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E-Commerce Laws in Europe Shape the Future of Fashion

During fashion week, shopping and online shopping is a key ingredient. Studies show that mobile shopping leads the way with purchases of clothing and accessories, and by 2025, the online fashion retail sector could be responsible for almost 300 billion dollars in sales.[1]

Fashion brands are investing more and more in "digital transformation" to offer consumers innovative products and services, from fashion shows to shopping experiences. However, when it comes to the environment, e-commerce is a double-edged sword; if not used conscientiously, it can defeat the ultimate goal to be more environmentally conscious from design to sale.

How E-Commerce Transformed the Fashion Industry

With Milan Fashion Week just around the corner, it is worth noting that designers who still host physical shows are rethinking the purpose of these events as a way to drive sales, rather than just a marketing strategy.

Every year, the number of opportunities for designers to immediately sell their new styles online increases, bringing more and more revenue every season. The see-now, buy-now model has become a real winner thanks to sites like Runway360 (which facilitates e-commerce, pre-order and wholesale buys for brands), not to mention the shopping features on social platforms like Instagram and TikTok. Last year, Stockholm Fashion Week launched livestream shopping for collections shown throughout the week through its e-commerce and livestreaming tech partners, Boozt and Bambuser.

E-commerce has transformed the fashion industry to the point that only those brands who are able to adapt and innovate will be considered key players within the industry.

Updated EU E-Commerce Laws Facilitate Online Sales

Naturally, legislation has accompanied this process. Since the EU Electronic Commerce Directive 2000/31/EC, "a horizontal legal framework that has been the cornerstone for regulating digital services in the European single market," the law has only evolved.[2]

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[1] Available at: https://www.statista.com/statistics/368328/apparel-and-accessories-eretail-share-us/

[2] Available at: https://ec.europa.eu/commission/presscorner/detail/en/QANDA_20_2348

In 2015, the European Union launched the EU Digital Single Market Strategy to bring down barriers, regulatory or otherwise, and to unlock online opportunities. The goal was to ensure better access for consumers and businesses to online goods and services across Europe and to narrow the gap between the online and offline worlds.

Recently, the EU agreed on two key pieces of legislation: the Digital Services Act (DSA) and the Digital Markets Act (DMA). The DSA regulates the obligations of digital services that act as intermediaries in their role of connecting consumers with goods, services, and content, *i.e.*, online marketplaces. With this Act, unnecessary legal burdens will be lifted, fostering a better environment for innovation, growth and competition.[3] On its part, the DMA establishes a wide range of obligations for "gatekeepers" of core platform services in relation to data, advertising, e-commerce, interoperability and the commercial relationship between the service providers, customers and end users.[4] Online retailers must now highlight cases where they show personalized prices to consumers, *i.e.*, prices that are tailored to an individual by an algorithm using personal data or characteristics.[5]

The EU is trying to make it easier and safer for European consumers to shop online no matter where they are in the EU. The Commission has announced EU-wide rules to end online discrimination on the basis of nationality or place of residence. Likewise, to reduce cross-border parcel delivery prices, it has set new rules to make it easier to find the cheapest way of sending a parcel from one Member State to another.[6]

The "Environmental" Impact of E-Commerce

E-commerce has made shopping a form of endlessly available and sometimes addictive entertainment. While increasing sales is core to the business, its environmental impact is not necessarily so. The fashion industry is the second most polluting industry in the world: overproduction, landfill and waste management, CO_2 emissions, water consumption, and in some instances, workers' exploitation, is part of the value chain.

Online shopping means layers of cardboard and plastic, not to mention carbon emissions, for the transportation of the goods sometimes from one continent to another. Yet, there are three key areas where e-commerce and traditional retail diverge: the commuting (was the product delivered or did the consumer make a trip to buy it?); the buildings (storefronts or warehouses?) and the packaging waste.[7] It is therefore worth questioning whether or not e-commerce itself has increased fashion's environmental impact.

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[3] Available at: https://ec.europa.eu/commission/presscorner/detail/en/QANDA_20_2348

[4] https://www.europarl.europa.eu/doceo/document/A-9-2021-0332-AM-256-256_EN.pdf

[5] https://www.europarl.europa.eu/doceo/document/A-9-2021-0332-AM-256-256_EN.pdf

[6] https://digital-strategy.ec.europa.eu/en/policies/e-commerce-directive

[7] https://www.theatlantic.com/entertainment/archive/2015/03/the-neurological-pleasures-of-modern-shopping/388577/

Last year, MIT's Real Estate Innovation Lab published an analytical study that measured consumers' greenhouse gas emissions while engaging in either e-commerce purchasing or more traditional purchasing from brick-and-mortar stores, and found online shopping to be more sustainable than traditional retail 75% of the time.[8] This seems reasonable, *but for* the fact that e-commerce has made shopping easier and leads to impulse purchases and a rise in returns. A returned item means doubling the amount of transportation used to get the item to the consumer, and if the goal is to exchange it for a different one, tripling it. In a nutshell, online purchases usually have a higher return rate than traditional purchases. This is not counting the number of returns that end up in landfills because they cannot be resold, and reconditioning is too expensive.

The Response of the Public and the Private Sectors to Reduce Fashion's Environmental Impact

E-commerce companies ranging from Amazon to Zalando are implementing measures to reduce their environmental impact, such as investing in electric vehicles and renewable energy, introducing reusable mailing bags, optimizing packaging material use and eliminating single-use plastic materials from packaging.[9]

Likewise, on the public side, the EU is working hard to make the fashion industry more environmentally friendly, always pondering its digital side. The EU has devised a Strategy for Sustainable and Circular Textiles that covers the entire lifecycle of textiles products, while supporting the ecosystem in the green and digital transitions.[10] The Strategy addresses the way textiles are designed and consumed, including by looking at sustainable technological solutions and innovative business models, and implements commitments made under the European Green Deal, the new Circular Economy Action Plan and the Industrial Strategy. It also "aims to create a greener, more competitive and more modern sector, more resistant to global shocks."[11]

Final Considerations

From consumer to environmental rights, the law is becoming more and more extensive in the digital environment to address the rights and obligations applied to new technologies.

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[8] Available at: https://realestateinnovationlab.mit.edu/research_article/retail-carbon-footprints-measuring-impacts-from-real-estate-and-technology/

[9] Available at: https://www.prnewswire.com/news-releases/global-e-commerce-markets-and-environmental-impact-2022-report---delivery-and-online-shoppers-attitudes-towards-environmentally-friendly-options-301503363.html

[10] Available at: https://ec.europa.eu/commission/presscorner/detail/en/QANDA_22_2015

[11] Available at: https://ec.europa.eu/commission/presscorner/detail/en/QANDA_22_2015

As such, fashion law is growing into a very comprehensive law domain to regulate a very vast business. Detailed knowledge of every one of these regulations and how these apply to technological advances have become key to compete and succeed in the fashion and luxury business.

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