

Safety and sustainability in e-commerce

A brief overview of recent market trends
and regulatory developments in the EU

Prof. Dr. Christoph Busch
University of Osnabrück & Yale ISP
Chairman of the German Advisory Council
on Consumer Affairs

The German Advisory Council on Consumer Affairs



- Established in 2014
- Independent and interdisciplinary
- 9 Members
 - 7 Academics (law, economics, sociology, psychology)
 - 2 Representatives of consumer and business organisations
- Appointed for 4 years

Role and tasks

- Policy monitoring and research on the situation of consumers
- Identifying needs for consumer policy reform
- Impact assessments (ex ante)
- Evaluations of political measures (ex post)
- Publication of reports and policy briefs

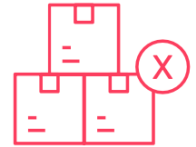


Overview

- Trends and challenges in e-commerce imports
- The existing EU regulatory framework
- Recent EU initiatives: Towards a holistic approach
- Future challenges: Generative AI and e-commerce

Trends and challenges in e-commerce imports

- Goods directly imported by consumers have surged
- Influx of low value items (< 150 EUR) has doubled since 2023 and tripled since 2022
- 91% of all low value shipments come from China
- Temu and Shein have grown exponentially in the EU market



4.6 billion

low-value items were imported
into the EU in 2024 - equaling
12 million parcels per day



Around

17.5 million

counterfeit articles
detained at the EU
border in 2023

Trends and challenges in e-commerce imports

- Convergence of social media and e-commerce (social commerce)
- Increasing role of influencers, live shopping

