

MALTA

**ATT Nru XIII tal-2022**

ATT maħruġ b'ligi mill-Parlament ta' Malta.

**ATT sabiex jemenda l-Att dwar l-Affarijiet tal-Konsumatur, Kap. 378 u ligijiet varji dwar il-protezzjoni tal-konsumatur.**

**ACT No. XIII of 2022**

AN ACT enacted by the Parliament of Malta.

**AN ACT to amend the Consumer Affairs Act, Cap. 378 and other laws relating to consumer protection.**



Nagħti l-kunsens tiegħi.

(L.S.)

**FRANK BEZZINA**  
**Agent President**

21 ta' Ottubru, 2022

**ATT Nru XIII tal-2022**

*ATT sabiex jemenda l-Att dwar l-Affarijiet tal-Konsumatur, Kap. 378 u ligijiet varji dwar il-protezzjoni tal-konsumatur.*

IL-PRESIDENT bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, hareg b'ligi dan li ġej:-

1. (1) It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2022 li jemenda l-Att dwar l-Affarijiet tal-Konsumatur u Ligijiet oħra dwar il-protezzjoni tal-konsumatur. Titolu fil-qosor, bidu fis-sehħ u skop.

(2) Dan l-Att għandu jidhol fis-sehħ mal-pubblikazzjoni tiegħu fil-Gazzetta.

Izda kull investigazzjoni pendenti mibdija, jew kull proċedura ġudizzjarja istitwita skont l-Att dwar l-Affarijiet tal-Konsumatur u kwalunkwe regolamenti magħmula tahtu, qabel id-dhul fis-sehħ ta' dan l-Att, għandhom jibqgħu jigu regolati mill-Att dwar l-Affarijiet tal-Konsumatur u r-regolamenti magħmula tahtu fis-sehħ qabel id-dhul fis-sehħ ta' dan l-Att. Kap.378.

(3) L-għan ta' dan l-Att huwa li jittrasponi d-Direttiva (UE) 2019/2161 tal-Parlament Ewropew u tal-Kunsill tas-27 ta' Novembru 2019 li temenda d-Direttiva tal-Kunsill 93/13/KEE u d-Direttivi 98/6/KE, 2005/29/KE u 2011/83/UE tal-Parlament Ewropew u tal-Kunsill dwar l-infurzar aħjar u mmodernizzar tar-regoli tal-Unjoni dwar il-protezzjoni tal-konsumatur, u sabiex isiru emendi oħra meħtieġa.

**TAQSIMA I**  
**EMENDI GHALL-ATT DWAR L-AFFARIJJIET TAL-**  
**KONSUMATUR**

Emendi għall-Att dwar l-Affarijjet tal-Konsumatur. Kap. 378.

**2.** Din it-Taqsima temenda l-Att dwar l-Affarijjet tal-Konsumatur u għandha tinqara u tinftiehem haġa waħda mal-Att dwar l-Affarijjet tal-Konsumatur, hawn iżjed `il quddiem f`din it-Taqsima msejjaħ "l-Att prinċipali".

Emenda tal-artikolu 12I tal-Att prinċipali.

**3.** L-artikolu 12I tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) in-nota marginali tiegħu għandha tiġi sostitwita b`din in-nota marginali ġdida li ġejja :

"Appelli quddiem il-Qorti tal-Appell u pubblikazzjoni tas-sentenzi.";

(b) fil-proviso tiegħu, il-kliem "lill-partijiet kollha." għandhom jiġu sostitwiti bil-kliem "lill-partijiet kollha:" u minnufih wara għandhom jiżdiedu dawn il-provisos ġodda li ġejjin:

"Izda wkoll il-Qorti tal-Appell għandha tippubblika kull sentenza wara li tqis l-interess leġittimu tal-persuna konċernata fir-rigward tal-protezzjoni tas-sigrieti tan-negozju jew informazzjoni kunfidenzjali oħra. Il-Qorti tal-Appell tista` tagħti lill-partijiet konċernati l-opportunità li jispeċifikaw il-partijiet kunfidenzjali tas-sentenza li huma jixtiequ li jkunu esklużi mill-pubblikazzjoni:

Izda wkoll il-Qorti tal-Appell għandha finalment tiddeċiedi liema verżjoni għandha tiġi pubblikata:

Izda wkoll id-Direttur Ġenerali għandu jippubblika wkoll fuq is-sit elettroniku tal-Awtorità is-sentenza tal-Qorti tal-Appell."

Emenda tal-artikolu 21 tal-Att prinċipali.

**4.** Fil-proviso tas-subartikolu (1) tal-artikolu 21 tal-Att prinċipali, il-kliem "skont il-liġi." għandhom jiġu sostitwiti bil-kliem "skont il-liġi:" u minnufih wara għandu jiżdied dan il-proviso ġdid li ġej:

"Izda wkoll meta jiġu determinati kwistjonijiet ftilwim li jikkonċerna dannu mġarrab mill-konsumaturi li jirriżulta minn prattiċi kummerċjali mhux ġusti, it-tribunal għandu jordna rimedji proporzjonati u effettivi, inkluż kumpens għad-dannu mġarrab mill-konsumatur u, fejn rilevanti, tnaqqis fil-prezz jew it-terminazzjoni tal-kuntratt; b`kont meħud ukoll, fejn xieraq, tal-gravità u n-natura tal-prattika kummerċjali mhux ġusta, id-dannu mġarrab mill-konsumatur u ċirkostanzi oħra rilevanti."

5. L-artikolu 51A tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 51A tal-Att prinċipali.

(a) minnufih wara t-tifsira "influenza mhux xierqa", għandha tiġi miżjuda din it-tifsira ġdida li ġejja:

" "klassifikazzjoni" tfisser il-prominenza relattiva mogħtija lill-prodotti, kif ipprezentati, organizzati jew ikkomunikati mill-kummerċjant, irrispettivament mill-mezzi teknoloġiċi użati għal tali prezentazzjoni, organizzazzjoni jew komunikazzjoni;"

(b) it-tifsira "prodott" għandha tiġi sostitwita b'din it-tifsira ġdida li ġejja:

" "prodott" tfisser kwalunkwe oġġett jew servizz inklużi proprjetà immobbli, servizzi diġitali u kontenut diġitali, kif ukoll drittijiet u obbligi;" u

(ċ) fit-tifsira "stedina għax-xiri." l-kliem "għax-xiri." għandhom jiġu sostitwiti bil-kliem "għax-xiri;" u minnufih wara għandha tiġi miżjuda t-tifsira ġdida li ġejja:

" "suq online" tfisser servizz bl-użu ta' software, inklużi sit elettroniku, parti minn sit elettroniku jew applikazzjoni, operat minn kummerċjant jew f'ismu, li jippermetti lill-konsumaturi jikkonkludu kuntratti mill-bogħod ma' kummerċjanti jew konsumaturi oħra."

6. Fis-subparagrafu (ii) tal-paragrafu (ċ) tal-artikolu 51Ċ tal-Att prinċipali, il-kliem "huwa marbut mill-kodiċi." għandhom jiġu sostitwiti bil-kliem "huwa marbut mill-kodiċi; jew" u minnufih wara għandu jiġi miżjud dan is-subparagrafu ġdid li ġej: Emenda tal-artikolu 51Ċ tal-Att prinċipali.

"(iii) kwalunkwe kummerċjalizzazzjoni ta' oġġett, fi Stat Membru wieħed, bħala identiku għal oġġett kummerċjalizzat fi Stati Membri oħra, meta dak l-oġġett ikun differenti b'mod sinifikanti fil-kompożizzjoni jew fil-karatteristiċi, sakemm dan ma jkunx ġustifikat minn fatturi legittimi u oġġettivi."

7. L-artikolu 51D tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 51D tal-Att prinċipali.

(a) is-subartikolu (3) tiegħu għandu jiġi emendat kif ġej:

(i) il-paragrafu (d) tiegħu għandu jiġi sostitwit b'dan il-paragrafu ġdid li ġej:

"(d) l-arrangamenti għall-ħlas, kunsinna u

eżekuzzjoni, jekk dawn ma jikkonformawx marrekwiżiti tad-diligenza professjonali;"

(ii) fil-paragrafu (e) tiegħu, il-kliem "l-eżistenza ta' dan id-dritt." għandhom jiġu sostitwiti bil-kliem "l-eżistenza ta' dan id-dritt;" u minnufih wara għandu jiġi miżjud dan il-paragrafu ġdid li ġej:

"(f) għal prodotti offruti fi swieq online, jekk il-parti terza li toffri l-prodotti hijiex kummerċjant jew le, abbażi tad-dikjarazzjoni ta' dik il-parti terza lill-fornitur tas-suq online.";

(b) minnufih wara s-subartikolu (3) tiegħu, kif emendat, għandu jiġi miżjud dan is-subartikolu ġdid li ġej:

"(3a) Meta l-konsumaturi jingħataw il-possibbiltà li jfittxu prodotti offruti minn kummerċjanti differenti jew minn konsumaturi abbażi ta' tfittxija fl-għamla ta' keyword, frażi jew input ieħor, irrispettivament minn fejn finalment jiġu konklużi t-tranzazzjonijiet, l-informazzjoni generali, li tkun disponibbli fit-taqsimha speċifika tal-interfaċċa online li hija aċċessibbli b'mod dirett u faċli mill-paġna fejn ir-riżultati tat-tfittxija jiġu ppreżentati, dwar il-parametri ewlenin li jiddeterminaw il-klassifikazzjoni tal-prodotti ppreżentati lill-konsumatur bħala riżultat tat-tfittxija u l-importanza relattiva ta' daww il-parametri, meta mqabbla ma' parametri oħrajn, għandha titqies bħala importanti:

Iżda dan is-subartikolu ma japplikax għall-fornituri ta' magni tat-tiftix online kif definiti fil-punt (6) tal-Artikolu 2 tar-Regolament (UE) 2019/1150 tal-Parlament Ewropew u tal-Kunsill tal-20 ta' Ġunju 2019 dwar il-promozzjoni tal-korrettezza u tat-trasparenza għall-utenti kummerċjali tas-servizzi tal-intermedjazzjoni online.";

(ċ) minnufih wara s-subartikolu (4) tiegħu, għandu jiġi miżjud dan is-subartikolu ġdid li ġej:

"(5) Fejn kummerċjant jipprovdi aċċess għal reċensjonijiet tal-konsumatur dwar prodotti, l-informazzjoni dwar jekk u kif il-kummerċjant jiżgura li reċensjonijiet ippublikati joriginaw minn konsumaturi li fil-fatt użaw jew xtraw il-prodott, għandha titqies bħala importanti."

