

BTSEF

Cooperation with market places/selling platforms — Miriam BELLOFATTOVA

Contract number 2017 96 05 – New Food Investigation Techniques –
Phase II - *Course 2a: E-Commerce of food standard*

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BTSF Overview

- E-commerce
- E-commerce classification
- Subjects of e-commerce
 - a) internet users
 - b) internet intermediaries
- Cooperation with marketplaces
- Cooperation with payment providers
- Case study – food supplement from eBay



BTSF Internet



Internet - a space without borders

...

**...but not a space without any
limits or rules**

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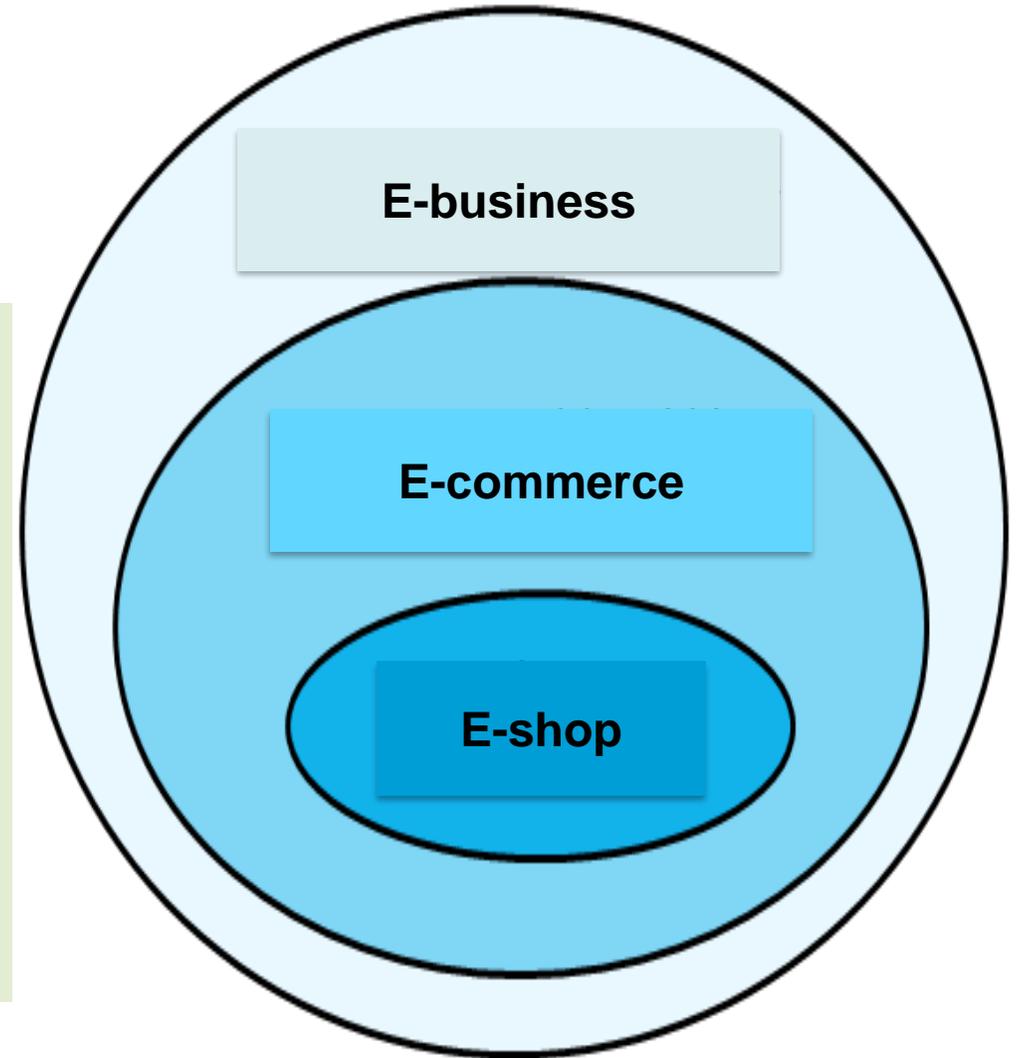
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E-commerce

E-business - a wide range of online business activities : buying and selling, servicing customers, payments, collaborating with business partners, e-learning and more...

