

## BILAG 4 - QUESTIONNAIRE - FRANCE AND BELGIUM

Dette questionnaire indeholder en række forskellige temaer samt de svar og spørgsmål, som har dannet grundlag for e-handelsguiden. Questionnairets kolonne nummer to indeholder spørgsmålene, og kolonne nummer tre indeholder svaret på spørgsmålet i forhold til, hvad der gælder i Danmark. Herefter følger de enkelte landes svar i kolonne nummer fire og fem. De enkelte landes besvarelser skal holdes op imod de danske svar. Hvis der af de enkelte landes besvarelser fremgår "Same applies" gælder der det samme, som fremgår af det danske svar.

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			<p>The answers for France have been provided by GIDE LORETTE NOUËL A.A.R.P.I, Axelle Toulemonde, Partner.</p> 	<p>The answers for Belgium have been provided by Fieldfisher (Belgium) LLP, Brussels, Hakim Haouideg, Partner.</p> 
1	Trademarks and business identifiers			
1.1	Can a trademark right, or a similar right, be established through use?	<p>According to the Danish Trademarks Act (implementing parts of Directive 2004/48/EF on the enforcement of intellectual property rights and Directive 2015/2436/EU on how to approximate the laws of the Member States relating to trademarks), a trademark right can be established by commencement of use, if the use is continuously.</p> <p>In addition, a proprietary right to other business identifiers (i.e. signs which do not necessarily enjoy trademark protection), protected under the Danish Marketing Practices Act (implementing, amongst others, Directive 2005/29/EC on unfair business-to-consumer commercial practices), can also be established through the commencement of continued use.</p>	<p>Pursuant to Article L. 712-1 of the French Intellectual Property Code: <i>"Ownership of a trademark shall be acquired by registration (...)"</i>. Thus, under French Law only registration can confer exclusive rights on a trademark.</p> <p>However, the exception provided by Article 6 bis of the Paris Convention for the protection of Industrial Property may apply with respect to well-known trademarks. The latter provides for the protection of owners of well-known trademarks (which are distinct from reputed trademarks) in countries where they have not filed their trademark and within the limits of the principle of speciality.</p> <p>In the case of similar rights other than the trademark (company name, trade name, signboard, domain name), the protection of the sign depends on general tort law. Thus, the use of the sign is the necessary and sufficient condition for their protection.</p>	<p>According to the Benelux Convention on Intellectual Property (implementing parts of Directive 2004/48/EC on the enforcement of intellectual property rights and Directive 2015/2436/EU on how to approximate the laws of the Member States relating to trademarks), a trademark shall be obtained by registration.</p> <p>However, a right to a tradename (business identifier), protected under inter alia the Belgian Code of Economic Law (implementing, amongst others, Directive 2005/29/EC on unfair business-to-consumer commercial practices), can be established through the first public use of the tradename.</p>
2	Domain names			
2.1	Does the registrant of a national top-level domain in your country need to be established, have a branch or an address (or the like) in your country?	<p>By application, any natural person or legal entity can be registered as an owner of a .dk- domain name.</p> <p>The natural person or legal entity does not have to be established, have a branch or an address (or the like) in Denmark.</p>	<p>No. Article L. 45-3 of the French Post and Electronic Communications Code only provides that the registration of domain names, for a top-level domain, may only be requested by natural persons residing in the territory of the European Union or legal persons having their registered office or main establishment in the territory of one of the Member States of the European Union.</p>	<p>Same applies (.be-domain name).</p>

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			In addition, Article 5.1 of AFNIC Naming Charter extends this rule to the following additional countries: Iceland, Liechtenstein, Norway and Switzerland.	
3	Language requirements on the website			
3.1	<p>Are there any general language requirements for websites marketing and selling products and/or services online to consumers and/or businesses?</p> <p>If yes, please elaborate.</p>	<p>There are no general language requirements for websites marketing and/or selling products and services online to consumers or businesses in Denmark.</p>	<p>Yes. Pursuant to Article 2 of Law no. 94-665 of 4 August 1994 (the "Loi Toubon"), the trader who offers products for sale must use French on the documents provided to consumers living in France. The use of French is mandatory for any type of communication to consumers and end-users, including websites, provided that the French public is targeted.</p>	<p>Same applies.</p>
4	Information requirements about the trader on the website			
4.1	<p>Is there any information about the trader that the trader is obligated to provide on the website when selling products and/or services to consumers and/or businesses?</p> <p>If yes, please elaborate.</p>	<p>According to the Danish e-commerce Act (implementing Directive 2000/31/EC on electronic commerce), a trader selling products and/or services online to consumers and/or businesses must provide the following information on the website:</p> <ol style="list-style-type: none"> <li>the name of the trader as registered in a trade register (in Denmark; The Central Business Register);</li> <li>the geographic address of the trader;</li> <li>the email address of the trader, the postal address of the trader if it deviates from the geographic address, and other contact information which enables contact with the trader;</li> <li>the Central Business Register number of the trader (in Denmark; CVR-number);</li> <li>applicable authorization schemes, including the relevant supervisory authority; and</li> <li>as concerns regulated professions, any professional body or similar institutions with which the trader is registered, the trader's professional title and the Member State in which it is granted, and a reference to applicable professional rules.</li> </ol>	<p>Same applies.</p> <p>Pursuant to Article 19 of Law no. 2004-575 of 21 June (implementing Directive 2000/31/EC on electronic commerce), a trader selling products and/or services to consumers and/or businesses must provide the following information on the website:</p> <ol style="list-style-type: none"> <li>the name of the trader as registered in the trade register (in France; The Registry of Commerce);</li> <li>the postal address of establishment;</li> <li>the email address and telephone number enabling contact with the trader;</li> <li>the Registry of Commerce number of the trader, if applicable, as well as the share capital and headquarters address of the trader;</li> <li>applicable VAT identification numbers, or individual identification numbers;</li> <li>applicable authorization schemes, including the relevant supervisory authority;</li> <li>as concerns regulated professions, any person engaging in e-commerce activity who is also a member of a regulated profession must also provide their professional title as well</li> </ol>	<p>According to the Belgian Code of Economic Law (implementing Directive 2000/31/EC on electronic commerce), a trader selling products and/or services online to consumers and/or businesses must provide the following information on the website:</p> <ol style="list-style-type: none"> <li>the name or the trade name;</li> <li>the geographic address of the trader;</li> <li>contact information which enables contact (in a rapid, direct and effective manner) with the trader, including the email address;</li> <li>the company number (if applicable) (in Belgium: CBE-number);</li> <li>the relevant supervisory authority if authorization schemes are applicable;</li> <li>as concerns regulated professions, any professional body or similar institutions with which the trader is registered, the trader's professional title and the Member State in which it is granted, and a reference to applicable professional rules and access to them;</li> <li>if an activity is subject to value added tax, the identification number; and</li> <li>the codes of conduct which have been subscribed to (if applicable), as well as the</li> </ol>