8. L-artikolu 106A tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 106A tal-Att prinċipali.

(a) fis-subartikolu (3) tiegħu, il-kliem "proporzjonati u dissważivi." għandhom jiġu sostitwiti bil-kliem "proporzjonati u dissważivi:" u minnufih wara għandhom jiżdiedu l-provisos ġodda li ġejjin:

"Iżda l-Qorti Ċivili għandha, meta tiddetermina l-penali fir-rigward ta' ksur ta' dan l-Att jew ta' xi regolamenti magħmula taħtu, fejn xieraq, tqis ukoll il-kriterji mhux eżawrjenti u indikattivi li ġejjin, dment li ma ġewx preskritti kriterji differenti għal regolamenti speċifiċi:

(a) in-natura, il-gravità, l-iskala u t-tul ta' żmien tal-ksur;

(b) kwalunkwe azzjoni meħuda mill-bejjieġh, kummerċjant jew fornitur biex itaffi jew jirrimedja d-dannu mġarrab mill-konsumaturi;

(ċ) kwalunkwe ksur preċedenti mill-bejjieġh, kummerċjant jew fornitur;

(d) il-benefiċċji finanzjarji miksuba jew telf evitat mill-bejjieġh, kummerċjant jew fornitur dovuti għall-ksur, jekk id-data rilevanti tkun disponibbli;

(e) penali imposti fuq il-bejjieġh, kummerċjant jew fornitur għall-istess ksur fi Stati Membri oħra f'każijiet transfruntiera fejn l-informazzjoni dwar tali penali tkun disponibbli permezz tal-mekkaniżmu stabbilit mir-Regolament dwar il-Kooperazzjoni u l-Protezzjoni tal-Konsumatur;

(f) kwalunkwe fattur aggravanti jew mitiganti applikabbli għaċ-ċirkostanzi tal-każ:

L.S. 378.17. Iżda wkoll għal ksur taħt it-Taqsima VII u t-Taqsima VIII tal-Att, u tar-Regolamenti dwar id-Drittijiet tal-Konsumatur, meta jkollhom jiġu imposti penali skont l-Artikolu 21 tar-Regolament dwar il-Kooperazzjoni u l-Protezzjoni tal-Konsumatur, il-Qorti Ċivili għandha timponi penali sa massimu ta' erbgħa fil-mija (4%) tal-fatturat annwali tal-bejjieġh, kummerċjant jew fornitur fl-Istat Membru jew l-Istati Membri kkonċernati:

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Iżda wkoll fejn ikollha tiġi imposta penali skont il-proviso preċedenti, iżda ma tkunx disponibbli informazzjoni dwar il-fatturat annwali tal-bejjiegħ, kummerċjant jew fornitur, il-Qorti Ċivili għandha timponi penali sa massimu ta' żewġ miljun euro (€2,000,000).".

Sostituzzjoni tal-artikolu 114 tal-Att prinċipali.

**9.** L-artikolu 114 tal-Att prinċipali għandu jiġi sostitwit b' dan l-artikolu ġdid li ġej:

"Preskrizzjoni għall-proċedimenti ġudizzjarji u għar-reati.

114. L-istituzzjoni ta' proċeduri ġudizzjarji u l-prosekuzzjoni ta' reati taħt dan l-Att jew kwalunkwe regolamenti magħmula taħtu, dment li ma jiġix stabbilit terminu ieħor fir-rigward, għandu jkun preskritt wara l-iskadenza ta' hames snin mid-data li fiha l-ksur jew ir-reat jkunu allegatament twettqu."

Emenda ta-Ewwel Skeda tal-Att prinċipali.

**10.** L-Ewwel Skeda tal-Att prinċipali għandha tiġi emendata kif ġej:

(a) minnufih wara l-punt 11 tagħha, għandu jiġi miżjud dan il-punt ġdid li ġej:

"11a. Fejn il-kummerċjant jipprovdi riżultati tat-tiftix b'rispons għal tfittxija online minn konsumatur mingħajr ma juri b'mod ċar kwalunkwe riklam imħallas jew pagament speċifiku biex prodotti jiksbu klassifikazzjoni oġhla fir-riżultati tat-tiftix.";

(b) minnufih wara l-punt 23 tagħha, għandhom jiġu miżjuda dawn il-punti ġodda li ġejjin:

"23a. Fejn il-kummerċjant/a ibiġħ/tbiġħ mill-ġdid biljetti ta' avvenimenti lill-konsumaturi jekk il-kummerċjant/a ikun/tkun akkwistahom/akkwistathom permezz ta' mezzi awtomatizzati biex jevita/tevita kwalunkwe limitu impost fuq l-għadd ta' biljetti li persuna tista' tixtri jew kwalunkwe regola oħra applikabbli għax-xiri ta' biljetti.

23b. Fejn il-kummerċjant/a jindika/tindika li r-reċensjonijiet dwar prodotti jkunu saru minn konsumaturi li fil-fatt użaw jew xtraw il-prodott mingħajr ma jieħu/tieħu passi raġonevoli u proporzjonati biex jivverifika/tivverifika li dawn joriġinaw minn tali konsumaturi.

23ċ. Fejn il-kummerċjant/a jissottometti/tissottometti jew jikkummissjona/tikkummissjona persuna ġuridika jew fiżika oħra biex tissottometti r-reċensjonijiet



jew approvazzjonijiet foloz, jew jirrappreżenta/tirrappreżenta b'mod hażin reċensjonijiet tal-konsumaturi jew approvazzjonijiet fuq il-midja soċjali, sabiex jippromwovi/tippromwovi prodotti."

## TAQSIMA II

### EMENDI GĦAR-REGOLAMENTI DWAR PREZZIJET INDIKATI SKONT L-ATT DWAR L-AFFARIJET TAL- KONSUMATUR

**11.** Din it-Taqsima temenda r-Regolamenti dwar Prezzijiet Indikati skont l-Att dwar l-Affarijiet tal-Konsumatur u għandha tinqara u tinftiehem haġa waħda mar-Regolamenti dwar Prezzijiet Indikati skont l-Att dwar l-Affarijiet tal-Konsumatur, hawn iżjed `il quddiem f'din it-Taqsima msejha "ir-regolamenti prinċipali".

Emendi għar-Regolamenti dwar Prezzijiet Indikati skont l-Att dwar l-Affarijiet tal-Konsumatur L.S. 378.09.

**12.** Is-subregolament (2) tar-regolament 2 tar-regolamenti prinċipali għandu jiġi emendat kif ġej:

Emenda tar-regolament 2 tar-regolamenti prinċipali.

(a) it-tifsira "konsumatur" għandha tiġi sostitwita b'din it-tifsira ġdida li ġejja:

" "konsumatur" tfisser kull persuna naturali li tixtri prodott għall-għanijiet li ma jaqgħux fl-ambitu tal-attività kummerċjali jew professjonali tagħha;"

(b) minnufih wara t-tifsira "konsumatur", kif sostitwita, għandha tiġi miżjuda t-tifsira ġdida li ġejja:

"lok tal-kummerċ" tfisser kwalunkwe lok minn fejn jitwettaq kwalunkwe kummerċ jew negozju inkluż f'`posta, jew fis-suq online kif definit fir-Regolamenti dwar id-Drittijiet tal-Konsumatur;"

"S.L. 378.17.

(ċ) minnufih wara t-tifsira "oġġetti mibjugħin bil-kwantità" għandha tiġi miżjuda t-tifsira ġdida li ġejja:

" "posta" tfisser kull vettura, kompartiment, bank, bord, trolley, mejda, jew tilar, jew l-aggregazzjoni tagħhom, imqieghda f'suq fil-beraħ għal bejgħ ta' oġġetti;"

(d) it-tifsira "rata perċentwali annwali" għandha tiġi mħassra.

**13.** Minnufih wara r-regolament 5 tar-regolamenti prinċipali

Żieda ta' regolament ġdid mar-regolamenti prinċipali.

għandu jiġi miżjud ir-regolament ġdid li ġej:

"Tnaqqis fil-prezz.

5A. (1) Kwalunkwe thabir ta' tnaqqis fil-prezz għandu jindika l-prezz preċedenti applikat mill-kummerċjant għal perjodu ta' żmien determinat qabel l-applikazzjoni tat-tnaqqis fil-prezz.

(2) Il-prezz preċedenti jfisser l-aktar prezz baxx applikat mill-kummerċjant matul perjodu ta' żmien li mhux iqsar minn tletin (30) jum qabel l-applikazzjoni tat-tnaqqis fil-prezz:

Iżda għal oġġetti li jistgħu jiddeterjoraw jew jiskadu malajr, il-prezz preċedenti jfisser il-prezz applikat immedjament qabel it-tnaqqis fil-prezz:

Iżda wkoll fejn il-prodotti jkunu ilhom fis-suq għal inqas minn tletin (30) jum, il-prezz preċedenti jfisser l-irha prezz applikat mill-kummerċjant f'dan il-perjodu:

Iżda wkoll meta t-tnaqqis fil-prezz jiżjed progressivament, il-prezz preċedenti jkun il-prezz mingħajr it-tnaqqis fil-prezz qabel l-ewwel applikazzjoni tat-tnaqqis fil-prezz."