E-commerce or electronic commerce describes the process of buying, selling or exchanging of goods and services over Internet

E-shop – a website or application by means of which goods or services are sold over the Internet



BTSF E-commerce classification

The two parameters for classifying ecommerce businesses that make the most sense are:

- 1) type of goods sold
- 2) nature of participants

Classifying Ecommerce Based on Type of Goods Sold

Ecommerce businesses sell:

1. **Physical goods**, e.g., books, furniture, **FOOD**, and the like
2. **Digital goods**, e.g., software, e-books, music, and the like
3. **Services**, e.g., tickets, insurance, and the like.



Classifying Ecommerce Based on the Nature of the Participants

- **Business - to - Business (B2B)**
- **Business - to - Consumer (B2C)**
- **Consumer - to - Consumer (C2C)**

.....



BTSF Nature of participants

Business - to - Business (B2B)

both participants are businesses (companies) –

Example: Heinz sells ketchup to McDonalds



Business - to - Consumer (B2C)

companies sell their goods online to the consumer/end user

Example: Tom buys a bottle of wine from Amazon



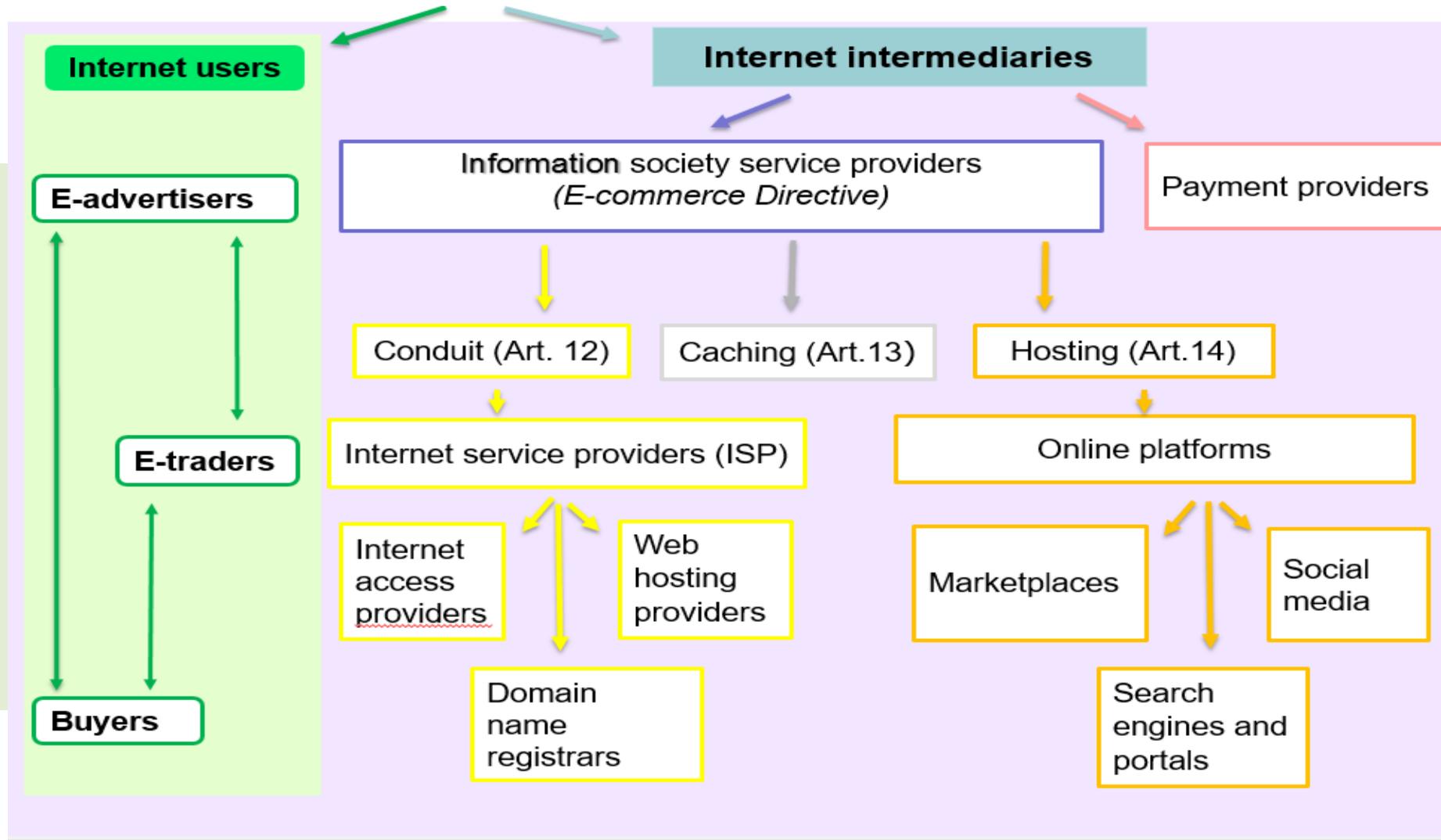
Consumer - to - Consumer (C2C)