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			as the Member State in which it was granted as well as the name of the order or professional organ in which they are registered.	information about how these codes can be consulted electronically.  Parties which do not act as consumers may deviate by agreement from the last point mentioned above.
4.2	If yes, how should such information be provided?	The information must be easily and permanently accessible and provided collectively. The information can for example be available gathered on the front page of the website, or through a link on the front page of the website to the contact information of the trader found elsewhere on the website.	The information must be directly, easily, permanently accessible and provided collectively (through an open format). It must be provided in a clear and non-ambiguous manner and be accessible from all pages of the website.	Same applies.
5	Pre-contractual information			
5.1	Is there any general pre-contractual information that must be provided on the e-commerce website to both consumers and businesses?  If yes, please elaborate.	Yes, according to the Danish e-commerce Act, a trader selling products and/or services to consumers online (and/or businesses, unless otherwise agreed) must provide the following information before an order is placed:  <ol style="list-style-type: none"> <li>the different technical steps to follow to conclude the agreement;</li> <li>whether or not the concluded agreement will be stored by the trader and whether it will be accessible;</li> <li>the languages offered for concluding the agreement;</li> <li>the technical means for identifying and correcting errors; and</li> <li>any relevant codes of conduct and information on how those codes can be consulted electronically.</li> </ol> <p>The above-mentioned information must be given clearly, comprehensibly and unambiguously.</p>	Yes, pursuant to Article 1127-1 of the French Civil Code, a trader selling products and/or services online to consumers and businesses must provide the following information before an order is placed:  <ol style="list-style-type: none"> <li>the different steps to follow to conclude the contract electronically;</li> <li>where applicable, the terms and conditions for archiving the contract by the trader and the conditions for access to the archived contract;</li> <li>the languages offered for concluding the agreement, which must include the French language;</li> <li>the technical means for identifying and correcting errors;</li> <li>the means of consulting electronically the professional and commercial rules with which the offeror intends, where applicable, to comply.</li> </ol> <p>The trader makes available the applicable contractual provisions in a manner that allows them to be stored and reproduced.</p>	Yes, according to the Belgian Code of Economic law, a trader selling products and/or services to consumers online (and/or businesses, unless otherwise agreed) must provide the following information before an order is placed:  <ol style="list-style-type: none"> <li>the different technical steps to follow to conclude the agreement;</li> <li>whether or not the concluded agreement will be filed by the trader and whether it will be accessible;</li> <li>the languages offered for concluding the agreement; and</li> <li>the technical means for identifying and correcting errors.</li> </ol> <p>The above-mentioned information must be given clearly, comprehensibly and unambiguously.</p>
5.2	Is there any other pre-contractual information which must be provided to consumers?  If yes, please elaborate.	According to the Danish Consumer Contracts Act (implementing Directive 2011/83/EU on consumer rights), the trader must provide the following information to a consumer prior to conclusion of the agreement (we have included the main information requirements within the scope of the questionnaire):	Yes. Pursuant to Article L. 221-5 of the French Consumer Code (implementing Directive 2011/83/EU on consumer rights), the trader must provide the following information to a consumer prior to conclusion of the agreement (we have included the main information requirements within the scope of the questionnaire):	Same applies (Belgian Code of Economic Law).  The remedies for defective performance are contained in the Belgian Civil Code.

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		<ol style="list-style-type: none"> <li>1. the main characteristics of the goods and services;</li> <li>2. the identity and address of the trader, and, if relevant, the trader's telephone number and email address;</li> <li>3. the identity and address of another trader which the trader acts on behalf of, if relevant;</li> <li>4. the total price of the goods and services, inclusive of taxes, or where the nature of the goods or services is such that the price cannot reasonably be calculated in advance, the method of calculating the price;</li> <li>5. any costs that the consumer must pay to use means of distance communications, if different from the regular fee;</li> <li>6. the payment conditions, the conditions for the fulfilment of the agreement, information of when the trader expects to deliver the purchased goods or services;</li> <li>7. the trader's complaint handling procedure if this deviates from what could be expected by the consumer;</li> <li>8. that the remedies for defective performance contained in the Danish Sale of Goods Act may apply;</li> <li>9. the existence of and the conditions for after-sales customer assistance, after-sales services and commercial guarantees, if applicable;</li> <li>10. the relevant codes of conduct, and where to find these;</li> <li>11. the existence of and conditions for deposits or other financial guarantees to be paid or provided by the consumer, if relevant;</li> <li>12. the functionality and applicable technical measures of digital content, if applicable; and</li> <li>13. the compatibility of digital content with hardware and software, if relevant.</li> </ol> <p>Where applicable, the trader shall also provide information about the possibility of having recourse to a complaint and redress mechanism and the methods for having access to it. According to Regulation No 524/2013 on online dispute resolution for consumer disputes, the trader shall also inform the consumer of the ODR complaint platform, including a link to the</p>	<ol style="list-style-type: none"> <li>1. the main characteristics of the goods and services;</li> <li>2. the identity, address, telephone and electronic contact details and activities of the trader, insofar as they are not apparent from the context;</li> <li>3. the information on prices and special conditions for the sale and performance of services;</li> <li>4. where the price cannot reasonably be calculated in advance, the trader shall provide the method of calculating the price;</li> <li>5. all additional transport, delivery or postage costs and any other charges (if applicable);</li> <li>6. in the absence of immediate performance of the contract, the date or time limit by which the trader undertakes to deliver the goods or perform the service;</li> <li>7. any costs of using the means of distance communication (if applicable);</li> <li>8. termination terms, dispute resolution methods and other contractual conditions (if applicable);</li> <li>9. the possibility of using a consumer ombudsman;</li> <li>10. the legal guarantees, the existence and implementation of guarantees and other contractual conditions (if applicable);</li> <li>11. guarantees and sureties (if applicable);</li> <li>12. the existence of codes of good conduct (if applicable);</li> <li>13. the functionalities of digital content, its interoperability (if applicable).</li> </ol> <p>The trader is also obligated to provide information on the right of withdrawal (see the question below).</p>	

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		<p>platform, and the e-commerce trader's email address.</p> <p>Further, on websites where online made, the trader must inform the consumer of any delivery limitations and means of payments to be used.</p> <p>The trader is also obligated to provide information on the right of withdrawal (see the question below).</p> <p>There are a number of exceptions to the information requirements which are not included in the questionnaire, for example agreements for the supply of foodstuffs, beverages or other goods intended for current consumption in the household which are supplied by a trader on frequent and regular rounds to the consumer's home, residence or workplace, or agreements for gambling for which money is paid to participate.</p>		
5.3	How should the above-mentioned information requirements be fulfilled?	<p>The trader must provide the above-mentioned information prior to conclusion of the agreement in a clear and comprehensible manner.</p> <p>The above-mentioned information becomes an integral part of the agreement.</p> <p>The information must be in Danish, when the marketing of the goods and services has been in Danish.</p> <p>Most traders provide the information on the trader's website and in the trader's terms and conditions, which the trader then sends to the consumer within reasonable time after conclusion of the agreement.</p>	<p>In principle, pursuant to Article L. 221-11 and following the French Consumer Code, the trader must provide the above-mentioned information prior to conclusion of the agreement, i.e. at check-out, in French and in a clear and comprehensible manner or make it available by any means appropriate to the means of distance communication used.</p> <p>The mere accessibility by a hypertext link of the information provided for in Article L. 221-5 does not satisfy the communication requirement imposed by this text.</p> <p>By exception, where the technique of distance communication used imposes space limits on the presentation of information, the trader shall provide the consumer the above-mentioned information, prior to conclusion of the contract, i.e. at check-out, with at least the information relating to the essential characteristics of the goods or services, their price, his identity, the duration of the contract and the right of withdrawal. The trader shall forward to the consumer the other information provided for in the aforementioned Article by any other means appropriate to the technique of distance communication used.</p>	<p>Same applies.</p> <p>The information should be in Dutch/French/German, when the marketing of the goods and services has been in Dutch/French/German.</p>

