



EUROPEAN COMMISSION  
DIRECTORATE GENERAL FOR HEALTH AND FOOD SAFETY

Crisis preparedness in food, animals and plants  
Unit G.4 Official controls

**Minutes**  
**Working Group**  
**"Meeting of the e-commerce**  
**sub-group of the WG on Official Controls Regulation (EU 2017/625)"**

Tuesday 6 February 2024, **10H00 – 12H30**  
Skype call

Chair: Tim Gumbel, Deputy Head of Unit G4

**OCR WG – e-commerce sub-group**

<b>1</b>	<b>Welcome</b>	The Commission welcomed the representatives of 14 Member States + Norway, who volunteered for this sub-group of the OCR working group.
<b>2</b>	<b>Scope of the sub-group and possible outcomes</b>	The Commission explained that the scope of this sub-group are official controls in the areas referred to under Article 1(2) of the Official Controls Regulation (OCR), where those controls concern e-commerce activities. The intention is to provide a forum for exchanges on best practices for the enforcement of agri-food chain rules in the e-commerce sector. The Commission intends to support Member States by providing clarifications and guidance where needed and to facilitate exchanges with other relevant areas (e.g. Digital Services Act, see below). In the mid to long term, legislative action could be envisaged if necessary.
<b>3</b>	<b>Prioritisation of topics</b>	<p>The Commission presented several issues in relation to official controls of e-commerce activities that were identified in the past by Member States and stakeholders as warranting further examination in the context of this group:</p> <p><i>1. Mystery shopping / cover identities</i></p> <p>There are diverging degrees of powers granted by the different Member States to their competent authorities to perform covert activities such as test purchases ('mystery shopping') or contacting operators under cover identities. While the OCR allows the use of goods obtained by mystery shopping for official controls, it does not regulate mystery shopping itself. Furthermore, the requirement to inform operators when mystery shopping has been performed may compromise criminal investigations. Several Member States point out that in addition, the use of anonymous payment methods presents a challenge to the performance of mystery shopping.</p>

			<p><i>2. Action vis-à-vis non-OCR operators</i>  Articles 137 and 138 of the OCR do not apply as a basis for enforcement action taken against entities that do not fall under the scope of the OCR, such as online market places, hosting service providers, social media, domain registrars, banks / payment service providers.  One Member State points out that internet access providers are relevant in this regard as well, and have been successfully used in several Member States to block national access to certain websites as a last resort when the operator was not responding to communication. Another Member State reports that the contacts with the Digital Service Coordinators nominated under the Digital Services Act are currently being established.</p> <p><i>3. Access to financial information</i>  Financial information may be relevant for identifying and locating e-operators, but is often not accessible for OCR competent authorities.  Member States report varying success of cooperation with national tax authorities, often depending on the severity of the infringement.</p> <p>4. Cross-border enforcement within EU</p> <p>5. Imports with no establishment in EU</p>
4		<p><b>Information on horizontal topics / DG CNECT</b></p>	<p>The Commission (DG CONNECT) provided a short presentation of the main provisions of the Digital Services Act (DSA) that may be relevant for other sectoral authorities in Member States investigating compliance with products requirements, and possible relevance of specific DSA obligations in this regard. [slides provided]</p> <p>The Commission stressed that the DSA obligations do not address compliance of specific listings or products with applicable requirements. However information about issues encountered by sectoral authorities when dealing with intermediaries/platforms covered by the DSA may be relevant for the enforcement of the DSA. This information therefore may be of relevance for the Digital Services Coordinators and other Competent Authorities to apply the DSA, with the DSC performing a role of coordinator also with other, non-DSA, authorities. The deadline for Member States to designate national DSCs is about to expire on 17/2/2024. Designations of DSC should be made public by Member States and in any case information on the designated DSCs is being gathered by the Commission and will be made public (and then communicated also in the context of the WG) shortly after that deadline.</p> <p>The same information, in particular at aggregate EU level, may also be of relevance for the Commission when it concerns designated VLOPs/VLOSEs.</p> <p>As the obligations for digital service providers under the DSA are relevant for all e-commerce activities in the agri-food chain, The Commission is envisaging regular exchanges between the relevant services for this area.</p>