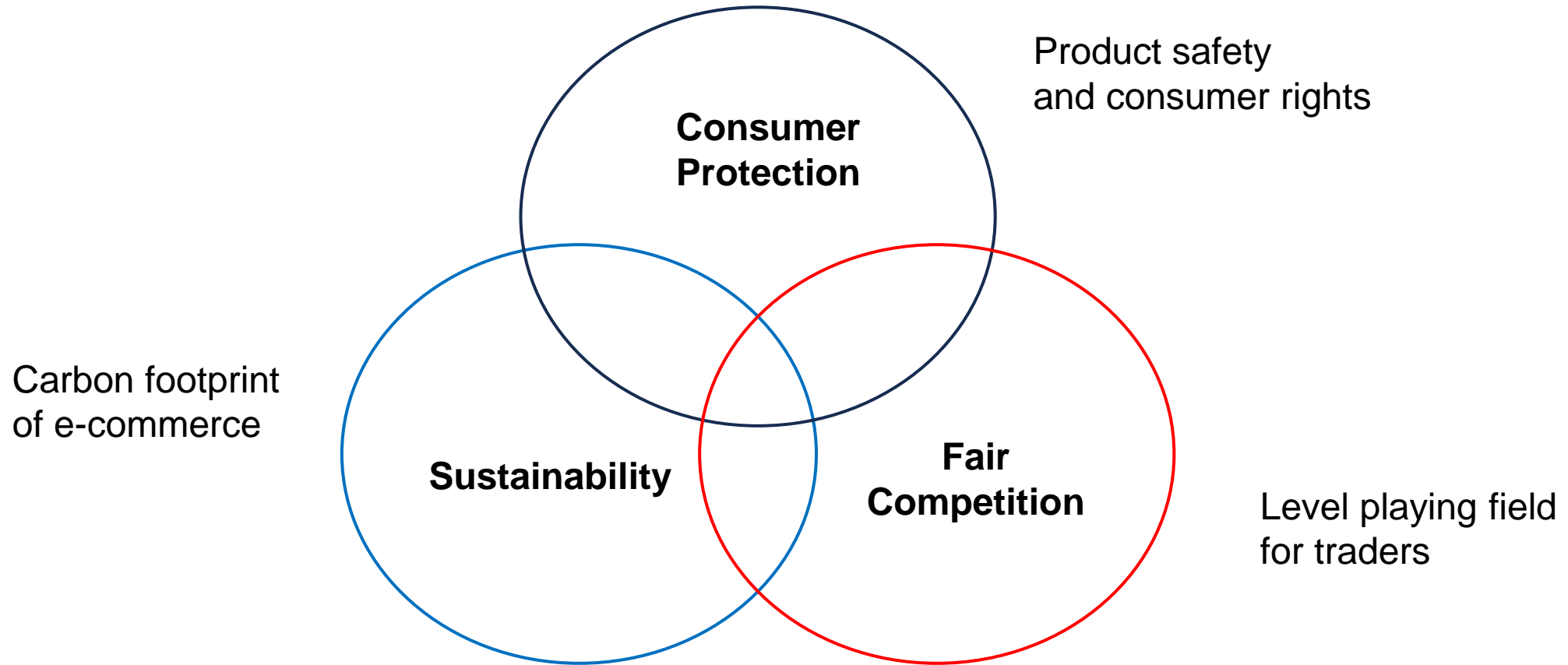
TikTok Tech / Big Tech

TikTok Shop to expand to Germany, France, Italy next week amid uncertainty in US

The move marks a major expansion of the short-video app's e-commerce operations in Europe as it faces a looming ban in its largest market

South China Morning Post, March 28, 2025

Trends and challenges in e-commerce imports



The existing EU regulatory framework

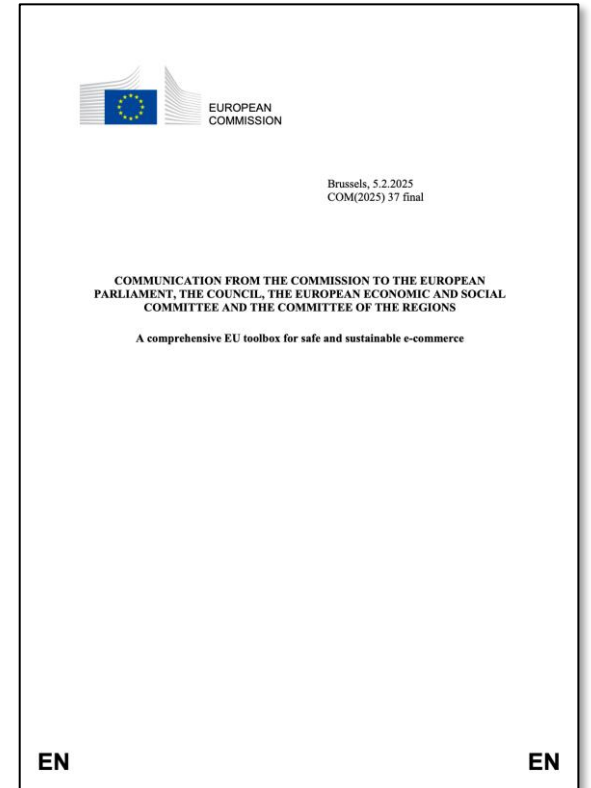
Complex interplay of different regulatory tools

- **Digital Services Act:** Due diligence obligations for online platforms, e.g. “know your business customer” principle, evaluation and mitigation of risks
- **Consumer Law:** Unfair Commercial Practices Directive, Consumer Rights Directive Unfair Contract Terms Directive
- **Product Safety Law:** Market Surveillance Regulation, General Product Safety Regulation (since Dec 2024), e.g. requirement of a “responsible person” in the EU
- **Ecodesign for Sustainable Products Regulation:** Digital Product Passport with information about materials, manufacturing methods, sustainability features

Recent EU initiatives: Towards a holistic approach

A comprehensive EU toolbox for safe and sustainable e-commerce (5 February 2025)