Emenda tar-regolament 9 tar-regolamenti prinċipali.

**14.** Ir-regolament 9 tar-regolamenti prinċipali għandu jiġi emendat kif ġej:

(a) is-subregolament (2) tiegħu għandu jiġi sostitwit b'dan is-subregolament ġdid li ġej:

"(2) Proċeduri fir-rigward ta' reat kontra dawn ir-regolamenti għandhom jinbdew fi żmien sena mit-twertiq tar-reat.";

(b) il-paragrafi (a) u (b) tas-subregolament 3 tiegħu għandhom jiġu sostitwiti b' dawn il-paragrafi ġodda li ġejjin:

"(a) fil-każ ta' sejbien ta' htija għall-ewwel darba, multa ta' mhux inqas minn mija u hamsin euro (€150) u mhux iżjed minn elf u hames mitt euro (€1,500);

(b) fil-każ ta' sejbien ta' htija għat-tieni darba jew aktar drabi, multa ta' mhux inqas minn mitejn euro (€200) u mhux iżjed minn elfejn euro (€2,000):

Iżda l-Qorti, meta tiddetermina l-penali, għandha wkoll tqis il-kriterji mhux eżawrjenti u indikattivi li ġejjin:

(i) in-natura, il-gravità, l-iskala u t-tul ta' żmien tal-ksur;

(ii) kwalunkwe azzjoni meħuda mill-kummerċjant biex itaffi jew jirrimedja d-dannu mgarrab mill-konsumaturi;

(iii) kwalunkwe ksur preċedenti mill-kummerċjant;

(iv) il-benefiċċji finanzjarji miksuba jew telf evitat mill-kummerċjant minhabba l-ksur, jekk id-data rilevanti tkun disponibbli;

(v) penali imposti fuq il-kummerċjant għall-istess ksur fi Stati Membri oħra f'każijiet transfruntiera fejn l-informazzjoni dwar tali penali tkun disponibbli permezz tal-mekkaniżmu stabbilit mir-Regolament dwar il-Kooperazzjoni u l-Protezzjoni tal-Konsumatur kif definit fl-artikolu 2 tal-Att;

(vi) kwalunkwe fattur aggravanti ieħor jew mitiganti applikabbli għaċ-ċirkostanzi tal-każ:

Izda wkoll fir-rigward ta' kull sejbien ta' htija, il-Qorti għandha tordna l-pubblikazzjoni f'xi wieħed jew aktar mill-ġurnali ta' kuljum, tas-sentenza mgħoddija fuq min jinsab hati, jew dikjarazzjoni jew sunt tal-istess sentenza:

Izda wkoll fir-rigward ta' kull sejbien ta' htija, id-Direttur Ġenerali għandu jippubblika fuq is-sit elettroniku tal-Awtorità s-sentenza mgħoddija mill-Qorti fuq min jinsab hati, jew dikjarazzjoni jew sunt tal-istess sentenza."

### TAQSIMA III

#### EMENDI GHAR-REGOLAMENTI DWAR ID-DRITTJIET TAL-KONSUMATUR

**15.** Din it-Taqsima temenda r-Regolamenti dwar id-Drittijiet tal-Konsumatur u għandha tinqara u tinftiehem haġa waħda mar-Regolamenti dwar id-Drittijiet tal-Konsumatur, hawn iżjed `il quddiem f'din it-Taqsima msejha "ir-regolamenti prinċipali".

Emendi ghar-Regolamenti dwar id-Drittijiet tal-Konsumatur. L.S. 378.17.

**16.** Is-subregolament (2) tar-regolament 2 tar-regolamenti prinċipali għandu jiġi emendat kif ġej:

Emenda tar-regolament 2 tar-regolamenti prinċipali.

(a) minnufih qabel it-tifsira "garanzija kummerċjali"

għandhom jiġu miżjuda dawn it-tifsiriet godda li ġejjin:

"data personali" tfisser data personali kif definita fil-punt (1) tal-Artikolu 4 tar-Regolament (UE) 2016/679 tal-Parlament Ewropew u tal-Kunsill tas-27 ta' April 2016 dwar il-protezzjoni tal-persuni fiżiċi fir-rigward tal-ipproċessar ta' data personali u dwar il-moviment liberu ta' tali data, u li jhassar id-Direttiva 95/46/KE (Regolament Ġenerali dwar il-Protezzjoni tad-Data);";

"fornitur ta' suq online" tfisser kwalunkwe kummerċjant li jipprovi suq online lill-konsumaturi;";

L.S.378.20. "funzjonalità" tfisser funzjonalità kif definita fis-subregolament (1) tar-regolament 2 tar-Regolamenti dwar Kuntratti għal Kontenut Diġitali u Servizzi Diġitali;";

(b) minnufih wara t-tifsira "garanzija kummerċjali" għandha tiġi miżjuda din it-tifsira ġdida li ġejja:

L.S.378.20. "interoperabbiltà" tfisser interoperabbiltà kif definita fis-subregolament (1) tar-regolament 2 tar-Regolamenti dwar Kuntratti għal Kontenut Diġitali u Servizzi Diġitali;";

(ċ) minnufih wara t-tifsira "irkant pubbliku" għandha tiġi miżjuda din it-tifsira ġdida li ġejja:

L.S.378.20. "kompatibbiltà" tfisser kompatibbiltà kif definita fis-subregolament (1) tar-regolament 2 tar-Regolamenti dwar Kuntratti għal Kontenut Diġitali u Servizzi Diġitali;";

(d) id-definizzjoni "kontenut diġitali" għandha tiġi sostitwita b'din it-tifsira ġdida li ġejja:

L.S.378.20. "kontenut diġitali" tfisser kontenut diġitali kif definit fis-subregolament (1) tar-regolament 2 tar-Regolamenti dwar Kuntratti għal Kontenut Diġitali u Servizzi Diġitali;

(e) it-tifsira "kuntratt ta' bejgħ" għandha tiġi sostitwita b'din it-tifsira ġdida li ġejja:

"kuntratt ta' bejgħ" tfisser kwalunkwe kuntratt li tahtu l-kummerċjant jittrasferixxi jew jimpenja ruħu li jittrasferixxi l-proprjetà ta' oġġetti lil konsumatur, inkluż kwalunkwe kuntratt li għandu bhala s-sugġett tiegħu kemm oġġetti kif ukoll servizzi;";

(f) it-tifsira "kuntratt ta' servizz" għandha tiġi sostitwita b'din it-tifsira ġdida li ġejja:

"kuntratt ta' servizz" tfisser kwalunkwe kuntratt li mhuwiex kuntratt ta' bejgħ li tahtu l-kummerċjant iforni jew jimpenja ruħu li jforni servizz, inkluż servizz diġitali, lill-konsumatur;"

(g) it-tifsira "oġġetti" għandha tiġi sostitwita b'din it-tifsira ġdida li ġejja:

"oġġetti" tfisser oġġetti kif definiti fis-subartikolu (1) tal-artikolu 72 tal-Att;"

"Kap.378.

(h) minnufih wara t-tifsira "Qorti Ċivili" għandha tiġi miżjuda din it-tifsira ġdida li ġejja:

"servizz diġitali" tfisser servizz diġitali kif definit fis-subregolament (1) tar-regolament 2 tar-Regolamenti dwar Kuntratti għal Kontenut Diġitali u Servizzi Diġitali;"

"L.S.378.20.

(i) fit-tifsira "servizz finanzjarju" il-kliem "jew ta' ħlas." għandhom jiġu sostitwiti bil-kliem "jew ta' ħlas;" u minnufih wara għandha tiġi miżjuda din it-tifsira ġdida li ġejja:

" "suq online" tfisser servizz bl-użu ta' software, inklużi sit elettroniku, parti minn sit elettroniku jew applikazzjoni, operat minn kummerċjant jew f'ismu li jippermetti lill-konsumaturi jikkonkludu kuntratti mill-bogħod ma' kummerċjanti jew konsumaturi ohra."

**17.** Ir-regolament 3 tar-regolamenti principali għandu jiġi emendat kif ġej:

Emenda tar-regolament 3 tar-regolamenti principali.

(a) is-subregolament (1) għandu jiġi sostitwit b'dan is-subregolament ġdid li ġej :

"(1) Dawn ir-regolamenti għandhom japplikaw, taht il-kundizzjonijiet u sal-punt stipulat fid-dispożizzjonijiet tagħhom, għal kwalunkwe kuntratt konkluz bejn kummerċjant u konsumatur fejn il-konsumatur iħallas jew jimpenja ruħu li jħallas il-prezz. Dawn ir-regolamenti huma wkoll applikabbli għal kuntratti għall-provvista ta' ilma, gass, jew elettriku, inkluż min-naħa ta' fornituri pubbliċi, sal-punt li dawn il-kommoditajiet huma pprovduti fuq bażi kuntrattwali.";

(b) minnufih wara s-subregolament (1) tiegħu kif sostitwit, għandu jiġi miżjud dan is-subregolament ġdid li ġej:

"(1a) Dawn ir-regolamenti għandhom japplikaw ukoll f'każ fejn il-kummerċjant jipprovdi jew jimpenja ruħu li jipprovdi kontenut diġitali li mhux provdut fuq mezz tanġibbli jew servizz diġitali lill-konsumatur u l-konsumatur jipprovdi jew jimpenja ruħu li jipprovdi data personali lill-kummerċjant, hliet fejn id-data personali pprovduta mill-konsumatur tkun ipproċessata esklussivament mill-kummerċjant għall-finijiet tal-provvista tal-kontenut diġitali li mhux provdut fuq mezz tanġibbli jew servizz diġitali skont dawn ir-regolamenti jew għall-kummerċjant biex jikkonforma mar-rekwiżiti legali li għalihom ikun soġġett, u l-kummerċjant ma jipproċessax dik id-data għall-ebda fini oħra.";

(ċ) is-subregolament (3) tiegħu għandu jiġi emendat kif ġej:

(i) il-paragrafu (k) tiegħu għandu jiġi sostitwit b'dan il-paragrafu ġdid li ġej:

"(k) għal servizzi tat-trasport ta' passiġġieri, għajr għar-regolamenti 9(2), 21, 23 u 24;"

(ii) il-paragrafu (m) tiegħu għandu jiġi sostitwit b'dan il-paragrafu ġdid li ġej:

"(m) konkluzi mal-operaturi tat-telekomunikazzjonijiet bl-użu ta' payphones pubbliċi jew konkluzi għall-użu ta' kollegament wieħed biss permezz tat-telefon, internet jew fax, stabbilit minn konsumatur;"

(d) minnufih wara l-paragrafu (m) kif sostitwit għandu jiġi miżjud dan il-paragrafu ġdid li ġej:

"(n) għal kwalunkwe oġġett mibjugħ permezz ta' eżekuzzjoni jew mod ieħor bl-awtorità tal-liġi."