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			<p>The above-mentioned information becomes an integral part of the agreement. No later than the time of delivery of the goods or before the start of the performance of the service, the consumer must be provided, on a durable medium, with confirmation of the contract including all the information provided for in the aforementioned article.</p> <p>Most traders provide the information on the trader's website and in the trader's terms and conditions, which the trader then sends to the consumer within reasonable time after conclusion of the agreement.</p>	
6	Information about prices, fees and VAT			
6.1	What information requirements regarding prices apply in relation to sale to both consumers and/or businesses?	When a price is shown on a website, it must be provided in a clear and unambiguous manner, including whether the price includes taxes and delivery costs.	Pursuant to Article 19 of the LCEN, when a price is shown on a website, it must be provided in a clear and unambiguous manner, including whether the price includes taxes and delivery costs.	Same applies.
6.2	In regard to sale to consumers, when is the trader obligated to provide information on the total price of the goods and/or services?	<p>In regard to consumers, the trader must in a clear and comprehensible manner inform the consumer of the total price of the goods and/or services before an online agreement is concluded.</p> <p>Additionally, according to the Danish Consumer Ombudsman, who amongst others monitors compliance with the Consumer Contracts Act, the trader shall provide information of the total price the first time the consumer is informed of the price. Where the nature of the goods or services is such that the price cannot reasonably be calculated in advance, the method of calculating the price must be informed.</p> <p>Further, the trader shall also inform the consumer of the total price directly before the consumer places his order. See more under the questions regarding check-out below.</p>	<p>Pursuant to Article L. 111-1 of the French Consumer Code, the trader must in a clear and comprehensible manner inform the consumer of the total price of the goods and/or services before an agreement is concluded.</p> <p>Furthermore, Article L. 221-14 of the French Consumer Code provides that before placing the order, the professional reminds the consumer, in a clear and comprehensible manner, of the information relating to the essential characteristics of the goods or services which are the subject of the order, including their price.</p> <p>See more details under the questions regarding check-out below.</p>	<p>In regard to consumers, the trader must in a clear and comprehensible manner inform the consumer of the total price of the goods and/or services before an online agreement is concluded.</p> <p>Where the nature of the goods or services is such that the price cannot reasonably be calculated in advance, the method of calculating the price must be informed.</p> <p>The trader shall also inform the consumer of the total price directly before the consumer places his order. See more under the questions regarding check-out below.</p>
6.3	Which costs are to be included in the total price of the goods and/or services	In regard to online consumer agreements, the total price of the goods and services includes all	The consumer must be informed of the total amount, including all taxes, that he will actually have to pay, expressed in euros. If the delivery costs are not included in the	In regard to online consumer agreements, the total price of the goods and services includes all fees, expenses, VAT and all other costs that the consumer must pay

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	in relation to online sale to consumers?	<p>fees, expenses, VAT and all other costs that the consumer must pay.</p> <p>Costs which cannot be referred to the individual goods are not to be included in the total price, e.g. delivery costs. However, the consumer must receive information about these costs in direct connection with the information on the total price.</p>	<p>total price, the consumer must receive information about these costs in direct connection with the information on the total price (Decree of 3-12-1987).</p> <p>If the price cannot reasonably be calculated in advance because of the nature of the goods or service, the trader shall provide the method of calculating the price and, where applicable, all additional transport, delivery or postage costs and any other charges, as provided in Article L. 112-3 of the French Consumer Code.</p>	<p>(freight costs, delivery costs, postage costs, etc. included).</p> <p>Where the costs cannot reasonably be calculated in advance, the trader should inform that such additional costs may be due.</p>
7	Terms and conditions			
7.1	Is the trader required to provide the trader's terms and conditions to the customer?	Yes, if a trader has a set of terms and conditions, the trader must make the terms and conditions available in a way that allows them to be stored and reproduced. This applies in relation to sale to both consumers and businesses.	Yes. If a trader has a set of terms and conditions, the trader should provide a link to the terms and conditions on the website that is easily accessible and visible.	Same applies.
7.2	Are there any language requirements for the trader's terms and conditions in online consumer agreements?	<p>According to the Danish Consumer Contracts Act, mandatory pre-contractual information, which are included in the trader's terms and conditions, must be provided in Danish if the marketing of the purchased goods and/or services has been in Danish.</p> <p>However, the e-commerce trader and the consumer may actively agree that the terms and conditions are provided in another language.</p> <p>Further, the information must be given in a clear and comprehensible manner.</p>	<p>Yes. Pursuant to Article 2 of the "Loi Toubon", in the description, offer, presentation, instructions for use, description of the scope and conditions of guarantee of goods, product or service, as well as in invoices and receipts, the use of the French language is mandatory.</p> <p>Therefore, the general terms and conditions of an e-commerce website shall be provided to consumers in French<sup>1</sup>.</p>	The information must be given in a clear and comprehensible manner. The consumer targeted should be able to understand the terms and conditions. The terms and conditions should be in Dutch/French/German if the marketing of the purchased goods and/or services has been in Dutch/French/German.
7.3	Must a consumer actively accept the terms and conditions?	Yes, the consumer must actively accept the terms and conditions. According to the Danish Consumer Ombudsman, pre-checked boxes are not permissible.	<p>Yes. In accordance with French<sup>2</sup> case law, the consumer shall:</p> <ul style="list-style-type: none"> <li>i) be informed of the existence and applicability of the terms and conditions; and</li> <li>ii) actively accept the terms and conditions either by signature of the terms, signature of a document alluding to the terms, or by checking a checkbox online.</li> </ul>	Yes, the consumer must actively accept the terms and conditions. According to the Federal Public Service Economy, pre-checked boxes are not permissible.