consumers interact directly with each other

Example: Tom buys home-made jam from Anna

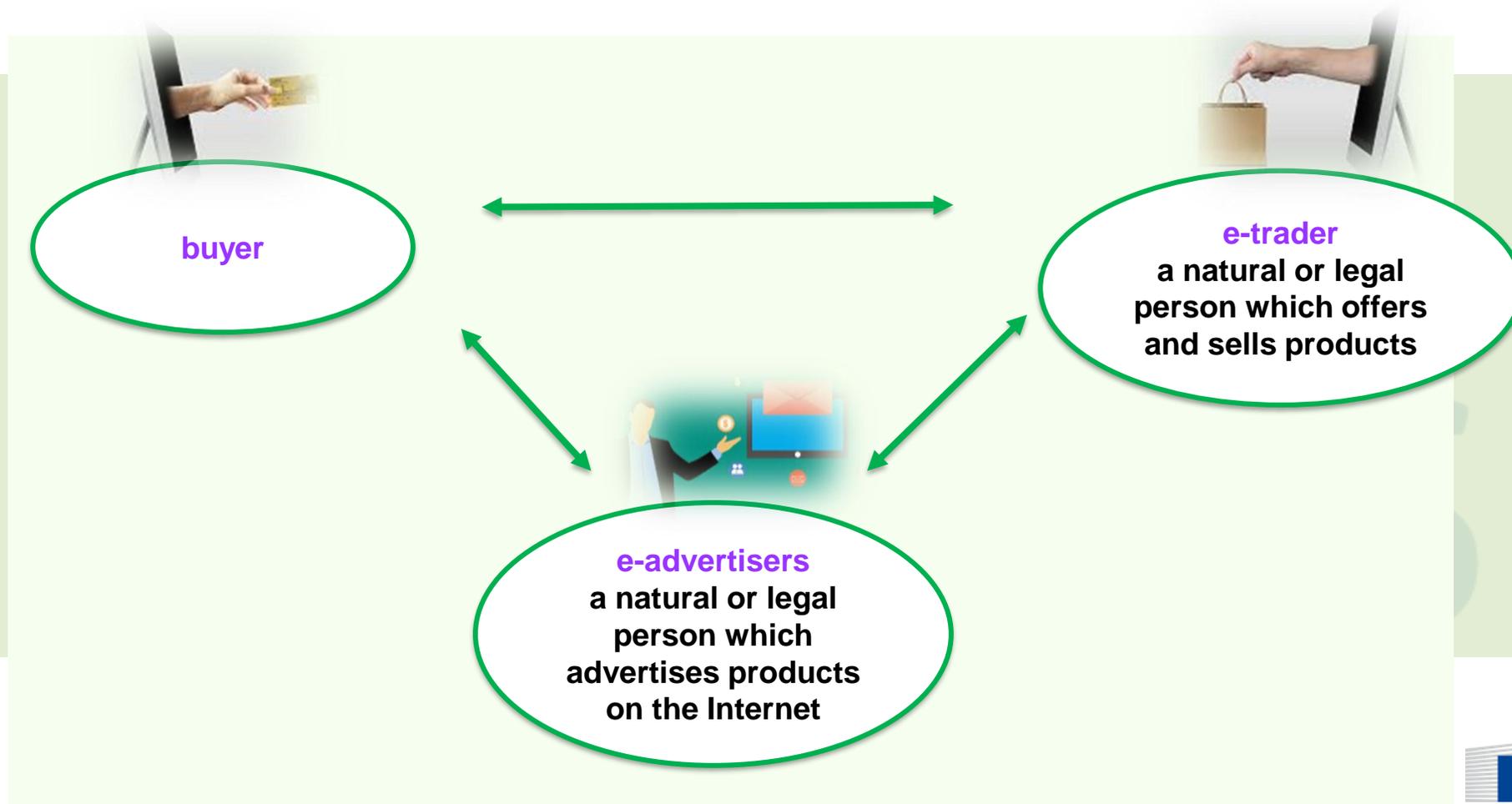


BTSF Subjects of e-commerce



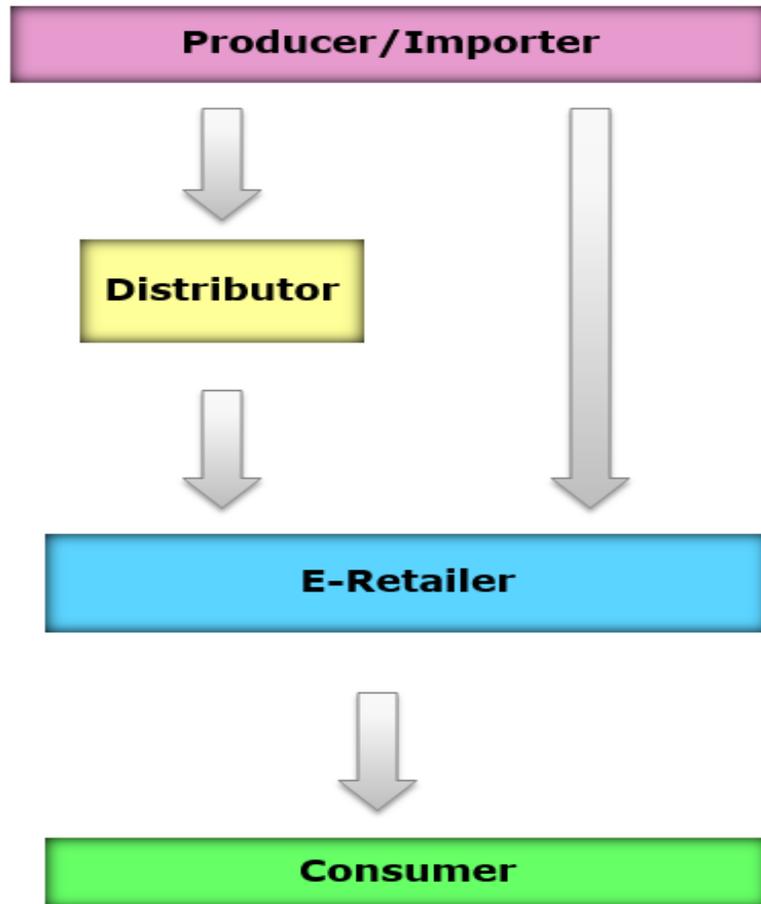
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Internet users