Emenda tar-regolament 4 tar-regolamenti prinċipali.

**18.** Ir-regolament 4 tar-regolamenti prinċipali għandu jiġi emendat kif ġej:

(a) il-paragrafu (e) tas-subregolament (1) tiegħu għandu jiġi sostitwit b'dan il-paragrafu ġdid li ġej:

"(e) flimkien ma' tfakkira tal-eżistenza ta' garanzija legali ta' konformità għal oġġetti, kontenut diġitali u servizzi diġitali, l-eżistenza u l-kundizzjonijiet ta' servizzi ta' wara l-bejgħ u garanziji kummerċjali, fejn

applikabbli;"

(b) il-paragrafi (g) u (h) tas-subregolament (1) tiegħu għandhom jiġu sostitwiti b'dawn il-paragrafi ġodda li ġejjin:

"(g) fejn applikabbli, il-funzjonalità, inklużi l-miżuri tekniċi applikabbli ta' protezzjoni, ta' oġġetti b'elementi diġitali, ta' kontenut diġitali u ta' servizzi diġitali;

(h) fejn applikabbli, kwalunkwe kompatibbiltà u interoperabbiltà rilevanti ta' oġġetti b'elementi diġitali, ta' kontenut diġitali u ta' servizzi diġitali li jkun jaf bihom il-kummerċjant jew li huwa jista' jkun raġonevolment mistenni li jaf bihom."

**19.** Is-subregolament (1) tar-regolament 5 tar-regolamenti prinċipali għandu jiġi emendat kif ġej:

Emenda tar-regolament 5 tar-regolamenti prinċipali.

(a) il-paragrafu (ċ) tiegħu għandu jiġi sostitwit b'dan il-paragrafu ġdid li ġej:

"(ċ) l-indirizz ġeografiku fejn il-kummerċjant huwa stabbilit kif ukoll in-numru tat-telefon u l-indirizz tal-posta elettronika tal-kummerċjant; barra minn hekk, fejn il-kummerċjant jipprovdi mezzi oħra ta' komunikazzjoni online li jiggarrantixxu li l-konsumatur jista' jżomm kwalunkwe korrispondenza bil-miktub, inklużi d-data u l-ħin ta' tali korrispondenza, mal-kummerċjant fuq mezz li jservi għal żmien twil, l-informazzjoni għandha tinkludi wkoll dettalji ta' dawk il-mezzi l-oħra; dawk il-mezzi kollha ta' komunikazzjoni pprovduti mill-kummerċjant għandhom jippermettu lill-konsumatur biex jagħmel kuntatt malajr mal-kummerċjant u jikkomunika b'mod effiċjenti miegħu; fejn applikabbli, il-kummerċjant għandu jagħti wkoll l-indirizz ġeografiku u l-identità tal-kummerċjant li f'ismu jkun qed jaġixxi;"

(b) minnufih wara l-paragrafu (e) tiegħu, għandu jiġi miżjud dan il-paragrafu ġdid li ġej:

"(ea) fejn applikabbli, li l-prezz kien personalizzat abbażi ta' proċess deċiżjonali awtomatizzat;"

(ċ) il-paragrafu (l) tiegħu għandu jiġi sostitwit b'dan il-paragrafu ġdid li ġej:

"(l) ifakkar lill-konsumatur dwar l-eżistenza ta'

garanzija legali ta' konformità għal oġġetti, kontenut diġitali u servizzi diġitali;"

(d) il-paragrafi (r) u (s) tiegħu għandhom jiġu sostitwiti b' dawn il-paragrafi godda li ġejjin:

"(r) fejn applikabbli, il-funzjonalità, inklużi l-miżuri tekniċi applikabbli ta' protezzjoni, ta' oġġetti b'elementi diġitali, ta' kontenut diġitali u ta' servizzi diġitali;

(s) fejn applikabbli, kwalunkwe kompatibbiltà u interoperabbiltà rilevanti ta' oġġetti b'elementi diġitali, ta' kontenut diġitali u ta' servizzi diġitali li jkun jaf bihom il-kummerċjant jew li huwa jista' jkun raġonevolment mistenni li jaf bihom;"

Żieda ta' regolament ġdid mar-regolamenti prinċipali.

**20.** Minnufih wara r-regolament 5 tar-regolamenti prinċipali għandu jiġi miżjud dan ir-regolament ġdid li ġej:

"Rekwiżiti speċifiċi ta' informazzjoni addizzjonali għal kuntratti konkluzi fuq swieq online.

5A. (1) Qabel ma konsumatur jintrabat b'kuntratt mill-bogħod, jew kwalunkwe offerta korrispondenti, f'suq online, il-fornitur tas-suq online għandu, mingħajr preġudizzju għad-diżpożizzjonijiet tat-Taqsima VIII tal-Att, jipprovdi lill-konsumatur l-informazzjoni li ġejja b'mod ċar u li jinftiehem u b'mod adegwat għall-mezzi ta' komunikazzjoni mill-bogħod użati:

(a) informazzjoni ġenerali, li tkun disponibbli f'sezzjoni speċifika tal-interfaċċa online li tkun aċċessibbli direttament u faċilment mill-paġna fejn l-offerti jiġu pprezentati, dwar il-parametri ewlenin li jiddeterminaw il-klassifikazzjoni, kif definita fl-Artikolu 51A tal-Att, ta' offerti pprezentati lill-konsumatur bħala riżultat ta' tfittxija u l-importanza relattiva ta' dawk il-parametri meta mqabbla ma' parametri oħra;

(b) jekk il-parti terza li toffri l-oġġetti, servizzi jew kontenut diġitali hijiex kummerċjant jew le, abbażi tad-dikjarazzjoni ta' dik il-parti terza lill-fornitur tas-suq online;

(c) fejn il-parti terza li toffri l-oġġetti, is-servizzi jew il-kontenut diġitali mhijiex kummerċjant, li d-drittijiet tal-konsumatur li jirriżultaw mil-liġi tal-Unjoni Ewropea dwar il-protezzjoni tal-konsumatur ma japplikawx għall-kuntratt;



(d) fejn applikabbli, kif l-obbligi relatati mal-kuntratt huma kondiviżi bejn il-parti terza li toffri l-oġġetti, is-servizzi jew il-kontenut diġitali u l-fornitur tas-suq online, fejn tali informazzjoni tkun mingħajr preġudizzju għal kwalunkwe responsabbiltà li l-fornitur tas-suq online jew il-kummerċjant terz ikollu fir-rigward tal-kuntratt taħt xi liġi oħra tal-Unjoni Ewropea jew nazzjonali."

**21.** Is-subregolament (3) tar-regolament 8 tar-regolamenti prinċipali għandu jiġi sostitwit b' dan is-subregolament ġdid li ġej:

Emenda tar-regolament 8 tar-regolamenti prinċipali.

"(3) Fejn konsumatur irid li l-għoti tas-servizzi jew il-provvista ta' ilma, gass jew elettriku, meta mhumiex għall-bejgħ f'volum limitat jew fi kwantità fissa, jibda matul il-perjodu ta' rtirar previst fir-regolament 10(2), u l-kuntratt ipoġġi lill-konsumatur taħt obbligu li jhallas, il-kummerċjant għandu jesigi li l-konsumatur jagħmel din it-talba espliċita fuq mezz li jservi għal żmien twil u jitlob lill-konsumatur jirrikonoxxi li, ladarba tkun saret l-eżekuzzjoni totali tal-kuntratt min-naħa tal-kummerċjant, il-konsumatur ma jkollux iżjed id-dritt ta' rtirar."

**22.** Ir-regolament 9 tar-regolamenti prinċipali għandu jiġi emendat kif ġej:

Emenda tar-regolament 9 tar-regolamenti prinċipali.

(a) is-subregolament (4) tiegħu għandu jiġi sostitwit b'dan is-subregolament ġdid li ġej:

"(4) Jekk il-kuntratt jiġi konkluż permezz ta' mezz ta' komunikazzjoni mill-bogħod li jippermetti spazju jew hin limitat biex tintwera l-informazzjoni, il-kummerċjant għandu jipprovdi, fuq, jew permezz ta' dak il-mezz partikolari, qabel il-konklużjoni ta' kuntratt bħal dan, tal-anqas l-informazzjoni prekuntrattwali dwar il-karatteristiċi prinċipali tal-oġġetti jew tas-servizzi, l-identità tal-kummerċjant, il-prezz totali, id-dritt ta' rtirar, it-tul ta' żmien tal-kuntratt u, fil-każ ta' kuntratti għal żmien indeterminat, il-kundizzjonijiet ta' terminazzjoni tal-kuntratt, konformament mar-regolament 5(1) (a), (b), (e), (h) u (o), ħlief il-mudell tal-formola ta' rtirar kif stabbilit fil-Parti B tal-Iskeda msemmija fil-paragrafu (h). L-informazzjoni l-oħra msemmija fir-regolament 5(1), inkluż il-mudell tal-formola tal-irtirar, għandha tingħata mill-kummerċjant lill-konsumatur b'mod xieraq skont is-subregolament (1).";

(b) is-subregolament (8) tiegħu għandu jiġi sostitwit b'dan is-subregolament ġdid li ġej:

"(8) Fejn konsumatur ikun irid li l-għoti ta' servizzi jew il-provvista ta' ilma, gass jew elettriku, fejn dawn ma jkunux għall-bejgħ f'volum limitat jew fi kwantità fissa, jibda matul il-perjodu ta' rtirar previst mir-regolament 10(2), u l-kuntratt ipogġi lill-konsumatur taħt obbligu li jhallas, il-kummerċjant għandu jesigi li l-konsumatur jagħmel talba espliċita u għandu jitlob lill-konsumatur jirrikonoxxi li, ladarba tkun saret l-eżekuzzjoni totali tal-kuntratt min-naħa tal-kummerċjant, il-konsumatur ma jkollux iżjed id-dritt ta' rtirar."

