CONSUMER PROTECTION OF DIGITAL CONTENT AND DIGITAL SERVICES AT THE PRE-CONTRACTUAL AND POST-CONTRACTUAL STAGES

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ABSTRACT

This paper is devoted to the analysis of consumer protection mechanisms granted to the consumer or user of digital content and digital services at both the pre-contractual and post-contractual stages. At the first stage (the pre-contractual stage), the scope and functions of the trader's information duties are examined, as they play a crucial role in enabling the consumer to make an informed and conscious decision. At the second stage (the post-contractual stage or the stage of performance of obligations), two consumer protection instruments are analyzed. On the one hand, this is the right of withdrawal, which allows the consumer to freely terminate the contractual relationship, provided that the contract for the supply of digital content or digital services was concluded at a distance or outside the trader's business premises. On the other hand, the paper examines legal remedies aimed at addressing the lack of conformity of digital content or digital services with the concluded contract, including both first-level and second-level remedies

1. Approach and purpose

In the context of rapid technological advancement, digital environments have assumed a central role in everyday life, giving rise to what is commonly described as the digitalization of society [1]. This transformation has necessitated the extension of consumer protection rules to the field of electronic and digital contracting, where traditional contractual safeguards often prove insufficient.

The development of the digital economy has significantly increased the number of distance contracts, understood as agreements concluded within an organized system of remote sales or service provision, without the simultaneous physical presence of the contracting parties. In such contractual relationships, consumers typically represent the weaker party and face increased risks related to information asymmetry, lack of transparency, and limited control over contractual terms. Consequently, ensuring a high level of consumer protection in digital transactions has become a key objective of modern contract law. In response to these challenges, international and regional legal frameworks have introduced special rules governing contracts for the supply of digital content and digital services. A notable example is Directive (EU) 2019/770, which aims to guarantee a high level of protection for consumers and users of digital content and services by establishing specific requirements regarding conformity, remedies, and contractual rights [2]. These developments demonstrate the growing importance of adapting consumer protection mechanisms to the realities of digital markets. Technological progress poses a particular challenge for contract law, as it requires the reconsideration of classical legal concepts considering digital forms of contracting. In this context, the provision of clear, accurate, and comprehensive information to consumers becomes a fundamental prerequisite for the formation of valid, informed, and deliberate consent. Furthermore, effective legal remedies are essential to protect consumers when digital content or services fail to conform to contractual requirements.

The purpose of this study is to analyze the legal regime governing the protection of consumers of digital content and digital services at both the pre-contractual and post-contractual stages. Special attention is devoted, first, to pre-contractual information obligations and the principle of advertising integration into the contract, and secondly, to post-contractual protection mechanisms, including the right of withdrawal and remedies for non-conformity. The analysis is conducted with a view to identifying approaches that may be relevant for improving consumer protection within the legal system of the Republic of Uzbekistan in the context of the ongoing digitalization of the economy.

2. Protection at the pre-contractual stage

As noted above, at the pre-contractual stage the consumer of digital content or digital services benefits, under EU law, from two essential mechanisms of protection: first, the trader's pre-contractual information duties aimed at ensuring that the consumer's contractual decision is fully informed; and second, the consumer's right to require that the content of advertising be incorporated into the contractual terms, even where no express reference is made to it in the contract (the principle of advertising integration into the contract). A comparable approach can be identified in the legislation of the Republic of Uzbekistan, although it is regulated through a different normative structure and with a lower degree of systematic detail.

Under the Law of the Republic of Uzbekistan "On Consumer Protection", consumers are guaranteed the right to receive complete, reliable and timely information about goods (works, services), their quality, price, safety, and the conditions of acquisition. Similar to the EU model, these provisions pursue the same fundamental objective: ensuring that consumer consent is given consciously, freely and with full knowledge of the relevant circumstances. In Uzbek law, this objective is closely linked to the general civil law principle of freedom of contract, as enshrined in the Civil Code of the Republic of Uzbekistan, which presupposes informed and voluntary expression of will [3].