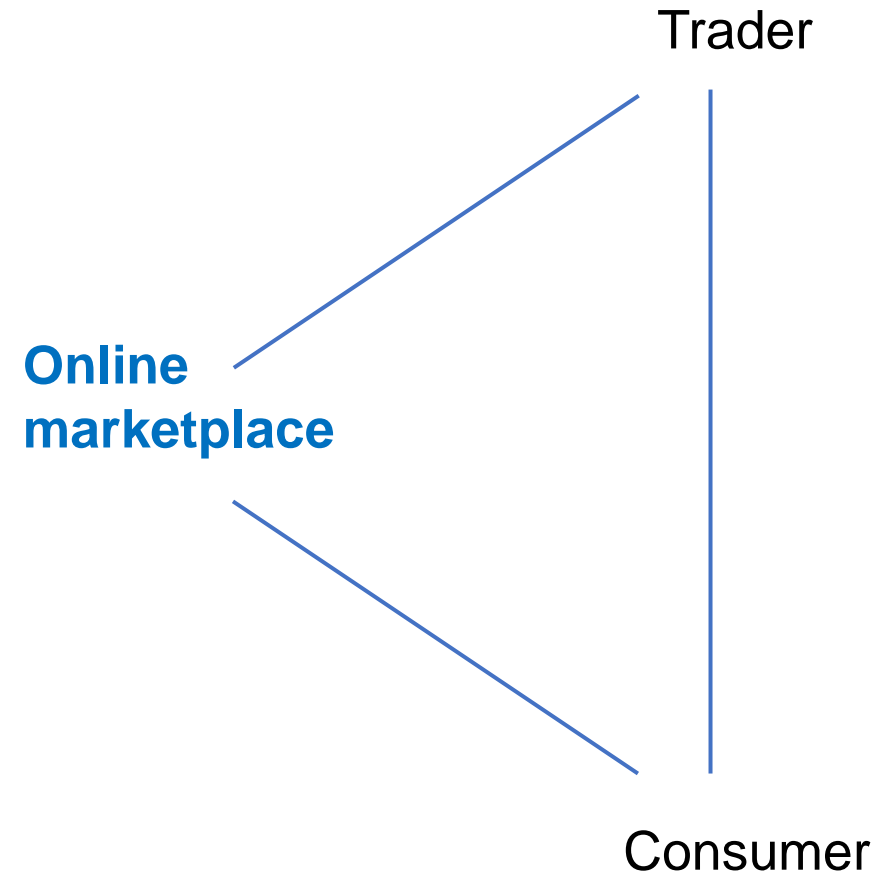
- Customs reform package
- Reform of environmental standards
- Stricter enforcement of DSA and product safety laws
- Coordinated actions to enforce EU consumer law
- Use of digital tools to strengthen e-commerce control



Recent EU initiatives: Towards a holistic approach

Customs reform package

- Removal of **150 EUR customs exemption**
- New **EU Customs Authority** which will operate an EU Customs Data Hub
- Online marketplaces will become **deemed importers** and collect duties
- New **handling fee** on e-commerce items which will be incurred by the importer



Recent EU initiatives: Towards a holistic approach

Coordinated enforcement actions against Temu

- **31 Oct 2024: EU Commission investigation for violation of DSA**
 - Reappearance of previously suspended rogue traders and non-compliant goods
 - Addictive design, including game-like reward programmes
- **8 Nov 2024: Joint investigation by CPC Network for violation of EU consumer law**
 - Fake discounts, dark patterns, forced gamification, fake reviews
- Commission proposal for a reform of the Consumer Protection Coordination Regulation (EU) 2017/2394 (“CPC Regulation”) expected later in 2025
 - Centralized enforcement powers for the EU Commission (?)

Recent EU initiatives: Towards a holistic approach

Need for further reform

- Currently, Art. 31(3) DSA only requires online marketplaces to “make reasonable efforts to randomly check” the EU Safety Gate portal for illegal products after allowing a trader to offer products on its platform.
 - ➔ **Ex ante checks of products**, at least for high-risk product categories
- Under Art. 8(4) of the Product Liability Directive (EU) 2024/2853, platforms can easily avoid liability for defective products offered by third-party traders.
 - ➔ Application of the “**deemed importer**” **concept** also for product liability

Future challenges: Generative AI and e-commerce

Perplexity launches an AI-powered shopping assistant - and it even gets you free shipping

Get the AI shopping help you need, and other perks, right in time for the holidays with Perplexity's new 'first-of-its-kind commerce experience'.



Written by **Sabrina Ortiz**, Editor
Nov. 19, 2024 at 11:32 a.m. PT



zorandimzr/Getty Images

- New access point for e-commerce
- Different customer journeys: websites and online marketplaces could move from the center to the periphery
- AI-driven comparison shopping will reduce search costs and could change customer loyalty
- Websites could respond to these changes by optimizing their design for AI assistants