Emenda tar-regolament 10 tar-regolamenti prinċipali.

**23.** Ir-regolament 10 tar-regolamenti prinċipali għandu jiġi emendat kif ġej:

(a) fis-subregolament (1) tiegħu, il-kliem "fir-regolamenti 15(2) u 16." għandhom jiġu sostitwiti bil-kliem "fir-regolamenti 15(2) u 16:" u minnufih wara għandu jiġi miżjud dan il-proviso ġdid li ġej:

"Izda għal kuntratti konklużi fil-kuntest ta' żjarat mhux mitluba minn kummerċjant fid-dar ta' konsumatur jew vjaġġi promozzjonali organizzati minn kummerċjant bil-għan jew bl-effett li jiġu promossi jew jinbiegħu prodotti lil konsumaturi, il-perjodu ta' rtirar ta' erbatax (14)-il jum huwa estiż għal tletin (30) jum.";

(b) il-kliem introdutturju tas-subregolament (2) tiegħu għandu jiġi sostitwit b'dan il-kliem ġdid li ġej:

"(2) Mingħajr preġudizzju għar-regolament 12, il-perjodu ta' rtirar imsemmi fis-subregolament (1) għandu jiskadi wara erbatax (14)-il jum, jew, f'każijiet li jaqgħu taħt il-proviso tas-subregolament (1) wara tletin (30) jum li jiddekorru:".

Emenda tar-regolament 12 tar-regolamenti prinċipali.

**24.** Is-subregolament (2) tar-regolament 12 tar-regolamenti prinċipali għandu jiġi sostitwit b' dan is-subregolament ġdid li ġej:

"(2) Jekk il-kummerċjant ikun ipprova lill-konsumatur bl-informazzjoni msemmija fis-subregolament (1) fi żmien tnax (12)-il xahar mill-jum li hemm riferiment għalih fir-regolament 10(2), id-dritt ta' rtirar għandu jiskadi erbatax (14)-il jum, jew, f'każijiet li jaqgħu taħt is-subregolament (1), tletin (30) jum wara l-jum li fih il-konsumatur jirċievi dik l-informazzjoni."

Emenda tar-regolament 15 tar-regolamenti prinċipali.

**25.** Minnufih wara s-subregolament (3) tar-regolament 15 tar-regolamenti prinċipali għandhom jiġu miżjud dawn is-

subregolamenti godda li ġejjin:

Kap.586.

"(4) Fir-rigward tad-data personali tal-konsumatur, il-kummerċjant għandu jikkonforma mal-obbligi applikabbli taħt ir-Regolament (UE) 2016/679 tal-Parlament Ewropew u tal-Kunsill tas-27 ta' April 2016 dwar il-protezzjoni tal-persuni fiżiċi fir-rigward tal-ipproċessar ta' data personali u dwar il-moviment liberu ta' tali data, u li jhassar id-Direttiva 95/46/KE (Regolament Ġenerali dwar il-Protezzjoni tad-Data) u l-Att dwar il-Protezzjoni u l-Privatezza tad-Data.

(5) Il-kummerċjant għandu jzomm lura milli juża kwalunkwe kontenut, għajr data personali, li għet ipprovduta jew maħluqa mill-konsumatur meta juża l-kontenut diġitali jew is-servizz diġitali pprovdut mill-kummerċjant, minbarra meta tali kontenut:

(a) ma jkollu l-ebda utilità barra l-kuntest tal-kontenut diġitali jew tas-servizz diġitali pprovdut mill-kummerċjant;

(b) ikun relatat biss mal-attività tal-konsumatur meta juża l-kontenut diġitali jew is-servizz diġitali pprovdut mill-kummerċjant;

(ċ) ikun ġie aggregat ma' data oħra mill-kummerċjant u ma jkunx jista' jiġi diżaggregat jew biss bi sforzi sproporzjonati; jew

(d) ikun ġie ġġenerat b'mod kongunt mill-konsumatur u oħrajn, u konsumaturi oħra jkunu kapaci jkomplu jagħmlu użu mill-kontenut.

(6) Hlief fis-sitwazzjonijiet imsemmija fis-subregolament (5)(a), (b) jew (ċ), il-kummerċjant għandu, fuq talba tal-konsumatur, iqiegħed għad-dispożizzjoni tal-konsumatur kwalunkwe kontenut, għajr data personali, li ġie pprovdut jew maħluq mill-konsumatur meta juża l-kontenut diġitali jew is-servizz diġitali pprovduti mill-kummerċjant.

(7) Il-konsumatur għandu jkun intitolat li jirkupra dak il-kontenut diġitali mingħajr ħlas, mingħajr tfixkil mill-kummerċjant, fi żmien raġonevoli u f'format ta' data li jintuża komunement u li jinqara mill-magni.

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(8) F'każ ta' rtirar mill-kuntratt, il-kummerċjant jista' jipprevjeni kwalunkwe użu ulterjuri tal-kontenut diġitali jew tas-servizz diġitali mill-konsumatur, b'mod partikolari billi jrendi l-kontenut diġitali jew is-servizz diġitali inaċċessibbli għall-konsumatur jew jiddiżattiva l-kont tal-utent tal-konsumatur, mingħajr preġudizzju għas-subregolament (6)."

Emenda tar-regolament 16 tar-regolamenti prinċipali.

**26.** Ir-regolament 16 tar-regolamenti prinċipali għandu jiġi emendat kif ġej:

(a) minnufih wara s-subregolament (2) tiegħu għandu jiġi miżjud dan is-subregolament ġdid li ġej:

"(2a) F'każ li jirtira mill-kuntratt, il-konsumatur għandu jżomm lura milli juża l-kontenut diġitali jew is-servizz diġitali u milli jqiegħidhom għad-dispożizzjoni ta' partijiet terzi.";

(b) is-subregolament (4)(b)(i) tiegħu għandu jiġi sostitwit b' dan is-subparagrafu ġdid li ġej:

"(i) il-konsumatur ma jkunx ta l-kunsens esplicitu tiegħu minn qabel, fir-rigward tal-bidu tal-eżekuzzjoni qabel it-tmiem tal-perjodu tal-erbatax (14)-il jum jew ta' tletin (30) jum kif imsemmi fir-regolament 10;"

Emenda tar-regolament 18 tar-regolamenti prinċipali.

**27.** Ir-regolament 18 tar-regolamenti prinċipali għandu jiġi emendat kif ġej:

(a) il-paragrafu (a) tiegħu għandu jiġi sostitwit b' dan il-paragrafu ġdid li ġej:

"(a) kuntratti ta' servizz wara l-eżekuzzjoni totali tas-servizz iżda, jekk il-kuntratt iqiegħed lill-konsumatur f'obbligu li jhallas, jekk l-eżekuzzjoni tkun inbdiet biss bil-kunsens esplicitu minn qabel tal-konsumatur u bir-rikonoxximent li huwa jitlef id-dritt tiegħu ta' rtirar ladarba tkun saret l-eżekuzzjoni totali tal-kuntratt min-naħa tal-kummerċjant;"

(b) il-paragrafu (m) tiegħu għandu jiġi sostitwit b' dan il-paragrafu ġdid li ġej:

"(m) kuntratti għall-provvista ta' kontenut diġitali li mhux provdut fuq mezz tanġibbli jekk l-eżekuzzjoni tkun inbdiet u, jekk il-kuntratt iqiegħed lill-konsumatur f'obbligu li jhallas, fejn:

(i) il-konsumatur ikun ta l-kunsens esplicitu minn qabel biex tinbeda l-eżekuzzjoni matul il-perjodu tad-dritt ta' rtirar;

(ii) il-konsumatur ikun irrikonoxxa li b'dan huwa jitlef id-dritt tiegħu ta' rtirar; u

(iii) il-kummerċjant ikun ipprovda l-konferma f'konformità mar-regolament 8(2) u mar-regolament 9(7):

Iżda għal kuntratti konklużi fil-kuntest ta' żjarat mhux mitluba minn kummerċjant fid-dar ta' konsumatur jew vjaġġi promozzjonali organizzati minn kummerċjant bil-għan jew bl-effett li jiġu promossi jew jinbiegħu prodotti lil konsumaturi, l-eċċezzjonijiet għad-dritt ta' rtirar stabbilit fil-paragrafi (a), (b), (ċ) u (e) ma japplikawx."

**28.** L-Iskeda tar-regolamenti prinċipali għandha tiġi emendata kif ġej:

Emenda tal-Iskeda tar-regolamenti prinċipali.