<sup>1</sup> French Supreme Court (Cour de cassation), 3 November 2004 03-85.642

<sup>2</sup> Court of Appeal of Versailles, 3 May 2016 no. 15/02478, and French Supreme Court 1st chamber, 3 March 1981 79-16.323

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			Pre-checked boxes are therefore also prohibited in France.	
7.4	Is the trader required to send the terms and conditions to the consumer after conclusion of an online agreement?	Yes, the trader must send the terms and conditions to the consumer on a durable medium when the terms and conditions include the mandatory information mentioned in the Consumer Contracts Act, which must be sent to the consumer following conclusion of the agreement.	Yes, pursuant to Article L. 221-13 of the French Consumer Code, the trader must make available the terms and conditions to the consumer on a durable medium at the moment of delivery, at the latest, or before the execution of the service.  Please note that the provision of a hypertext link to the terms and conditions is not considered a durable medium <sup>3</sup> .	Same applies.
8	Information requirements immediately before acceptance of the agreement (check-out)			
8.1	What information is the trader obligated to provide to the consumer immediately before the online agreement is concluded?	<p>In regard to consumers, if an agreement to be concluded online places an obligation on the consumer to pay, the trader shall, in a clear and prominent manner, inform the consumer of the obligation to pay directly before the consumer places the order, and provide the consumer with the following information:</p> <ol style="list-style-type: none"> <li>the main characteristics of the goods and services (in practice: which goods or services the consumer has chosen), and</li> <li>the total price.</li> </ol> <p>If the trader uses an "order confirmation button" on the website the button must have written "Order with payment obligation", "Buy now" or the like on it.</p> <p>According to the Danish Consumer Ombudsman, no additional text must be inserted between the above-mentioned information and an "order confirmation button" on the trader's website.</p>	<p>Pursuant to Article L. 221-14 of the French Consumer Code, for online agreements, the trader shall remind the consumer, before placing his order, in French and in a clear and comprehensible manner, of the information relating to:</p> <ol style="list-style-type: none"> <li>the essential characteristics of the goods or services which are the subject of the order;</li> <li>their price;</li> <li>the duration of the contract, and;</li> <li>where applicable, the minimum duration of the consumer's obligations under the contract.</li> </ol> <p>The trader shall ensure that the consumer, when ordering, explicitly acknowledges his obligation to pay. To this end, the function used by the consumer to validate his order includes the clear and legible mention in French: "commande avec obligation de paiement" (i.e. order with obligation to pay) or a similar formula, unambiguous, indicating that the placing of an order requires payment.</p> <p>E-commerce sites shall clearly and legibly indicate, at the latest at the beginning of the ordering process, the means of payment accepted by the trader and any delivery restrictions.</p> <p>Article L. 221-5, 3° of the French Consumer Code provides that, prior to the conclusion of an online sales and/or services agreement,</p>	<p>In regard to consumers, if an agreement to be concluded online places an obligation on the consumer to pay, the trader shall, in a clear and prominent manner, inform the consumer of the obligation to pay directly before the consumer places the order, and provide the consumer with the following information:</p> <ol style="list-style-type: none"> <li>the main characteristics of the goods and services;</li> <li>the total price;</li> <li>the duration of the agreement, if any, or, if the agreement is of indefinite duration or will be automatically extended, the conditions for cancelling the agreement; and</li> <li>if applicable, the minimum duration of the consumer's obligations under the contract.</li> </ol> <p>If the trader uses an "order confirmation button" (or a similar function) on the website the button (or similar function) must have written "Order with payment obligation" or the like on it.</p>

<sup>3</sup> CJUE, 5 July 2012, C-49/11

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			the professional must inform the consumer of the fact that the consumer bears the cost of returning the goods when, because of their nature, they cannot normally be returned by post.	
8.2	What are the consequences if the above-mentioned information requirements are not fulfilled?	The agreement is not binding upon the consumer if the consumer has not received the above-mentioned information as required.	<p>The agreement is binding upon the consumer in the conditions described in Article 1127-2 of the French Civil Code, see more details under the questions regarding Binding agreement (9.1).</p> <p>Violation of the above-mentioned provisions of Article L. 221-14 of the French Consumer Code is liable to an administrative fine of up to €3,000 for a natural person and €15,000 for a legal person.</p> <p>In case of violation of Article L. 221-5, 3°, the consumer is not required to pay the fees, i.e. the cost of returning the goods.</p>	Same applies.
9	Binding agreement			
9.1	Under which conditions is an online consumer agreement considered binding?	<p>In regard to consumers, when a consumer activates an order confirmation button or the like on an e-commerce website, it is considered an accept of the trader's offer, which means that an online agreement has been concluded between the trader and the consumer.</p> <p>The trader's order confirmation does therefore not constitute the conclusion of the agreement, unless the trader in a clear and explicit manner during the order flow has informed the consumer hereof.</p>	<p>Under French Law, in accordance with article 1127-2 of the French civil Code, an online consumer agreement is binding subject to the express acceptance of the consumer, following his/her possibility to review and correct any potential errors. Such confirmation mechanism is called the "double-click rule". The first click should enable the consumer to select the products and the second click should enable the consumer to express his/her final confirmation and acceptance. Such confirmation shall be made in accordance with the conditions set out by article 1127-2 (i.e. the consumer shall have access to the details of his/her order and have the possibility to correct any potential errors before confirming and expressing its final acceptance).</p> <p>In addition, the author of the offer acknowledges receipt without undue delay, via email, of the order he has received.</p>	Same applies.
10	Payments			
10.1	When is it permissible to charge the payment in an online	According to the Danish Consumer Ombudsman, the trader may normally charge the payment when the purchased goods have been shipped or when the performance	If nothing has been paid during the sale, the payment must be made at the time of the delivery of the goods or the performance of the service. The payment can also be	The trader may normally charge the payment when the purchased goods have been shipped or when the performance of the purchased services has begun.

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	consumer agreement?	of the purchased services has begun.	charged when the goods have been shipped.  Nothing prevents the trader from receiving full payment at the placement of the order.	
10.2	Under which conditions is it permissible to charge a prepayment in an online consumer agreement?	<p>According to the Danish Consumer Ombudsman, the trader and the consumer must explicitly agree on any prepayments before the prepayment is charged.</p> <p>Further, the trader may only charge prepayments if the trader has an objective and fair reason for charging the prepayment. For example, this could be the supply of goods made according to the consumer's specifications, and situations where it is customary due to industry practices.</p>	<p>To our knowledge, there is no specific provision prohibiting to charge a prepayment in an online consumer agreement.</p> <p>However please note that if the goods are not available, you should provide clear information on the matter, especially regarding the date of the availability of the goods.</p>	The trader and the consumer must explicitly agree on any prepayments before the prepayment is charged.
11	Information requirements after entering into an agreement (order confirmation)			
11.1	<p>Is the trader obligated to confirm an online agreement after conclusion of the agreement?</p> <p>If yes, please specify when and how to fulfil this obligation.</p>	<p>According to the Danish e-commerce Act, the trader shall provide the consumer (and a business, unless otherwise agreed) with a confirmation of an online agreement without undue delay after concluding the agreement.</p> <p>In regard to consumers the confirmation shall be on a durable medium, for example an email, a text message or a letter. A link to a website is not considered a durable medium.</p> <p>The confirmation for the consumer shall include the mandatory pre-contractual information, which are often done by sending the trader's terms and conditions containing this information.</p>	<p>Yes, pursuant to Article L221-13 of the Consumer Code, the trader shall provide the consumer, on a durable medium and in reasonable time after the conclusion of the contract and at latest at the time of delivery of the goods or before the commencement of the performance of the service, with confirmation of contract.</p> <p>Confirmation of contract must be provided on a durable medium (i.e. email, attached email file, or letter). Confirmation must also include:</p> <ol style="list-style-type: none"> <li>i) the contract conditions;</li> <li>ii) time limits and procedures and forms for exercising the right of withdrawal and standard withdrawal;</li> <li>iii) the fact that the consumer bears the costs of returning the goods in the event of withdrawal and in the case of distance contracts;</li> <li>iv) the cost of returning the goods where, because of their nature, they cannot normally be returned by post;</li> <li>v) information on the consumer's obligation to pay charges when exercising his right of withdrawal from a service contract for which he has expressly requested the commencement of performance before the end of the withdrawal period;</li> </ol>	<p>According to the Belgian Code of Economic Law, the trader shall provide the consumer (and a business, unless otherwise agreed) with a confirmation of the receipt of an order without undue delay after concluding the agreement.</p> <p>The confirmation shall be sent electronically.</p> <p>The confirmation shall include, amongst others, a summary of the order.</p> <p>Moreover, the trader shall provide the consumer with a confirmation of an online agreement without undue delay after concluding the agreement (at the latest on delivery of the goods or before the execution of the service begins).</p> <p>This confirmation shall be on a durable medium, for example an email, a text message or a letter. A link to a website is not considered a durable medium.</p> <p>The confirmation shall include the mandatory pre-contractual information (unless the trader had already provided the consumer with this information on a durable medium before the conclusion of the distance contract), which is often done by sending the trader's terms and conditions containing this information. If the agreement relates to the supply of digital content</p>

