

**- Statement on the Directive concerning financial services contracts
concluded at a distance –**

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A generic withdrawal button only works for services, but is impractical for the sale of goods. A differentiated solution is required.

Both, the European Parliament and the Council are discussing amendments to the Directive concerning financial services contracts concluded at a distance with the view to propose a mandatory withdrawal button for all contracts concluded through an online interface. Such a generic withdrawal button is impractical in the case of sales of goods, it would make buying and withdrawing processes more complex for consumers and represent a huge challenge for small retailers with rudimentary/simple online shops. As opposed to services, a two-click-solution is technically not possible to make the withdrawal from a sale of goods safe and effective in practice. The specificity of the online sale of goods requires a differentiated approach with a tailored solution for withdrawals. We propose an alternative solution, based on a button that will facilitate consumers' ability to return goods, and thereby effectively withdraw from the purchase of the good(s).

1. Key practical issues with the current proposal for a generic withdrawal button for goods and services

Specificity of the withdrawal from a sale of goods online: the return process

In the case of the online sale of goods, a withdrawal button only gives an indication of the intention to withdraw from a contract. The process differs for goods as opposed to services in that only returning the product will entitle the consumer to reimbursement. The withdrawal will only become effective (with the reimbursement of the consumer) once the good is returned to the retailer (see article 13(3) of the Consumer Rights Directive). This return process requires the exercise of the right of withdrawal via a return form (either accessible online with the order number or provided with the product in the box) and the return by postal means of the good(s). The proposed generic 'withdrawal button' on the online interface overlooks the critical importance of the return process and of the forms to be used to make the withdrawal from the sales contract effective in practice.

A 1-2 click "withdrawal button" would force consumers to create a customer account and store data on the trader's website.

Displaying a prominently button during the 14 day withdrawal period is only possible if the customer has a customer account on the retailer's website and is logged in to his/her account. Indeed, this 'individualised' display requires the website to be connected to a personal customer account that the consumer is logged in to and which keeps track of and gives access to the order details and hence on the duration of the withdrawal period. In case of an order consisting out of several items, the consumer needs to indicate the item he/she would like to return. The consumer would need to either manually enter the Product ID or select the product from the order. Selecting from an existing order is only possible if the consumer is logged in to a customer account and if personal data is accessible via the web shop. The data access would require a connection between the web shop and the retailers' selling department.

Currently, many online sales channels do not require the creation of a customer account and many consumers do not wish to create an account every time they wish to order something online, as this would require the storage of their personal data with every trader, thus increasing the risk of being exposed to data abuse or attack. Consumers should not be forced to create a customer account and store data solely because they need to be able to withdraw from the contract (especially as in the case of the sale of goods, the return process is the decisive step of the withdrawal, which does not require in itself the creation of a customer account). **A 1-2 click withdrawal button would force SME retailers to invest in a costly overhaul of their web shop.**

Moreover, any obligation for an online sales channel to register personal data via a customer account will be challenging for small retailers, as it will require a costly overhaul of their IT infrastructure to make it workable.

Such an IT system would require the web shop to tie the registered intent to withdraw to the actual order, and hence personal data is needed. This requires an interface between the web shop and the personal data at the selling department. This is more sophisticated than what most online sales channels operated by SME retailers allow for. SMEs often do not allow for the creation of customer accounts since establishing an IT interface between the web shop and the selling department that sufficiently satisfies data protection requirements is very costly. In this context, also the proposed automated and instant email, confirming that the right to withdrawal has been exercised will be problematic. Most SMEs will not be able to afford the overhaul of their web store. This would be problematic, as SME retailers' ability to compete online against large marketplaces and integrated chains largely depends on their capacity to have a well-functioning web shop with low start-up and running costs. Retailers should be able to decide freely on how they want to build technically the return process.

A withdrawal button is making withdrawal more complex for consumers in the case of online sales of goods.

Currently, in the case of the sale of goods, a withdrawal is a very simple step, as it requires the consumer to 1) use the return form provided by the retailer (provided with the good, or to be downloaded from the retailer's website) 2) send back the good with the form.

The introduction of a withdrawal button on the online sales channel would actually add several steps to the process: 1) Login 2) Click on the withdrawal button 3) Selection of the goods of an order which should be returned, 4) Withdrawal 5) Confirmation 6) Use of the return form (provided with the good, or to be downloaded from the retailer's website) 7) Send back the good with the form.

The introduction of a withdrawal button actually makes the process more complicated for consumers, increases their risk to data abuse/attack and ignores the crucial step of the withdrawal, which is the actual return of the product. If the objective is to facilitate the withdrawal of a contract for the sale of goods, alternative solutions should be considered, prioritising the accessibility of the return form. Consumers should not be obliged to use the withdrawal button, they should always be able to choose freely between different options for expressing their intent to withdraw.

2. Alternative solution proposed to facilitate withdrawal for the online sales of goods.

Since a withdrawal button for goods would need to be significantly different from a cancellation button for services and must take into account the critical step of the return of the good, **we suggest an alternative solution for the sale of goods:**

- An obligation to prominently display a button on the homepage, which leads to a dedicated page on the return policy with clear instructions on the return policy and the return form to be used.

- Such a mandatory button, linking to the return policy and the return form, should be displayed permanently and not be tied to an individual customer, sale or withdrawal period. This will simplify the IT infrastructure and enable to avoid mandating the creation of consumer accounts.
- Additionally, an obligation could be introduced to display prominently in the (mandatory) electronic confirmation of the contract a link to the withdrawal instructions, including with a direct a link to the return form.

For questions or further information, please contact

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Independent Retail Europe

Established in 1963, **Independent Retail Europe** (formerly UGAL – the Union of groups of independent retailers of Europe) is the European association that acts as an umbrella organisation for groups of independent retailers in the food and non-food sectors.

Independent Retail Europe represents retail groups characterised by the provision of a support network to independent SME retail entrepreneurs; joint purchasing of goods and services to attain efficiencies and economies of scale, as well as respect for the independent character of the individual retailer.

Our members are groups of independent retailers, associations representing them as well as wider service organizations built to support independent retailers.

Independent Retail Europe represents 23 groups and their over 417.800 independent retailers, who manage more than 753.500 sales outlets, with a combined retail turnover of more than 1,320 billion euros and generating a combined wholesale turnover of 513 billion euros. This represents a total employment of more than 6.500.000 persons.

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