(a) it-tieni paragrafu, "Il-perjodu ta' rtirar jiskadi wara 14-il jum mill-jum [1]." taht "Dritt ta' rtirar", fil-Parti A tagħha, għandu jiġi sostitwit b'dan il-paragrafu ġdid li ġej:

"Il-perjodu ta' rtirar għandu jiskadi wara 14-il jum mill-jum [1]. (Għal kuntratti konklużi fil-kuntest ta' żjarat mhux mitluba minn kummerċjant fid-dar ta' konsumatur jew vjaġġi promozzjonali organizzati minn kummerċjant bil-għan jew bl-effett li jiġu promossi jew jinbiegħu prodotti lil konsumaturi, iż-żmien ta' rtirar għandu jiskadi wara 30 jum.)";

(b) it-tielet paragrafu, "Biex teżerċita d-dritt ta' rtirar, għandek tinfurmana [2] bid-deċiżjoni tiegħek li tirtira minn dan il-kuntratt permezz ta' dikjarazzjoni esplicita (eż. ittra mibgħuta bil-posta, *fax* jew *e-mail*). Tista' tuża l-formola *standard* ta' rtirar mehmuża iżda mhijiex obligatorja [3]." taht "Dritt ta' rtirar", fil-Parti A tagħha, għandu jiġi sostitwit b'dan il-paragrafu ġdid li ġej:

"Biex teżerċita d-dritt ta' rtirar, għandek tinfurmana [2] bid-deċiżjoni tiegħek li tirtira minn dan il-kuntratt permezz ta' dikjarazzjoni esplicita (eż. ittra mibgħuta bil-posta jew posta elettronika). Tista' tuża l-formola *standard* ta' rtirar mehmuża, iżda din mhijiex obligatorja. [3]";

(ċ) il-paragrafu [2] taht "Istruzzjonijiet biex timla l-

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formola:" fil-Parti A tagħha, għandu jiġi sostitwit b'dan il-paragrafu ġdid li ġej:

"[2.] Daħhal ismek, l-indirizz ġeografiku tiegħek, in-numru tat-telefon u l-indirizz tal-posta elettronika tiegħek.";

(d) l-ewwel inċiż, "- Lil [Daħhal l-isem, l-indirizz ġeografiku u, jekk disponibbli, in-numru tat-telefon u tal-fax u l-indirizzi tal-posta elettronika tal-kummerċjant]:", fil-Parti B tagħha, għandu jiġi sostitwit b'dan l-inċiż ġdid li ġej:

"- Lil [hawnhekk, l-isem tal-kummerċjant, l-indirizz ġeografiku u l-indirizz tal-posta elettronika tal-kummerċjant jiddaħħlu mill-kummerċjant]:".

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Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru 33 tas-17 ta' Ottubru, 2022.

ANĠLU FARRUGIA  
*Speaker*

RAYMOND SCICLUNA  
*Skrivan tal-Kamra tad-Deputati*

I assent.

(L.S.)

**FRANK BEZZINA**  
**Acting President**

21st October, 2022

**ACT No. XIII of 2022**

*An ACT to amend the Consumer Affairs Act, Cap. 378 and other laws relating to consumer protection.*

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

1. (1) The short title of this Act is the Consumer Affairs Act and other Laws relating to consumer protection (Amendment) Act, 2022. Short title, commencement and scope.

(2) This Act shall come into force upon its publication in the Gazette.

Provided that any pending investigations commenced, or any judicial proceedings instituted according to the Consumer Affairs Act and any regulations made thereunder, prior to the entry into force of this Act, shall continue to be regulated by the Consumer Affairs Act and any regulations made thereunder as in force prior to entry into force of this Act. Cap.378.

(3) The scope of this Act is to transpose Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 amending Council Directive 93/13/EEC and Directives 98/6/EC, 2005/29/EC and 2011/83/EU of the European Parliament and of the Council as regards the better enforcement and modernisation of Union consumer protection rules, and to carry out other necessary amendments.

**PART I**  
**AMENDMENTS TO THE CONSUMER AFFAIRS ACT**

Amendments to the Consumer Affairs Act. Cap. 378.

**2.** This Part amends the Consumer Affairs Act and shall be read and construed as one with the Consumer Affairs Act, hereinafter in this Part referred to as "the principal Act".

Amendment of article 12I of the principal Act.

**3.** Article 12I of the principal Act shall be amended as follows:

(a) the marginal note thereof shall be substituted by the following new marginal note:

"Appeals to the Court of Appeal and publication of judgements.";

(b) In its proviso thereof, the words "all the parties." shall be substituted by the words "all the parties:" and immediately after the proviso thereto, there shall be added the following new provisos:

"Provided further that the Court of Appeal shall publish any judgement having regard to the legitimate interest of the person concerned in the protection of his business secrets or other confidential information. The Court of Appeal may give the parties concerned the opportunity to specify the confidential parts of the judgement which they want to be excluded from publication:

Provided further that the Court of Appeal shall ultimately decide which version shall be published:

Provided further that the Director General shall also publish on the website of the Authority the judgement delivered by the Court of Appeal."

Amendment of article 21 of the principal Act.

**4.** In the proviso of sub-article (1) of article 21 of the principal Act, the words "according to law." shall be substituted by the words "according to law:" and immediately after the proviso thereto, there shall be added the following new proviso:

"Provided further that when determining issues in disputes that concern harm suffered by consumers resulting from unfair commercial practices, the tribunal shall order proportionate and effective remedies, including compensation for damage suffered by the consumer and, where relevant, a price reduction or the termination of the contract; taking also into account, where appropriate, the gravity and nature of the unfair commercial practice, the damage suffered by the consumer and other relevant circumstances."



5. Article 51A of the principal Act shall be amended as follows: Amendment of article 51A of the principal Act.
- (a) immediately after the definition "invitation to purchase", there shall be added the following new definition:

" "online marketplace" means a service using software, including a website, part of a website or an application, operated by or on behalf of a trader which allows consumers to conclude distance contracts with other traders or consumers;"

- (b) the definition "product" shall be substituted by the following new definition:

" "product" means any good or service including immovable property, digital service and digital content, as well as rights and obligations;" and

- (c) immediately after the definition "professional diligence", there shall be added the following new definition:

" "ranking" means the relative prominence given to products, as presented, organised or communicated by the trader, irrespective of the technological means used for such presentation, organisation or communication;"

6. In sub-paragraph (ii) of paragraph (c) of article 51C of the principal Act, the words "he is bound by the code;" shall be replaced by the words "he is bound by the code; or" and immediately thereafter there shall be added the following new sub-paragraph: Amendment of article 51C of the principal Act.

"(iii) any marketing of a good, in one Member State, as being identical to a good marketed in other Member States, while that good has significantly different composition or characteristics, unless justified by legitimate and objective factors."

7. Article 51D of the principal Act shall be amended as follows: Amendment of article 51D of the principal Act.
- (a) sub-article (3) thereof shall be amended as follows:

- (i) paragraph (d) thereof shall be substituted by the following new paragraph:

"(d) the arrangements for payment, delivery and performance, if they depart from the requirements of professional diligence;"

- (ii) in paragraph (e) thereof, the words "the

existence of such a right." shall be substituted by the words "the existence of such a right;" and immediately thereafter there shall be added the following new paragraph:

"(f) for products offered on online marketplaces, whether the third party offering the products is a trader or not, on the basis of the declaration of that third party to the provider of the online marketplace.";

(b) immediately after sub-article (3) thereof, as amended, there shall be added the following new sub-article:

"(3a) When providing consumers with the possibility to search for products offered by different traders or by consumers on the basis of a query in the form of a keyword, phrase or other input, irrespective of where transactions are ultimately concluded, general information, made available in a specific section of the online interface that is directly and easily accessible from the page where the query results are presented, on the main parameters determining the ranking of products presented to the consumer as a result of the search query and the relative importance of those parameters, as opposed to other parameters, shall be regarded as material:

Provided that this sub-article does not apply to providers of online search engines as defined in point (6) of Article 2 of Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services."; and

(c) immediately after sub-article (4) thereof, there shall be added the following new sub-article:

"(5) Where a trader provides access to consumer reviews of products, information about whether and how the trader ensures that the published reviews originate from consumers who have actually used or purchased the product shall be regarded as material.".

Amendment of  
article 106A of  
the principal  
Act.

**8.** Article 106A of the principal Act shall be amended as follows:

(a) in sub-article (3) thereof, the words "proportionate and dissuasive." shall be substituted by the words "proportionate and dissuasive;" and immediately thereafter there shall be added

the following new provisos:

"Provided that the Civil Court shall, when determining penalties with regard to infringements of this Act or any regulations made thereunder, where appropriate take into account the following non-exhaustive and indicative criteria, unless a different criteria is prescribed for specific regulations:

- (a) the nature, gravity, scale and duration of the infringement;
- (b) any action taken by the seller, trader or supplier to mitigate or remedy the damage suffered by consumers;
- (c) any previous infringements by the seller, trader or supplier;
- (d) the financial benefits gained or losses avoided by the seller, trader or supplier due to the infringement, if the relevant data are available;
- (e) penalties imposed on the seller, trader or supplier for the same infringement in other Member States in cross-border cases where information about such penalties is available through the mechanism established by the Consumer Protection Co-operation Regulation;
- (f) any other aggravating or mitigating factors applicable to the circumstances of the case:

S.L. 378.17.

Provided further that for infringements to Part VII and Part VIII of this Act, and the Consumer Rights Regulations, when penalties are to be imposed in accordance with Article 21 of the Consumer Protection Co-operation Regulation, the Civil Court shall impose a penalty up to a maximum of four percent (4%) of the seller's, trader's or supplier's annual turnover in the Member State or Member States concerned:

Provided further that where a penalty is imposed in accordance with the preceding proviso, but information on the seller's, trader's or supplier's annual turnover is not available, the Civil Court shall impose a penalty up to a maximum of two million euro (€2 million)."

9. Article 114 of the principal Act shall be substituted by the

Substitution of article 114 of the principal Act.

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following:

"Prescription for judicial proceedings and for offences.

114. The institution of judicial proceedings and the prosecution of an offence under this Act or any regulations made thereunder, unless a different term is prescribed therefor, shall be prescribed by the lapse of five years from the date on which the infringement or the offence is alleged to have been committed."

Amendment of the First Schedule to the principal Act.