In contrast to Directive 2011/83/EU, which explicitly emphasises pre-contractual transparency in distance and off-premises contracts [4], Uzbek legislation does not yet contain a separate, detailed catalogue of pre-contractual information duties specifically tailored to digital content and digital services. Nevertheless, the obligation to provide truthful and sufficient information applies equally to traditional and electronic forms of contracting, including online marketplaces and digital platforms. In this sense, Uzbek law adopts a functionally similar, though normatively more general, approach.

The asymmetry between traders and consumers, which is particularly pronounced in distance contracts for digital content and services, is explicitly acknowledged in EU consumer law and serves as a justification for the intensification of information duties under Article 60 TRLGDCU and related EU directives [5]. In Uzbekistan, this asymmetry is implicitly recognised through provisions that impose liability on sellers and service providers for failure to provide accurate information or for misleading consumers, including through advertising. However, Uzbek legislation does not yet expressly formulate this imbalance as a distinct doctrinal concept, nor does it provide a specific presumption of informational inequality comparable to that developed in EU consumer law.

With regard to advertising, EU law clearly establishes the principle that advertising statements may become part of the contractual content, thereby protecting consumers against discrepancies between promotional claims and contractual performance. Uzbek law follows a similar logic by prohibiting misleading advertising and by allowing consumers to rely on information disseminated by the seller or manufacturer when assessing the quality and characteristics of goods or services. Nonetheless, the integration of advertising into contractual terms is not articulated as an autonomous principle in Uzbek legislation and is instead derived from general rules on misleading information and consumer deception.

Another significant point of divergence concerns the burden of proof. Following the implementation of Directive (EU) 2019/2161, EU law places the burden of proving compliance with pre-contractual information duties on the trader, thereby strengthening the procedural position of the consumer as the weaker party to the contract. Uzbek consumer law, while providing mechanisms for compensation and liability in cases of rights violations, does not expressly assign the burden of proof regarding the provision of pre-contractual information to the seller or service provider. As a result, consumers may face greater evidentiary challenges in practice, particularly in disputes arising from digital transactions.

Furthermore, EU law, through Articles 60 and 97 TRLGDCU, explicitly extends pre-contractual information duties to distance and off-premises contracts and reinforces the principle of good faith during preliminary negotiations. Uzbek civil legislation also recognises good faith as a fundamental principle governing civil-law relations, including contractual negotiations. Silence or omission of essential information may therefore be interpreted as unlawful behaviour; however, this consequence is not as clearly codified in the context of consumer contracts as it is in EU law.

Finally, both legal systems share the understanding that the provision of adequate pre-contractual information significantly contributes to informed consumer decision-making, reduces the risk of defective consent, and limits disputes arising from unmet expectations. While EU law further links transparency to a reduction in the exercise of withdrawal rights and returns, Uzbek law focuses primarily on post-contractual remedies, such as replacement, repair, price reduction, or compensation for damage. This difference reflects a broader contrast between the EU's preventive, information-based consumer protection model and Uzbekistan's more remedial, liability-oriented approach.

In conclusion, while the legislation of the Republic of Uzbekistan largely corresponds to EU consumer law in terms of fundamental objectives—namely, ensuring informed consent, protecting consumers from misleading practices, and safeguarding their economic interests—it remains less detailed and less adapted to the specific challenges of digital contracting. The comparative analysis demonstrates that further development of explicit pre-contractual information duties, burden-of-proof rules, and digital-specific consumer safeguards could enhance the effectiveness of consumer protection in Uzbekistan in line with contemporary requirements of the digital economy.

