digital content and where the supplier informed the consumer of such requirements before the conclusion of the contract. The consumer shall have a moral responsibility to take all steps necessary, and within his means, to ensure compatibility of the digital environment on his end, as per the requirements provided by the supplier.

Or. en
Justification

A differentiated approach is needed, as the consumer must equally ensure the technical interoperability regarding his personal digital environment, to which the supplier has no access, nor any prior knowledge of, given the fact, that the supplier has lawfully provided the consumer with the necessary information, regarding interoperability and technical requirements.

Amendment 649
Julia Reda

Proposal for a directive
Article 9 – paragraph 2

Text proposed by the Commission

2. Paragraph 1 shall not apply where the supplier shows that the digital environment of the consumer is not compatible with interoperability and other technical requirements of the digital content and where the supplier informed the consumer of such requirements before the conclusion of the contract.

Amendment

2. Paragraph 1 shall not apply where the supplier shows that the digital environment of the consumer is not compatible with interoperability and other technical requirements of the digital content and where the supplier informed the consumer of such requirements before the conclusion of the contract in an easily understandable manner.

Or. en

Amendment 650
Evelyne Gebhardt, Nicola Danti, Josef Weidenholzer, Lucy Anderson, Christel Schaldemose, Liisa Jaakonsaari, Anna Hedh, Marc Tarabella, Catherine Stihler, Evelyn Regner

Proposal for a directive
Article 9 – paragraph 2

Text proposed by the Commission

2. Paragraph 1 shall not apply where the supplier shows that the digital environment of the consumer is not compatible with interoperability and other technical requirements of the digital content and where the supplier informed the consumer of such requirements before the conclusion of the contract.

Amendment

2. Paragraph 1 shall not apply where the supplier shows that the digital environment of the consumer is not compatible with interoperability and other technical requirements of the digital content or digital service and where the supplier informed the consumer of such requirements before the conclusion of the contract.
the consumer of such requirements before the conclusion of the contract.

Amendment 651
Axel Voss, Eva Maydell

Proposal for a directive
Article 9 – paragraph 2

Text proposed by the Commission

2. Paragraph 1 shall not apply where the supplier shows that the digital environment of the consumer is not compatible with interoperability and other technical requirements of the digital content and where the supplier informed the consumer of such requirements before the conclusion of the contract.

Amendment

2. Paragraph 1 shall not apply where the supplier shows that the digital environment of the consumer is not compatible with interoperability and other technical requirements of the digital content or digital service and where the supplier informed the consumer of such requirements before the conclusion of the contract.

Amendment 652
Marco Zullo

Proposal for a directive
Article 9 – paragraph 2

Text proposed by the Commission

2. Paragraph 1 shall not apply where the supplier shows that the digital environment of the consumer is not compatible with interoperability and other technical requirements of the digital content and where the supplier informed the consumer of such requirements before the conclusion of the contract.

Amendment

2. Paragraph 1 shall not apply where the supplier shows that the digital environment of the consumer is not compatible with interoperability and other technical requirements of the digital content or digital service and where the supplier informed the consumer of such requirements before the conclusion of the contract.
Amendment 653
Constance Le Grip

Proposal for a directive
Article 9 – paragraph 2

Text proposed by the Commission

2. Paragraph 1 shall not apply where the supplier shows that the digital environment of the consumer is not compatible with interoperability and other technical requirements of the digital content and where the supplier informed the consumer of such requirements before the conclusion of the contract.

Amendment

2. Paragraph 1 shall not apply where the supplier shows that the digital environment of the consumer is not compatible with the technical requirements of the digital content and where the supplier informed the consumer of such requirements before the conclusion of the contract.

Or. fr

Amendment 654
Lara Comi, Elisabetta Gardini, Stefano Maullu

Proposal for a directive
Article 9 – paragraph 2

Text proposed by the Commission

2. Paragraph 1 shall not apply where the supplier shows that the digital environment of the consumer is not compatible with interoperability and other technical requirements of the digital content and where the supplier informed the consumer of such requirements before the conclusion of the contract.

Amendment

2. Paragraph 1b shall not apply where the supplier shows that the digital environment of the consumer is not compatible with interoperability and other technical requirements of the digital content and where the supplier informed the consumer of such requirements before the conclusion of the contract.

Or. it