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			vi) information that the consumer does not benefit from a right of withdrawal or, where applicable, the circumstances in which it is lost; vii) information relating to the contact details of the professional.  All information must be provided in a readable and comprehensible manner.	without a material carrier, and if the consumer has given his prior explicit permission to start delivering it and has thereby acknowledged that he loses his right of withdrawal, then this must also be included in the confirmation.
12	Right of withdrawal			
12.1	Is a consumer entitled to a right of withdrawal within 14 days when purchasing goods and/or services online?	Yes, according to the Danish Consumer Contracts Act, the consumer is entitled to withdraw from an online consumer agreement within a period of 14 days starting from the day the consumer, or a third party chosen by the consumer, receives the purchased goods or from the day of concluding an agreement regarding a purchased service.  There are a number of exceptions to the right of withdrawal which are not included in the questionnaire, for example the supply of goods that are made to the consumer's specifications or are clearly personalized or the supply of sealed goods which are not suitable for return for health protection or hygiene reasons and which were unsealed after delivery.	Yes, pursuant to Article L. 221-18 of the French Consumer Code, the consumer is entitled to withdraw from an online agreement within a period of 14 days without having to justify his decision.  The 14-days period starts from the day the consumer, or a third party chosen by the consumer, receives the purchased goods or from the day of concluding an agreement regarding a purchased service.  There are a number of exceptions to the right of withdrawal which are not included in the questionnaire.	Same applies (Belgian Code of Economic Law).
12.2	What are the information requirements regarding the right of withdrawal?	The trader shall provide the following information to the consumer before conclusion of the agreement on the website and/or in the terms and conditions available on the website which must be accepted by the consumer before conclusion of the agreement, and after conclusion of the agreement on a durable medium, for example in the order confirmation or the terms and conditions: <ol style="list-style-type: none"> <li>information on whether the consumer is entitled to withdraw from the agreement, and if applicable the conditions, deadline and procedures for exercising the right of withdrawal;</li> <li>information that the consumer has no right to withdraw from the agreement, if applicable;</li> <li>information on the circumstances under which the</li> </ol>	Before the conclusion of the agreement for the sale or provision of services, the trader shall provide, according to Article L. 221-5 of the French Consumer Code, the following information to the consumer in a clear and comprehensible manner: <ol style="list-style-type: none"> <li>the conditions, deadline and procedures for exercising the right of withdrawal and the model withdrawal form, if applicable;</li> <li>where the right of withdrawal cannot be exercised pursuant to Article L. 221-28 of the French Consumer Code, the information that the consumer does not benefit from the right to withdraw and the information on the circumstances under which the consumer loses this right;</li> <li>the information that the consumer will have to pay the</li> </ol>	Same applies.

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		<p>consumer loses the right to withdraw, if applicable;</p> <p>4. information that the consumer will have to pay the costs of returning the goods in case of withdrawal, if applicable; and</p> <p>5. information on the amount to be paid by the consumer in the event of withdrawal from an online agreement regarding services, when the performance of the service has begun with the express consent of the consumer before the end of the withdrawal period.</p> <p>Further, the e-commerce trader must provide the Model Withdrawal Form on a durable medium.</p>	<p>costs of returning the goods in case of withdrawal, if applicable; and the information on the amount to be paid by the consumer when returning goods when, by their nature, these goods cannot normally be returned by the post office, if applicable;</p> <p>4. the information on the amount to be paid by the consumer in the event of withdrawal from an online agreement regarding services, water supply, gas or electricity supply and subscription to a district heating network, when the performance of the service has begun before the end of the withdrawal period with the express consent of the consumer.</p>	
12.3	What are the consequences if the consumer does not receive the necessary information about the right of withdrawal?	If the consumer does not receive the required information about the right of withdrawal, the withdrawal period does not begin until the day the consumer receives the information on a durable medium. However, the withdrawal period ends no later than 12 months after the 14-day period, but in any event no later than 14 days after the day where the consumer receives the information.	Pursuant to Article L. 221-20 of the French Consumer Code, if the consumer does not receive the required information about the right of withdrawal, the withdrawal period does not begin until the day the consumer receives the information. However, the withdrawal period ends no later than 12 months after the 14-day period, but in any event no later than 14 days after the day where the consumer receives the information.	Same applies.
12.4	What are the main obligations on the trader and the consumer when the consumer withdraws from an online agreement?	<p>When the consumer withdraws from an online agreement, the trader shall reimburse all payments received from the consumer, including the standard costs of delivery, without undue delay and no later than 14 days from the day of the withdrawal.</p> <p>The consumer must return the goods to the trader without undue delay and no later than 14 after the withdrawal, and the consumer shall pay the costs of returning the goods. However, the consumer shall not pay the costs of returning the goods if the trader has undertaken to pay the costs, or if the trader has not informed the consumer of the costs for returning the goods.</p> <p>If the consumer withdraws from an agreement regarding a service, the trader may require the consumer to pay for the part of the purchased service which has been performed before the withdrawal, if</p>	<p>1. Pursuant to Article L. 221-21 of the French Consumer Code, the consumer shall exercise his right of withdrawal by informing the trader of his decision by sending, before the expiry of the withdrawal, the withdrawal form or any other statement, unambiguous, expressing his intention to withdraw. The trader may also allow the consumer to complete and transmit online, on his website, the said form or statement. In this case, the trader shall without delay communicate to the consumer an acknowledgement of receipt of the withdrawal on a durable medium.</p> <p>2. Pursuant to Article L. 221-23 of the French Consumer Code, the consumer must return the goods to the trader without undue delay and no later than 14 days after the withdrawal, and the consumer shall pay the costs of returning the</p>	Same applies.