In recent years, particularly following the COVID-19 pandemic, contracts for the supply of digital content and digital services have become increasingly widespread. This trend is also observable in the Republic of Uzbekistan, where the accelerated digitalisation of commerce has significantly expanded the use of electronic platforms, online marketplaces and digital service providers. While such contracts offer clear advantages for consumers—especially convenience, speed and reduced transaction costs—the lack of physical contact with the trader and the digital nature of the product equally generate heightened risks and information asymmetries.

Similar to the European Union approach, Uzbek consumer law is based on the premise that consumers constitute the weaker party to the contract and therefore require enhanced protection at the pre-contractual stage. Article 6 of the Law of the Republic of Uzbekistan "On Consumer Protection" establishes the consumer's right to receive complete, reliable and timely information about goods, works and services. Although Uzbek legislation does not yet expressly regulate "digital content" as an autonomous contractual category, digital services fall within the broader notion of services supplied to consumers, including those provided remotely through electronic means.

In this context, the absence of a physical opportunity to examine the characteristics of digital content or services prior to contract conclusion reinforces the trader's duty to provide detailed pre-contractual information. This mirrors the rationale underlying Article 60 of the EU TRLGDCU, which obliges traders to inform consumers in advance about essential aspects of the contract. Uzbek law similarly requires traders to disclose information enabling consumers to make an informed choice, including the main characteristics of the service, its price, conditions of use, and potential limitations.

A comparative analysis reveals that Uzbek legislation implicitly covers elements analogous to functionality, compatibility and interoperability, even though these concepts are not expressly defined in statutory terms. The obligation to provide accurate information about the properties and quality of services under Article 6 of the Consumer Protection Law may be interpreted as encompassing information on how a digital service functions, the technical requirements for its use, and any restrictions that may affect its normal operation. From this perspective, the Uzbek legal framework may be aligned, through interpretation, with the standards established by Directive (EU) 2019/770.

Functionality, understood in EU law as the ability of digital content or services to perform their intended purpose, corresponds in Uzbek law to the requirement that services must be suitable for the purposes for which they are ordinarily used (Article 402 of the Civil Code of the Republic of Uzbekistan). A digital service that fails to perform its essential functions or is subject to undisclosed technical limitations may therefore be regarded as improperly performed.

Compatibility and interoperability, while not expressly regulated, may be subsumed under the trader's duty to inform consumers about conditions of use and technical requirements. Where a digital service cannot operate on commonly used devices or software without prior disclosure, such omission may be qualified as a violation of the consumer's right to information and as improper performance of contractual obligations.

These characteristics acquire particular relevance when assessing the conformity of digital services with the contract. Uzbek civil law, similar to EU law, is based on the principle that the service rendered must correspond to the terms of the contract and the consumer's legitimate expectations. A service that does not meet its declared characteristics or advertised capabilities may be deemed non-conforming, thereby entitling the consumer to legal remedies.

3. Post-contractual protection

In the post-contractual phase, consumers of digital content and services in Spain are provided with two main instruments of protection: the right of withdrawal and remedies against non-conformity of the content or service with the contract. Under Directive 2011/83/EU and Articles 102–108 of the TRLGDCU, consumers are granted the right to withdraw from a contract concluded at a distance or outside the trader's premises. This right aims to provide the consumer with a "second chance" to reconsider their decision, which is particularly relevant in the context of distance contracts where the consumer has not had direct contact with the product. The main features of the Spanish right of withdrawal include its exclusivity to consumers, its unilateral nature not requiring any justification, the prohibition of contractual waiver, its general cost-free nature except in specific cases such as returning physical media, the freedom of form allowing withdrawal through any communication means including electronically, and the 14-day statutory period, which may be extended up to 12 months if the trader fails to provide prior information.

By contrast, in Uzbekistan, the right to withdraw from a contract without justification is not established. The Law on Consumer Protection and the Civil Code allow the consumer to request remedies such as defect correction, replacement, or refund only in cases of identified deficiencies. There are no specific provisions for distance contracts involving digital content and services, and the time limits for making claims are governed by general rules on warranty periods and notice of defects.