**10.** The First Schedule to the principal Act shall be amended as follows:

(a) immediately after point 11 thereof, there shall be added the following new point:

"11a. Providing search results in response to a consumer's online search query without clearly disclosing any paid advertisement or payment specifically for achieving higher ranking of products within the search results.";

(b) immediately after point 23 thereof, there shall be added the following new points:

"23a. Reselling events tickets to consumers if the trader acquired them by using automated means to circumvent any limit imposed on the number of tickets that a person can buy or any other rules applicable to the purchase of tickets.

23b. Stating that reviews of a product are submitted by consumers who have actually used or purchased the product without taking reasonable and proportionate steps to check that they originate from such consumers.

23c. Submitting or commissioning another legal or natural person to submit false consumer reviews or endorsements, or misrepresenting consumer reviews or social endorsements, in order to promote products."

**PART II****AMENDMENTS TO THE CONSUMER AFFAIRS ACT (PRICE INDICATION) REGULATIONS**

**11.** This Part amends the Consumer Affairs Act (Price Indication) Regulations and shall be read and construed as one with the Consumer Affairs Act (Price Indication) Regulations, hereinafter in this Part referred to as "the principal regulations".

Amendments to the Consumer Affairs Act (Price Indication) Regulations. S.L. 378.09

**12** Sub-regulation (2) of regulation 2 of the principal regulations shall be amended as follows:

Amendment of regulation 2 of the principal regulations.

(a) the definition "annual percentage rate" shall be deleted;

(b) the definition "consumer" shall be substituted by the following new definition:

" "consumer" means any natural person who buys a product for purposes that do not fall within the sphere of his commercial or professional activity;"

(c) immediately after the definition "consumer" as substituted there shall be added the following new definition:

"S.L. 378.17. "place of business" means any place from where any trade or business is carried out including any stall, or online marketplace as defined in the Consumer Rights Regulations;"

(d) immediately after the definition "products sold in bulk" there shall be added the following new definition:

" "stall" means any vehicle, compartment, bench, board, trolley, table or receptacle or a combination thereof placed in any marketplace for the sale of goods.".

**13.** Immediately after regulation 5 of the principal regulations there shall be added the following new regulation:

Addition of new regulation to the principal regulations.

"Price Reductions.

5A. (1) Any announcement of a price reduction shall indicate the prior price applied by the trader for a determined period of time prior to the application of the price reduction.

(2) The prior price means the lowest price applied by the trader during a period of time not shorter than thirty (30) days prior to the application of the price reduction:

Provided that for goods which are liable to deteriorate or expire rapidly, the prior price is the one applied immediately before the price reduction:

Provided further that if the goods have been on the market for less than thirty (30) days, the prior price means the lowest price applied by the trader during this period:

Provided further that when the price reduction is progressively increased, the prior price is the price without the price reduction before the first application of the price reduction."

Amendment of regulation 9 of the principal regulations.

**14.** Regulation 9 of the principal regulations shall be amended as follows:

(a) sub-regulation 2 thereof shall be substituted by the following new sub-regulation:

"(2) Proceedings in respect of an offence against these regulations shall be commenced within one year from the commission of the offence.";

(b) paragraphs (a) and (b) of sub-regulation 3 thereof shall be substituted by the following new paragraphs:

"(a) in the case of a first conviction, to a fine of not less than one hundred and fifty euro (€150) and not exceeding one thousand and five hundred euro (€1,500);

(b) in the case of a second or subsequent conviction, to a fine of not less than two hundred euro (€200) and not exceeding two thousand euro (€2,000):

Provided that the Court, when imposing a fine, shall take into account the following non-exhaustive and indicative criteria:

(i) the nature, gravity, scale and duration of the infringement;

(ii) any action taken by the trader to mitigate or remedy the damage suffered by consumers;

(iii) any previous infringements by the trader;

(iv) the financial benefits gained or losses avoided by the trader due to the infringement, if the relevant data are available;

(v) penalties imposed on the trader for the same infringement in other Member States in cross-border cases where information about such penalties is available through the mechanism established by the Consumer Protection Co-operation Regulation as defined in article 2 of the Act;

(vi) any other aggravating or mitigating factors applicable to the circumstances of the case:

Provided further that with regard to any convictions, the Court shall order the publication in one or more daily newspapers of the judgement, or a statement or summary thereof, passed on the offender:

Provided further that with regard to any convictions, the Director General shall also publish on the website of the Authority the judgement delivered by the Court, or a statement or summary thereof, passed on the offender."

### PART III

#### AMENDMENTS TO THE CONSUMER RIGHTS REGULATIONS

**15.** This Part amends the Consumer Rights Regulations and shall be read and construed as one with the Consumer Rights Regulations, hereinafter in this Part referred to as "the principal regulations".

Amendments to the Consumer Rights Regulations. S.L.378.17.

**16.** Sub-regulation (2) of regulation 2 of the principal regulations shall be amended as follows:

Amendments of regulation 2 of the principal regulations.

(a) immediately after the definition "commercial guarantee" there shall be added the following new definition:

"S.L.378.20. "compatibility" means compatibility as defined in sub-regulation (1) of regulation 2 of the Digital Content and Digital Services Contracts Regulations;"

(b) the definition "digital content" shall be substituted by the following new definition:

"S.L.378.20. "digital content" means digital content as defined in sub-regulation (1) of regulation 2 of the Digital Content and Digital Services Contracts Regulations;"

(c) immediately after the definition "digital content"

there shall be added the following new definition:

"digital service" means digital service as defined in sub-regulation (1) of regulation 2 of the Digital Content and Digital Services Contracts Regulations;";

(d) immediately after the definition "financial service" there shall be added the following new definition:

"functionality" means functionality as defined in sub-regulation (1) of regulation 2 of the Digital Content and Digital Services Contracts Regulations;";

(e) the definition "goods" shall be substituted by the following new definition:

"goods" means goods as defined in sub-article (1) of article 72 of the Act;";

(f) immediately after the definition "goods made to the specifications of the consumer" there shall be added the following new definition:

"interoperability" means interoperability as defined in sub-regulation (1) of regulation 2 of the Digital Content and Digital Services Contracts Regulations;";

(g) immediately after the definition of "off-premises contract" there shall be added the following three new definitions:

" "online marketplace" means a service using software, including a website, part of a website or an application, operated by or on behalf of a trader which allows consumers to conclude distance contracts with other traders or consumers;

"personal data" means personal data as defined in point (1) of Article 4 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 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 (General Data Protection Regulation);";

"provider of an online marketplace" means any trader which provides an online marketplace to consumers;";



(h) the definition "sales contract" shall be substituted by the following new definition:

" "sales contract" means any contract under which the trader transfers or undertakes to transfer ownership of goods to the consumer, including any contract having as its object both goods and services;"

(i) the definition "service contract" shall be substituted by the following new definition:

" "service contract" means any contract other than a sales contract under which the trader supplies or undertakes to supply a service, including a digital service, to the consumer;"

17. Regulation 3 of the principal regulations shall be amended as follows:

Amendment of regulation 3 of the principal regulations.

(a) sub-regulation (1) thereof shall be substituted by the following new sub-regulation:

"(1) These regulations shall apply, under the conditions and to the extent set out in their provisions, to any contract concluded between a trader and a consumer where the consumer pays or undertakes to pay the price. These regulations shall also apply to contracts for the supply of water, gas or electricity, including by public providers, to the extent that these commodities are provided on a contractual basis.";

(b) immediately after sub-regulation (1) thereof as substituted, there shall be added the following new sub-regulation:

"(1a) These regulations shall also apply where the trader supplies or undertakes to supply digital content which is not supplied on a tangible medium or a digital service to the consumer and the consumer provides or undertakes to provide personal data to the trader, except where the personal data provided by the consumer are exclusively processed by the trader for the purpose of supplying the digital content which is not supplied on a tangible medium or digital service in accordance with these regulations or for allowing the trader to comply with legal requirements to which the trader is subject, and the trader does not process those data for any other purpose.";

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(c) sub-regulation (3) thereof shall be amended as follows:

(i) paragraph (*k*) thereof shall be substituted by the following new paragraph:

"(*k*) for passenger transport services, with the exception of regulations 9(2), 21, 23 and 24;"

(ii) paragraph (*m*) thereof shall be substituted by the following new paragraph:

"(*m*) concluded with telecommunications operators through public payphones for their use or concluded for the use of one single connection by telephone, internet or fax established by a consumer;"

(d) immediately after paragraph (*m*) thereof as substituted, there shall be added the following new paragraph:

"(*n*) for any goods sold by way of execution or otherwise by authority of law."

Amendment of regulation 4 of the principal regulations.

**18.** Regulation 4 of the principal regulations shall be amended as follows:

(a) paragraph (*e*) of sub-regulation (1) thereof shall be substituted by the following new paragraph:

"(*e*) in addition to a reminder of the existence of the legal guarantee of conformity for goods, digital content and digital services, the existence and the conditions of after-sales services and commercial guarantees, where applicable; "

(b) paragraphs (*g*) and (*h*) of sub-regulation (1) shall be substituted by the following new paragraphs:

"(*g*) where applicable, the functionality, including applicable technical protection measures, of goods with digital elements, digital content and digital services;

"(*h*) where applicable, any relevant compatibility and interoperability of goods with digital elements, digital content and digital services that the trader is aware of or can reasonably be expected to have been aware of."

**19.** Sub-regulation (1) of regulation 5 of the principal regulations shall be amended as follows:

Amendment of regulation 5 of the principal regulations.