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		the performance of the service has begun with the express consent of the consumer, and if the trader proves that the consumer was informed of the right to withdraw and the amount to be paid in case of withdrawal.	<p>goods. However, the consumer shall not pay the costs of returning the goods if the trader has undertaken to pay the costs, or if the trader has not informed the consumer of the costs for returning the goods.</p> <p>3. Pursuant to the third paragraph of Article L. 221-23 of the French Consumer Code, the consumer may be held liable only in the event of depreciation of the goods resulting from handling, other than that necessary to establish the nature, characteristics and the proper functioning of these goods; provided that the trader has informed the consumer of his right of withdrawal, in accordance with the legal requirements.</p> <p>4. Pursuant to Article L. 221-24 of the French Consumer Code, when the consumer withdraws from an online agreement, the trader shall reimburse all payments received from the consumer, including the standard costs of delivery, without undue delay and no later than 14 days from the date on which he is informed of the consumer's decision to withdraw. For agreements of sale of goods, unless the trader himself proposes to recover the goods, the trader may defer the reimbursement until the goods have been recovered or until the consumer has provided proof of dispatch of the goods, whichever is the earlier.</p>	
13	Lack of conformity with the agreement			
13.1	When are goods and/or services considered to lack conformity with the agreement in regard to sale to consumers?	Purchased goods and/or services are considered to lack conformity with the agreement if the goods are not in accordance with the agreement, e.g. if the goods and/or services are not fit for the purposes for which they have been sold, or if the goods do not have the duration promised by the trader.	<p>Pursuant to Article L. 217-5 of the Consumer Code, purchased goods are considered to lack conformity with the agreement if:</p> <ul style="list-style-type: none"> <li>either the goods are not in accordance with the use usually expected of similar goods, and where applicable, if the goods do not correspond to the description given by the seller, and if they do not have the qualities a buyer can legitimately expect in view of the public statement made by the seller in advertising or labelling;</li> </ul>	Same applies.

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			<ul style="list-style-type: none"> <li>or, if they do not have the characteristics defined by mutual agreement between the parties or are unsuitable for any special use sought by the buyer, brought to the attention of the seller and which the latter has accepted.</li> </ul>	
13.2	What are the consumer's remedies if the purchased goods lack conformity with the agreement?	<p>According to the Danish Sales of Good Act (amongst others, implementing Directive 1999/44/EC on certain aspects of the sale of consumer goods and associated guarantees), if purchased goods lack conformity with the agreement, the consumer may choose between:</p> <ol style="list-style-type: none"> <li>remedy of the lack of conformity;</li> <li>delivery of substitute goods that are in conformity with the contract;</li> <li>an appropriate price reduction; or</li> <li>terminating the contract if the lack of conformity is material.</li> </ol> <p>However, the consumer cannot require remedy or delivery of substitute goods if such delivery of substitute goods or remedy is impossible or will cause the seller disproportionate expenses.</p>	<p>Pursuant to Articles L. 217-9 and L. 217-10 of the French Consumer Code, if the purchased goods lack conformity with the agreement, the consumer may choose between the remedy of the lack of conformity or the replacement of the goods that are in conformity with the contract.</p> <p>However, the consumer cannot require remedy or delivery of substitute goods if such delivery of substitute goods or remedy is impossible or will cause the seller disproportionate expenses.</p> <p>If remedy and replacement of the goods are not possible, the consumer may keep the goods and receive an appropriate price reduction or, if the lack of conformity is material, the consumer may terminate the contract, i.e. return the goods and be refunded.</p> <p>Such action resulting from the lack of conformity of the goods does not preclude the consumer from bringing an action resulting from fundamental defects as provided in Articles 1641 to 1649 of the French Civil Code or any other action of a contractual or extracontractual nature recognized by law.</p>	Same applies (Belgian Civil Code).
13.3	What is the time period for giving notice of lack of conformity in terms of purchased goods in regard to sale to consumers?	<p>A consumer has two years to give notice of lack of conformity in relation to purchased goods.</p> <p>However, the consumer must give notice of lack of conformity within reasonable time after having discovered the lack of conformity. Giving notice of lack of conformity within two months after discovering the lack of conformity is always given in time.</p>	<p>Pursuant to Article L. 217-12 of the French Consumer Code, a consumer has two years to give notice of lack of conformity in relation to purchased goods.</p> <p>Lack of conformity which becomes apparent within 24 months of delivery of the goods is presumed to exist at the time of delivery, unless proven otherwise.</p> <p>For second-hand goods, this period is set at six months.</p>	Same applies.

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13.4	Is a consumer entitled to remedies if a purchased service lacks conformity with the agreement?	<p>Purchases of services are not covered by the Danish Sale of Goods Act.</p> <p>However, according to general principles of law of obligations the consumer will be entitled to remedies if a purchased service lacks conformity with the agreement.</p> <p>If a purchased service lacks conformity with the agreement, the consumer may choose between:</p> <ol style="list-style-type: none"> <li>remedy of the lack of conformity, if possible;</li> <li>an appropriate price reduction; or</li> <li>terminating the contract if the lack of conformity is material.</li> </ol>	<p>Purchases of services are not covered by Articles L. 217-4 and following of the French Consumer Code.</p> <p>However, under ordinary law, the consumer might bring an action for breach of contractual obligations, as provided in Articles 1217 and following of the French Civil Code.</p> <p>If a purchased service lacks conformity with the agreement, the consumer may choose between:</p> <ol style="list-style-type: none"> <li>refuse to pay;</li> <li>instruct the trader to continue to perform his obligation or to comply;</li> <li>terminate the contract;</li> <li>claim compensation.</li> </ol>	Same applies.
13.5	What is the time period for giving notice of lack of conformity in terms of purchased services in regard to sale to consumers?	<p>A performed service is governed by the Danish Act of limitations. A consumer therefore has three years to give notice of lack of conformity with the agreement regarding services. However, the consumer must give notice within reasonable time after having discovered the lack of conformity.</p> <p>What will be considered as within reasonable time, will depend on the circumstances of the service.</p>	<p>Under ordinary law, the contractual liability action is time-barred after five years. A consumer has therefore five years to give notice of lack of conformity with the agreement regarding services.</p>	<p>A performed service is governed by the general rules regarding limitations (Belgian Civil Code). A consumer therefore has ten years to give notice of lack of conformity with the agreement regarding services. This period starts from the moment the performance becomes due.</p> <p>However, the consumer must give notice within reasonable time after having discovered the lack of conformity. What will be considered as within reasonable time, will depend on the circumstances of the service.</p>
14	Direct electronic marketing			
14.1	Under which conditions is a trader allowed to send direct electronic marketing?	<p>According to the Danish Marketing Practices Act (which amongst other implements Directive 2002/58 on the processing of personal data and the protection of privacy in the electronic communications sector) a trader may only send direct electronic marketing if the receiver has given a valid prior marketing consent.</p>	<p>Pursuant to Article L. 34-5 of the Code of Postal and Electronic Communications (implementing the Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector), traders are subject to different rules when targeting natural persons and legal persons with direct marketing communications.</p> <p>Direct marketing communications targeting natural persons are prohibited unless such person has expressed valid and prior consent.</p> <p>Two exceptions reversing the opt-in rule, and thus allowing direct marketing communications to be sent to a natural person not having opted-in, exist, namely:</p>	Same applies (Belgian Code of Economic Law).

