

Online trade: when exactly is an agreement concluded with the web shop?

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Many people believe that by placing an order of the goods selected on the web shop's homepage means, the customer accepts the offer and so the agreement is made. But in fact, there is one more important element needed for deeming the agreement validly concluded – an expert of Kovács Réti Szegheő Attorneys at Law said to [origo].

Dr. Loránd Kovács initially elaborated that while the nation's retail sector is still in recession, online trade is generating increasing volume year after year. Last year online trade volume reached up to 177 bn HUF which, compared to the sales figures of the 2011 business year, represents a 14% expansion.

Irrespective of the continuously increasing volume, the customers' confidence in online trade, in comparison with international data – remains rather low. Market research shows that nearly half of the goods bought online are collected in person from the premises of the web shop or at the designated pick-up points and up to 70% of the payments are made in cash.

There are manifold reasons for this phenomenon, which can even be regarded as a national trait. On the one hand, customers still wish to check the quality and characteristics of the goods in person before paying for them, furthermore, Hungarian customers are still reluctant to electronically effect payment transactions in case of online shopping.

The reason for this lack of confidence is due to the fact that the 'virtual nature' of shopping via Internet makes customers feel exposed besides, they are not familiar with the 'safety net' provided by the applicable legal stipulations – as the expert from Kovács Réti Szegheő Attorneys at Law pointed out.

It cannot be conducted under the cloak of anonymity

It is important to be aware of the fact that contrary to general belief, online traders may not conduct business under the cloak of anonymity as the applicable Hungarian and European Union sources of law impose serious data furnishing obligation on service providers. In case of online shopping, the website operating company's name, registered offices, availability, company registration number, name of the company registrar etc shall be made easily accessible to customers.

If these data should not be displayed on the website of the web shop, we can ascertain that the seller has not fulfilled its data furnishing obligations so we can immediately assess the risk of shopping and may if needed find another seller – dr. Loránd Kovács warned.



When is the sale and purchase agreement concluded?

If prospective buyers consciously search for the seller's data and they actually find them all, they can be aware of who exactly they are buying from. The next issue to be clarified is, when the sale and purchase agreement between the parties is concluded and what room for manoeuvre buyers have.

Many believe that by placing an order of the goods selected on the webshop's homepage, the buyer accepts the offer on the homepage and so the contract is made. In fact, there is one more important element in order that the contract be deemed validly concluded. The seller shall send confirmation electronically (via e-mail) immediately but latest within 48 hours, emphasised the expert of Kovács Réti Szegheő Attorneys at Law.

Should the seller not fulfil its confirmation obligation, the buyer shall be discharged from the binding effect of the offer and his/her contractual obligations that is, if he/she has not paid the counter value of the ordered goods, he/she is no longer compelled to do so. The conclusion of the contract, furthermore, also depends on whether prior to the placement of the order the seller has provided by sufficiently efficient and accessible means the opportunity for the buyer to realise and correct the incorrectly supplied data during the course of ordering.

It may happen that the buyer incorrectly supplied the delivery address or the number or type of items. In case the buyer may not ascertain of them prior to the placement of the order and thus could not correct such mistake, the order is not deemed a contractual representation therefore the agreement is not concluded, causing the buyer to be released from payment obligation.

Right of withdrawal

Finally, the seller is entitled to a right to cancel within eight working days after the delivery of the goods, which he/she may exercise without the obligation to give reason. In the event that the buyer cancels the purchase, the costs of returning the goods are born by the buyer while the seller is obligated to immediately or latest within 30 days following the cancellation refund the purchase price of the goods to the buyer.

It is apparent therefore that the above provisions may to a certain degree counterbalance the risk arising out of paying in advance and help eliminate the negative prejudice toward online shopping – dr. Lorand Kovács underlined.

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