(a) paragraph (c) thereof shall be substituted by the following new paragraph:

"(c) the geographical address at which the trader is established as well as the trader's telephone number and email address; in addition, where the trader provides other means of online communication which guarantee that the consumer can keep any written correspondence, including the date and time of such correspondence, with the trader on a durable medium, the information shall also include details of those other means; all those means of communication provided by the trader shall enable the consumer to contact the trader quickly and communicate with him efficiently; where applicable, the trader shall also provide the geographical address and identity of the trader on whose behalf he is acting;"

(b) immediately after paragraph (e) thereof, there shall be added the following new paragraph:

"(ea) where applicable, that the price was personalised on the basis of automated decision-making;"

(c) paragraph (l) thereof shall be substituted by the following new paragraph:

"(l) a reminder of the existence of a legal guarantee of conformity for goods, digital content and digital services;"

(d) paragraphs (r) and (s) thereof shall be substituted by the following new paragraphs:

"(r) where applicable, the functionality, including applicable technical protection measures, of goods with digital elements, digital content and digital services;

(s) where applicable, any relevant compatibility and interoperability of goods with digital elements, digital content and digital services that the trader is aware of or can reasonably be expected to have been aware of."

**20.** Immediately after regulation 5 of the principal regulations,

Addition of a new regulation to the principal regulations.

there shall be added the following new regulation:

"Additional specific information requirements for contracts concluded on online marketplaces.

5A. (1) Before a consumer is bound by a distance contract, or any corresponding offer, on an online marketplace, the provider of the online marketplace shall, without prejudice to the provisions in Part VIII of the Act, provide the consumer with the following information in a clear and comprehensible manner and in a way appropriate to the means of distance communication:

(a) general information, made available in a specific section of the online interface that is directly and easily accessible from the page where the offers are presented, on the main parameters determining ranking, as defined in Article 51A of the Act, of offers presented to the consumer as a result of the search query and the relative importance of those parameters as opposed to other parameters;

(b) whether the third party offering the goods, services or digital content is a trader or not, on the basis of the declaration of that third party to the provider of the online marketplace;

(c) where the third party offering the goods, services or digital content is not a trader, that the consumer rights stemming from European Union consumer protection law do not apply to the contract;

(d) where applicable, how the obligations related to the contract are shared between the third party offering the goods, services or digital content and the provider of the online marketplace, such information being without prejudice to any responsibility that the provider of the online marketplace or the third-party trader has in relation to the contract under other European Union or national law."

Amendment of regulation 8 of the principal regulations.

**21.** Sub-regulation (3) of regulation 8 of the principal regulations shall be substituted by the following new sub-regulation:

"(3) Where a consumer wants the performance of services, or the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, to begin during the withdrawal period provided for in regulation 10(2), and the contract places the consumer under an obligation to pay, the trader shall require that the consumer make such an express request on a durable medium and request the consumer to acknowledge that, once the contract has been fully performed by

the trader, the consumer will no longer have the right of withdrawal."

**22.** Regulation 9 of the principal regulations shall be amended as follows:

Amendment of regulation 9 of the principal regulations.

(a) sub-regulation (4) thereof shall be substituted by the following new sub-regulation:

"(4) If the contract is concluded through a means of distance communication which allows limited space or time to display the information, the trader shall provide, on or through that particular means prior to the conclusion of such a contract, at least the pre-contractual information regarding the main characteristics of the goods or services, the identity of the trader, the total price, the right of withdrawal, the duration of the contract and, if the contract is of indeterminate duration, the conditions for terminating the contract, as referred to, respectively, in regulation 5(1)(a), (b), (e), (h) and (o), except the model withdrawal form set out in Part B of the Schedule referred to in paragraph (h). The other information referred to in regulation 5(1), including the model withdrawal form, shall be provided by the trader to the consumer in an appropriate way in accordance with sub-regulation (1) of this regulation.";

(b) sub-regulation (8) thereof shall be substituted by the following new sub-regulation:

"(8) Where a consumer wants the performance of services, or the supply of water, gas or electricity, where they are not put up for sale in a limited volume or set quantity, to begin during the withdrawal period provided for in regulation 10(2), and the contract places the consumer under an obligation to pay, the trader shall require that the consumer make an express request and request the consumer to acknowledge that, once the contract has been fully performed by the trader, the consumer will no longer have the right of withdrawal."

**23.** Regulation 10 of the principal regulations shall be amended as follows:

Amendment of regulation 10 of the principal regulations.

(a) in sub-regulation (1) thereof, the words "regulations 15(2) and 16." shall be substituted by the words "regulations 15(2) and 16:" and immediately thereafter there shall be added the following new proviso:

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"Provided that for contracts concluded in the context of unsolicited visits by a trader to a consumer's home or excursions organised by a trader with the aim or effect of promoting or selling products to consumers, the withdrawal period of fourteen (14) days is extended to thirty (30) days.";

(b) the introductory words of sub-regulation (2) thereof shall be substituted by the following new words:

"(2) Without prejudice to regulation 12, the withdrawal period referred to in sub-regulation (1) shall expire after fourteen (14) days or, in cases under the proviso of sub-regulation (1) after thirty (30) days from:".

Amendment of regulation 12 of the principal regulations.

**24.** Sub-regulation (2) of regulation 12 of the principal regulations shall be substituted by the following new sub-regulation:

"(2) If the trader has provided the consumer with the information provided for in sub-regulation (1) within twelve (12) months from the day referred to in regulation 10(2), the withdrawal period shall expire fourteen (14) days, or in cases under the proviso of sub-regulation (1) after thirty (30) days, after the day upon which the consumer receives that information.".

Amendment of regulation 15 of the principal regulations.

**25.** Immediately after sub-regulation (3) of regulation 15 of the principal regulations, there shall be added the following new sub-regulations:

"(4) In respect of personal data of the consumer, the trader shall comply with the obligations applicable under Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 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 (General Data Protection Regulation) and the Data Protection Act.

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(5) The trader shall refrain from using any content, other than personal data, which was provided or created by the consumer when using the digital content or digital service supplied by the trader, except where such content:

(a) has no utility outside the context of the digital content or digital service supplied by the trader;

(b) only relates to the consumer's activity when using the digital content or digital service supplied by the trader;

(c) has been aggregated with other data by the trader and cannot be disaggregated or only with disproportionate efforts; or

(d) has been generated jointly by the consumer and others, and other consumers are able to continue to make use of the content.

(6) Except in the situations referred to in sub-regulation (5)(a), (b) or (c), the trader shall, at the request of the consumer, make available to the consumer any content, other than personal data, which was provided or created by the consumer when using the digital content or digital service supplied by the trader.

(7) The consumer shall be entitled to retrieve that digital content free of charge, without hindrance from the trader, within a reasonable time and in a commonly used and machine-readable format.

(8) In the event of withdrawal from the contract, the trader may prevent any further use of the digital content or digital service by the consumer, in particular by making the digital content or digital service inaccessible to the consumer or disabling the user account of the consumer, without prejudice to sub-regulation (6)."

**26.** Regulation 16 of the principal regulations shall be amended as follows:

Amendment of regulation 16 of the principal regulations.

(a) immediately after sub-regulation (2) thereof there shall be added the following new sub-regulation:

"(2a) In the event of withdrawal from the contract, the consumer shall refrain from using the digital content or digital service and from making it available to third parties.";

(b) sub-regulation (4)(b)(i) thereof shall be substituted by the following new sub-paragraph:

"(i) the consumer has not given prior express consent to the beginning of the performance before the end of the fourteen (14) day or thirty (30) day period referred to in regulation 10;"

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Amendment of regulation 18 of the principal regulations.

**27.** Regulation 18 of the principal regulations shall be amended as follows:

(a) paragraph (a) thereof shall be substituted by the following new paragraph:

"(a) service contracts after the service has been fully performed but, if the contract places the consumer under an obligation to pay, only if the performance has begun with the consumer's prior express consent and acknowledgement that he will lose his right of withdrawal once the contract has been fully performed by the trader;"

(b) paragraph (m) thereof shall be substituted by the following new paragraph:

"(m) contracts for the supply of digital content which is not supplied on a tangible medium if the performance has begun and, if the contract places the consumer under an obligation to pay, where:

(i) the consumer has provided prior express consent to begin the performance during the right of withdrawal period;

(ii) the consumer has provided acknowledgement that he thereby loses his right of withdrawal; and

(iii) the trader has provided confirmation in accordance with regulation 8(2) or regulation 9(7):

Provided that for contracts concluded in the context of unsolicited visits by a trader to a consumer's home or excursions organised by a trader with the aim or effect of promoting or selling products to consumers, the exceptions from the right of withdrawal set out in paragraphs (a), (b), (c) and (e) shall not apply."

Amendment of the Schedule to the principal regulations.

**28.** The Schedule to the principal regulations shall be amended as follows:

(a) the second paragraph, "The withdrawal period will expire after 14 days from the day [1]." under "Right of withdrawal", in Part A thereof shall be substituted by the following new paragraph:

"The withdrawal period shall expire after 14 days from the day [1]. (For contracts concluded in the context of



unsolicited visits by the trader to a consumer's home or excursions organised by the trader with the aim or effect of promoting or selling products to consumers, the withdrawal period will expire after 30 days.);

(b) the third paragraph, "To exercise the right of withdrawal, you must inform us [2] of your decision to withdraw from this contract by an unequivocal statement (e.g. a letter sent by post, fax or e-mail). You may use the attached model withdrawal form, but it is not obligatory [3]." under "Right of withdrawal", in Part A thereof shall be substituted by the following new paragraph:

"To exercise the right of withdrawal, you must inform us [2] of your decision to withdraw from this contract by an unequivocal statement (e.g. a letter sent by post or email). You may use the attached model withdrawal form but it is not obligatory. [3]";

(c) paragraph [2] under "Instructions for completion" in Part A thereof shall be substituted by the following new paragraph:

"[2.] Insert your name, geographical address, telephone number and email address.";

(d) the first indent, "- To [here the trader's name, geographical address and, where available, his fax number and e-mail address are to be inserted by the trader]:", in Part B thereof, shall be substituted by the following new indent:

"- To [here the trader's name, geographical address and email address are to be inserted by the trader]:".

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Passed by the House of Representatives at Sitting No. 33 of the 17th October, 2022.

ANĠLU FARRUGIA  
*Speaker*

RAYMOND SCICLUNA  
*Clerk of the House of Representatives*