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			<p>i) if the prospected person is already a customer of the legal person and the direct marketing communication is in relation to similar products or services already sold/provided by the same legal person; or,</p> <p>ii) if the direct marketing communication is not of commercial nature (i.e. charity).</p> <p>Direct marketing communications targeting legal persons are allowed unless this legal person has already opted-out of receiving this type of communication.</p> <p>In any event, all persons must be informed, the moment their email address is collected, that this information will be used for direct marketing purposes.</p>	
14.2	<p>What are the conditions for a valid electronic marketing consent?</p>	<p>An electronic marketing consent must be obtained prior to sending the marketing, and the consent must be freely given and be specific, informed and unambiguous.</p> <p>That the marketing consent must be informed means that a marketing consent may not be obtained by using a pre-checked consent box, and that the marketing consent text and the consent box must be separated from the terms and conditions.</p> <p>That the marketing consent must be specific means that the person/business giving the marketing consent must be aware of which business(es) the marketing consent covers; how the person/business will be contacted (the medium); and which products or product categories the person/business will receive electronic marketing about.</p> <p>Further, the marketing consent text must specify that a marketing consent can be withdrawn at any time, which should be able to be done in an easy manner and free of charge.</p>	<p>For the purposes of Article L. 34-5 of the Code of Postal and Electronic Communications, consent means any free, specific and informed expression of will by which a person accepts that personal data concerning him/her may be used for the purpose of direct marketing.</p> <p>The CNIL recommends that prior consent be obtained by means of a checkbox, however, pre-checked checkboxes are prohibited.</p> <p>In any event, the electronic communication must specify the identity of the person/business sending the marketing communication, in addition to providing a simple and gratuitous means of opting-out from receiving any further marketing communications.</p>	<p>Same applies.</p> <p>With regard to the right to object, the recipient should be able to exercise this right using electronic means.</p>
14.3	<p>Is it permissible to use opt-out (soft-opt-in) electronic marketing?</p> <p>If yes, what are the requirements?</p>	<p>According to the Danish Marketing Practices Act and the Guidelines from the Danish Consumer Ombudsman regarding unsolicited marketing, it is permissible to use soft opt-in (in Danish: "opt-out") for email marketing if the following requirements are fulfilled:</p>	<p>No, subject to exceptions (i) and (ii) listed above in row 15.1.</p>	<p>Same applies.</p> <p>The provisions on the use of the opt-out mechanism are regulated in the E-Marketing Royal Decree. This E-Marketing Royal Decree states that the following cumulative conditions have to be fulfilled:</p>

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		<ol style="list-style-type: none"> <li>1. the customer must have purchased a product from the trader;</li> <li>2. the customer must have informed the trader of the customer's electronic address on his own in connection with the purchase of the product;</li> <li>3. the trader must clearly and expressly inform the customer that the customer will receive marketing from the trader to the specific electronic address;</li> <li>4. the trader must clearly and expressly inform the customer that the customer can decline receiving marketing free of charge and in an easy manner at the time when the customer informs the trader about the customer's electronic address;</li> <li>5. the trader must inform the customer of the right to decline receiving further marketing in all subsequent communications;</li> <li>6. the electronic marketing must be limited to the marketing of the trader's own products; and</li> <li>7. the electronic marketing must be limited to the marketing of similar products.</li> </ol>		<ol style="list-style-type: none"> <li>1. the customer's electronic contact details were obtained directly in the context of the sale of a product or a service, provided that the legal and regulatory conditions concerning the protection of private life have been complied with;</li> <li>2. the electronic contact details are used exclusively to market similar products and services provided by the service provider himself; and</li> <li>3. the individual is provided with the opportunity to object at no cost and in a simple manner against this use both at the time when his/her electronic details are collected and in any subsequent email.</li> </ol>
14.4	Does the above apply to direct electronic marketing towards both consumers and businesses?	Yes.	No, please see paragraph 6 in row 15.1.	<p>Yes.</p> <p>However, the E-Marketing Royal Decree clarifies that organisations are not required to obtain the prior consent of the recipient before sending a marketing email to a generic business address. Examples of such email addresses would be info@company.be, contact@company.be, and privacy@company.be. Companies can only be exempted from the requirement to obtain consent if it is clear that the email address is impersonal. In such case, it is not even required that the legal person is a customer.</p>
15	GDPR			
15.1	Are there - under national law - further information requirements than what is required under the GDPR?	No, the Danish Data Protection Act does not require any other information to be provided than the information required under the GDPR.	Yes, article 48 of the Act no. 78-17 of 6 January 1978 on information technology, data files and civil liberties (the "French Data Protection Act") provides that the Controller shall inform the data subjects of the right to communicate	Same applies (Belgian Privacy Act).

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	In terms of the question and the questions below regarding GDPR, if the legal position under local laws deviates from the legal position in Denmark, please state whether the local legal position is applicable to an online trader, which is solely established in Denmark.		<p>instructions as to the processing of their Personal Data in case of death.</p> <p>Such rule is also applicable to an online trader solely established in Denmark if it targets French data subjects. Pursuant to article 3 of the FDPA which provides that national rules adopted on the basis of the GDPR referring to national law, the task of adapting or supplementing the rights and obligations provided for in the GDPR shall apply as soon as the data subject resides in France, including where the data controller is not established in France.</p>	
15.2	Is it required to have a privacy policy for an e-commerce trader?	<p>When processing personal information, the e-commerce trader is required to comply with the requirements in the GDPR, including providing the required information to the data subject. Therefore, if the trader processes personal data, e.g. in relation to purchases made on the e-commerce platform, the information must be given.</p> <p>There are no requirements to the format the information is provided in. An e-commerce trader is therefore not necessarily required to have a privacy policy, as long as the required information is provided adequately.</p>	Yes, the French position is equivalent to the Danish position expressed in row 16.2.	Same applies.
15.3	When and how should the information requirements be fulfilled?	<p>The data subject should be given the required information, when data is obtained from the data subject, e.g. when a purchase is made.</p> <p>In general, the information should be provided in writing, and where appropriate electronically, e.g. via a link to the privacy policy on the website. The information must be given in a concise, transparent, intelligible and easily accessible form, using clear and plain language.</p> <p>According to the guidelines from the Danish Data Protection Agency, the e-commerce trader must take active steps to "give" the data subject the required information, and the data subject should not have to search for the information, i.e. the attention of the data subject should be led to the privacy policy. Preferably, the link to the privacy policy should lead directly to the</p>	<p>The data subject should be given the required information when data is collected from the data subject (i.e. when a purchase is made).</p> <p>In general, the information should be provided in writing, and where appropriate electronically (i.e. via a link to the privacy policy on the website). The information must be given in a concise, transparent, intelligible and easily accessible form, using clear and plain language.</p> <p>According to the CNIL, the e-commerce trader must highlight essential mandatory information (i.e. identity of the data controller, processing ends, rights of the data subject) over ancillary yet obligatory information (i.e. duration of storage). Access to the information must be simple and immediate. Additionally, and most importantly, the data subject must be able to</p>	<p>Same applies.</p> <p>The Belgian Data Protection Authority (DPA) did not issue any guidelines at this point on the approach the controller has to take to provide the required information. That being said, the approach suggested by the Danish Data Protection Agency would probably also be encouraged by the Belgian DPA.</p>