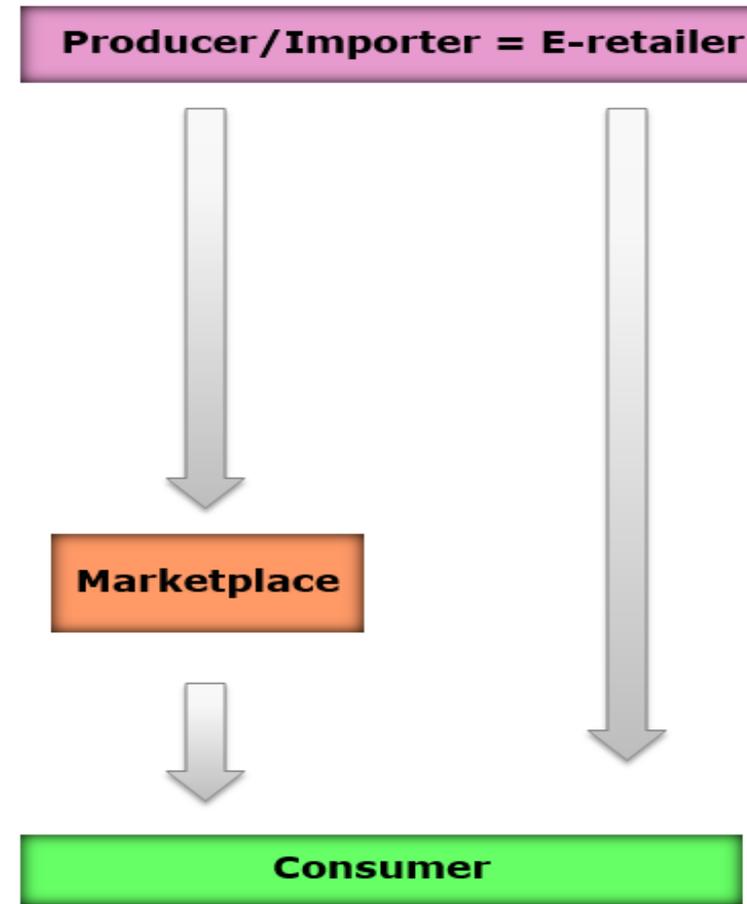


BTSF E-trading channels

Selling through Retailers



Selling Directly to Consumer



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E-retailing Models

Pure-Click