Regarding remedies for non-conformity of digital content or services, Directive 2019/770 and Articles 115 bis and 115 ter of the TRLGDCU establish that digital content or services are considered compliant if they meet the subjective requirements agreed between the parties, including description, quantity, quality, functionality, and compatibility, and if they are suitable for purposes explicitly agreed with the consumer. They must also be supplied with all necessary accessories, instructions, and support, including updates such as security patches. Objective conformity criteria are also imposed, requiring compliance with normal usage, demonstration versions, and the reasonable expectations of an average consumer, taking into account public statements made by the trader.

In Uzbekistan, consumer protection is limited to clear non-conformity of goods or services. Obligations regarding updates, compatibility, or functionality of digital content are not legally mandated. The available remedies are limited to repair, replacement, or refund. Consumers do not have the right to suspend or block access to digital products, nor are traders obliged to provide updates or corrections unless explicitly agreed in the contract.

The comparative analysis highlights that the Spanish and European systems provide broad, proactive protection for consumers of digital content, including withdrawal rights and mandatory updates, whereas the Uzbek system remains reactive, focused on defect remedies without specialized rules for digital content or distance services. There is a clear need for legislative development in Uzbekistan to introduce specific provisions for digital content and services, including the right of withdrawal and update obligations, aligning consumer protection with international standards.

4. Conclusion

In conclusion, the comparative analysis of consumer protection in the context of digital content and digital services demonstrates a clear divergence between the European Union and the Republic of Uzbekistan. EU law, exemplified by Directives 2011/83/EU and 2019/770, provides a comprehensive framework that ensures proactive protection of consumers at both the pre-contractual and post-contractual stages. Key mechanisms include detailed pre-contractual information duties, integration of advertising into contractual terms, allocation of the burden of proof in favor of consumers, the right of withdrawal, and remedies for non-conformity, including obligations for updates, functionality, and compatibility of digital content and services. These provisions reflect a preventive, consumer-centered approach designed to mitigate information asymmetry, enhance transparency, and empower consumers in digital transactions.

By contrast, the legal framework in Uzbekistan, while aligned with the EU in terms of general objectives such as ensuring informed consent, preventing misleading practices, and safeguarding economic interests, remains primarily remedial in nature. Uzbek law provides for post-contractual remedies such as repair, replacement, or refund in cases of defective goods or services, but it lacks specific regulations for distance contracts and digital content. Obligations regarding updates, compatibility, and functionality are not mandated, and there is no statutory right of withdrawal without justification. Pre-contractual protection is ensured through general information duties, but without the detailed, digital-specific safeguards observed in EU legislation.

These findings highlight the need for legislative modernization in Uzbekistan to address the growing role of digital platforms and remote contracting. Introducing explicit rules for digital content and services, including enhanced pre-contractual transparency, burden-of-proof provisions, the right of withdrawal, and obligations to maintain functionality and updates, would strengthen consumer protection and align national law with international best practices. Such reforms are essential to support the ongoing digitalization of the Uzbek economy, reduce information asymmetry, and ensure that consumers can participate in digital markets with confidence and legal security.

References:

1.González Hernández, R., Consumer Protection in Digital Contracting, Revista Actualidad Jurídica Iberoamericana, No. 16, 2022.

2.Directive (EU) 2019/770 of the European Parliament and of the Council of 20 May 2019 on certain aspects of contracts for the supply of digital content and digital services.
3.Civil Code of the Republic of Uzbekistan, approved by Law No. 163-I of 21 December 1995, Articles 8 and 354.
4.Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, OJ L 304, 22 November 2011, Recital 34.
5.Clemente Meoro M.E., La prestación del consentimiento en los contratos de consumo por vía electrónica, in Cotino Hueso L. (ed.), Consumidores y usuarios ante las nuevas tecnologías, Tirant lo Blanch, Valencia, 2008, p. 85.