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		relevant sections of the privacy policy.	<p>have a clear overview of all processing activities carried out.</p> <p>The French internal position is applicable to an online trader solely established in Denmark insofar it targets the French consumer.</p> <p>Such rule is applicable to an online trader solely established in Denmark pursuant to article 3 of the FDPA.</p>	
15.4	Can a privacy policy be a part of e.g. the terms and conditions of an e-commerce trader?	The information must be clearly separated from other information. The privacy policy should therefore not be part of the terms and conditions, the terms of use of the website, or other required information, e.g. the cookie policy.	According to the CNIL, the privacy policy must be entirely separated and clearly distinguished from terms and conditions. Such rule is applicable to an online trader solely established in Denmark pursuant to article 3 of the FDPA.	<p>Same applies.</p> <p>The foregoing will apply in particular when the controller relies on the data subject's consent to process his/her personal data.</p>
15.5	Is it required for the customer to actively accept a privacy policy?	No, there is no requirement for the data subject to accept the privacy policy; actively or not.	No, there is no requirement for the data subject to accept the privacy policy; actively or not, except if data processing subject to data subjects' consent is covered by such privacy policy and that the data subjects have not been able to consent to such processing by any other means.	<p>Same applies.</p> <p>We would even say that it is recommended to avoid wording whereby the individual "accepts" the privacy policy. A privacy policy is not a contractual document but has a purely informative nature. Creating confusion on the nature of the privacy policy (i.e. contractual or not), might also allow data subjects to invoke contractual protection.</p>
15.6	Are there any predefined or best-practice period for, how long an e-commerce trader can retain personal data about customers?	<p>The specific retention period varies depending on the processing activity in question. In Denmark, the best-practice retention periods depend on the purposes and the types of personal data processed, e.g. HR and book-keeping material.</p> <p>Information collected in relation to sales on an e-commerce platform is generally regarded as book-keeping material. According to the Bookkeeping Act, the book-keeping material should normally be retained for a minimum of 5 years from the end of the year the sale was completed.</p> <p>Overall, the e-commerce trader must determine the appropriate retention period based on an assessment of the categories of data and the purpose of the processing. It is important to remember that data should only be retained as</p>	<p>According to the CNIL guidance of 28 May 2018<sup>4</sup>, retention periods vary depending on the original objective which led to the collection of data.</p> <p>However, regarding data of customers in the context of e-commerce, the CNIL still applies the principles set out in Simplified Standard no. 48 relating to client Prospect files, i.e.:</p> <ul style="list-style-type: none"> <li>• Data related to customer file management shall not be retained for more than 3 years from the end of the commercial relationship;</li> <li>• Data related to constitution and management of prospect file shall not be retained for more than 3 years from the collection by the Data Controller or from the last contact from the prospect.</li> </ul>	<p>Same applies.</p> <p>If the information collected in relation to sales on an e-commerce platform indeed constitutes book-keeping material, then such materials should be kept for at least seven years, as from 1 January of the year following the closure of the financial year (cf. Belgian Code of Economic Law conj. the Royal Decree of 21 October 2018 implementing articles III.82 to III.95 of the Belgian Code of Economic law).</p>

<sup>4</sup> <https://www.cnil.fr/fr/limiter-la-conservation-des-donnees>

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		long as it is "need-to-have" and not "nice-to-have".	<p>The CNIL, in its recommendation dated 28 February 2019, also stated that credit card data shall not be retained after the payment operation. However, the CNIL stated that in order to facilitate future purchases, the CNIL authorizes data controllers to request their customers' consent to store such data for a longer period. If the data controller wishes to retain such data to enable claim management, such data shall not be retained for more than 13 months and shall only be retained as intermediary archives.</p> <p>However, such retention periods are only recommendations. The trader, as data controller, shall always keep personal data for a proportionate period of time.</p> <p>Such rule is applicable to an online trader solely established in Denmark pursuant to article 3 of the FDPA.</p>	
16	Cookies			
16.1	<p>What are the requirements for placing cookies on an e-commerce website?</p> <p>If the legal position under local laws deviates from the legal position in Denmark, please state whether the local legal position is applicable to an online trader, which is solely established in Denmark.</p>	<p>In order to legally place cookies on the users' terminal equipment under the Danish Ministerial Order on the Use of Cookies, it is a condition that the users have consented to this, unless the cookies are technically necessary for the webpage (e.g. a cookie to remember the items put in a shopping basket).</p> <p>In order for a consent to be valid, the consent must comply with the requirements for information under the GDPR, i.e. it must be a freely given, specific, informed and an unambiguous indication of the user's wishes, and further the user should be informed about the type of cookie (session or permanent), the cookies' retention period, and whether it is a first or third party cookie.</p> <p>Finally, the consent must be actively given, e.g. a tick-box must be checked by the user, and the user should have the opportunity to adjust his/her preferences and withdraw his/her consent. The right to withdraw his/her consent must be mentioned in the consent.</p>	<p>The requirements for placing cookies depend on the type of cookies. Certain cookies do not require the consent of individuals (e.g. authentication cookies, technical cookies etc.).</p> <p>On the other hand, cookies related to advertising operations, cookies generated through social media share buttons, certain audience measurement cookies are subject to the prior consent of individuals.</p> <p>Pursuant to CNIL Deliberation n° 2019-093 of 4 July 2019 and the French Data Protection Act, cookies requiring consent cannot be legally placed on the end-user terminal device unless the end-user has expressed his/her free, specific, informed and unambiguous consent by a clear declaration or positive act.</p> <p>Consent can only be valid if the person concerned is able to exercise his/her choice validly and does not suffer any major inconvenience in the event of absence or withdrawal of consent.</p> <p>The CNIL considers the practice of blocking access to a website or mobile application for not consenting</p>	<p>Same applies.</p> <p>The Electronic Communications Act requires the prior consent of the user before placing cookies on a user's terminal. The Electronic Communications Act includes an exception to this prohibition if the cookies are used for the performance of an electronic communications service.</p>

	QUESTION	DENMARK	FRANCE	BELGIUM
			<p>to non-essential cookies contrary to GDPR.</p> <p>Moreover, please note that in any case, even if cookies do not require prior consent of the individuals, the data controller has to inform data subjects about such use of cookies.</p>	
17	Miscellaneous			
17.1	<p>Are there any additional matters that an e-commerce trader based in other countries within the EU/EEC should be particularly aware of when marketing and selling goods and services in your country?</p>	<p>There are no additional matters to add.</p>	<p>As specified in section 5.2 relating to pre-contractual information obligations, the trader must indicate the date or time of delivery of the goods or performance of the service.</p> <p>Pursuant to Article L. 216-1 of the French Consumer Code, in the absence of such a date or time limit or in the absence of an express agreement between the parties, the trader shall deliver the goods or perform the service without undue delay and at the latest 30 days after the conclusion of the contract.</p> <p>Pursuant to Article L. 216-2 of the same Code, in the event of failure to deliver by the scheduled date or time or, failing that, no later than thirty days after the conclusion of the contract, the customer may require the trader, in writing, to make the delivery or provide the service within a reasonable additional period. If the trader has not complied with this new deadline, the customer may request, again in writing, that the contract be terminated.</p> <p>The contract shall be considered terminated upon receipt by the trader of the letter or writing informing him of such termination, unless the trader has since performed.</p> <p>However, the circumstances surrounding the signing of the contract or an express request from the client may make the date or time limit an essential condition of the contract. If delivery has not taken place to the customer by this date or within this period, he can immediately terminate the contract.</p>	<p>Same applies.</p>