Future challenges: Generative AI and e-commerce

OpenAI Unveils A.I. Agent That Can Use Websites on Its Own

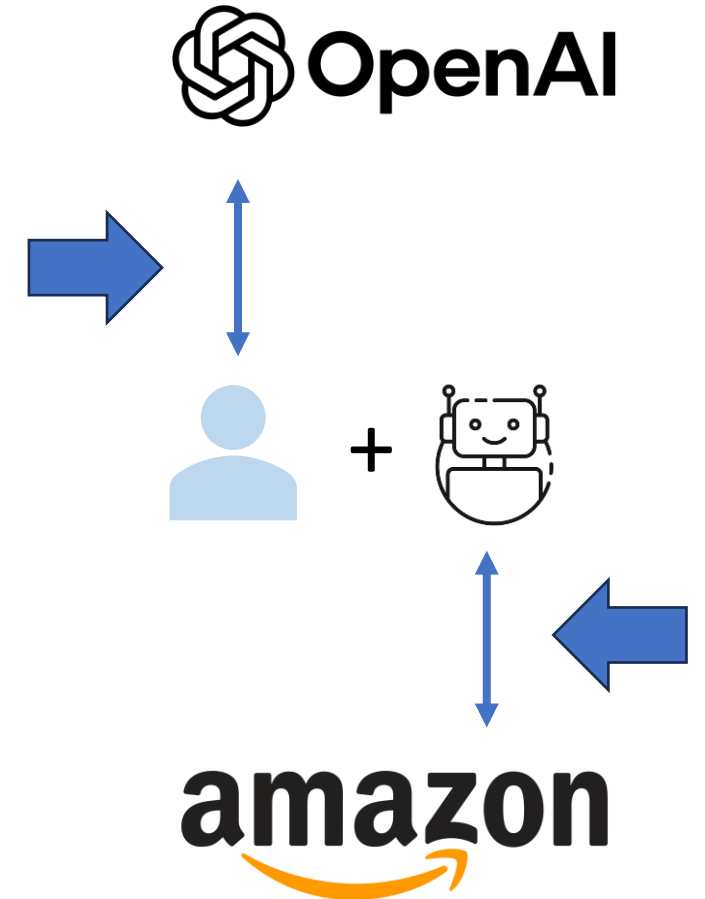
The new tool, called Operator, can shop for groceries or book a restaurant reservation. But it still needs help from humans.

New York Times, January 23, 2025

A-Commerce Is Coming: Agentic AI And The “Do It For Me” Economy

By [David G.W. Birch](#), Contributor. David Birch is a London-based advisor on digi... [Follow Author](#)

Forbes, February 6, 2025



Future challenges: Generative AI and e-commerce

The rise of AI agents and “agentic commerce” challenges the premises of consumer law

- Consumer law is human-centric – it is based on the premise that *humans* make purchasing decisions.
- How will consumer law instruments have to be adapted to AI agents acting as “algorithmic consumers” (e.g. pre-contractual information, rules on dark patterns)?
- Will AI agents be less vulnerable to behavioral biases? Will they be more “rational” than humans? Can they support human consumers as “choice engines”?
- How to protect AI agents against manipulation (e.g. prompt injections)
- How to protect human consumers against manipulation by AI agents?

Further reading

Christoph Busch, Consumer Law for AI Agents
(forthcoming German Law Journal 2025)

Preprint available on SSRN:

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=5187056

Consumer Law for AI Agents

*Christoph Busch**

forthcoming German Law Journal (2025)

Abstract

Since the public release of ChatGPT in November 2022, the AI landscape is undergoing a rapid transformation. Currently, the use of AI chatbots by consumers has largely been limited to image generation or question-answering language models. The next generation of AI systems, AI agents that can plan and execute complex tasks with only limited human involvement, will be capable of a much broader range of actions. In particular, consumers could soon be able to delegate purchasing decisions to AI agents acting as “Custobots”. Against this background, the Article explores whether EU consumer law, as it currently stands, is ready for the rise of the Custobot Economy. In doing so, the Article makes three contributions. First, it outlines how the advent of AI agents could change the existing e-commerce landscape. Second, it explains how AI agents challenge the premises of a human-centric consumer law which is based on the assumption that consumption decisions are made by humans. Third, the Article presents some initial considerations how a future consumer law could look like that works for both humans and machines.

Keywords: AI agents, agentic commerce, consumer law, artificial intelligence

* Professor of Law, European Legal Studies Institute, University of Osnabrück; Affiliated Fellow, Information Society Project, Yale Law School. This research has been carried out within the scope of the project “Granular Society – Granular Law? Individuality and Normative Models in the Data Society” funded by VolkswagenStiftung under a Momentum Grant. For valuable input, I am grateful to participants at the 2024 Regulating AI Conference at Peking University School of Transnational Law, the 2025 Consumer Law Scholars Conference at Boston University as well as workshops hosted at the University of Münster, Keio University, Tokyo, and Korea University, Seoul.

Safety and sustainability in e-commerce

A brief overview of recent market trends
and regulatory developments in the EU

Prof. Dr. Christoph Busch
University of Osnabrück & Yale ISP
Chairman of the German Advisory Council
on Consumer Affairs