retailers which only sell online and have no physical stores

a) with warehouse



b) without warehouse



Bricks-and-Clicks

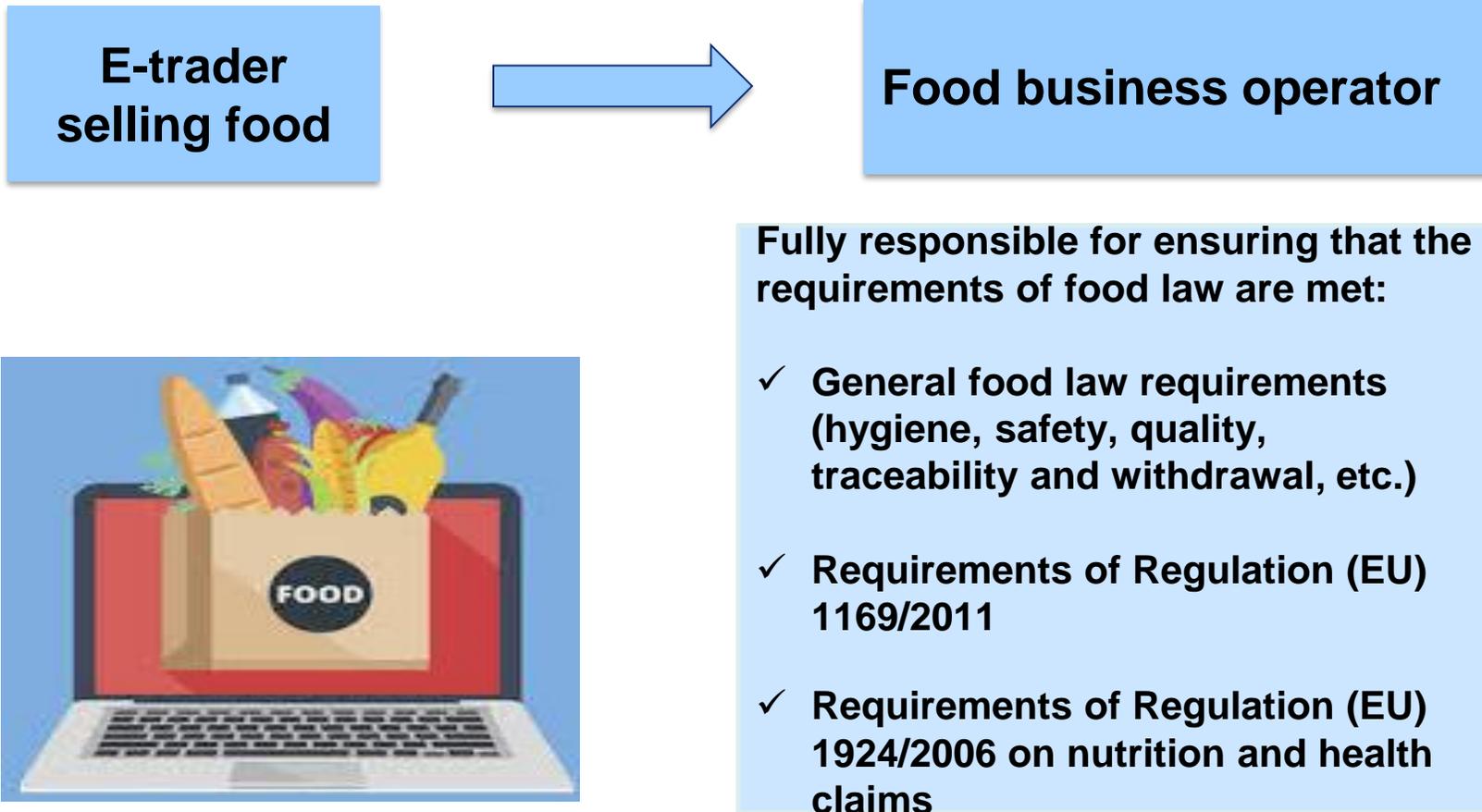
retailers that have both physical and virtual store locations (Walmart, Tesco)



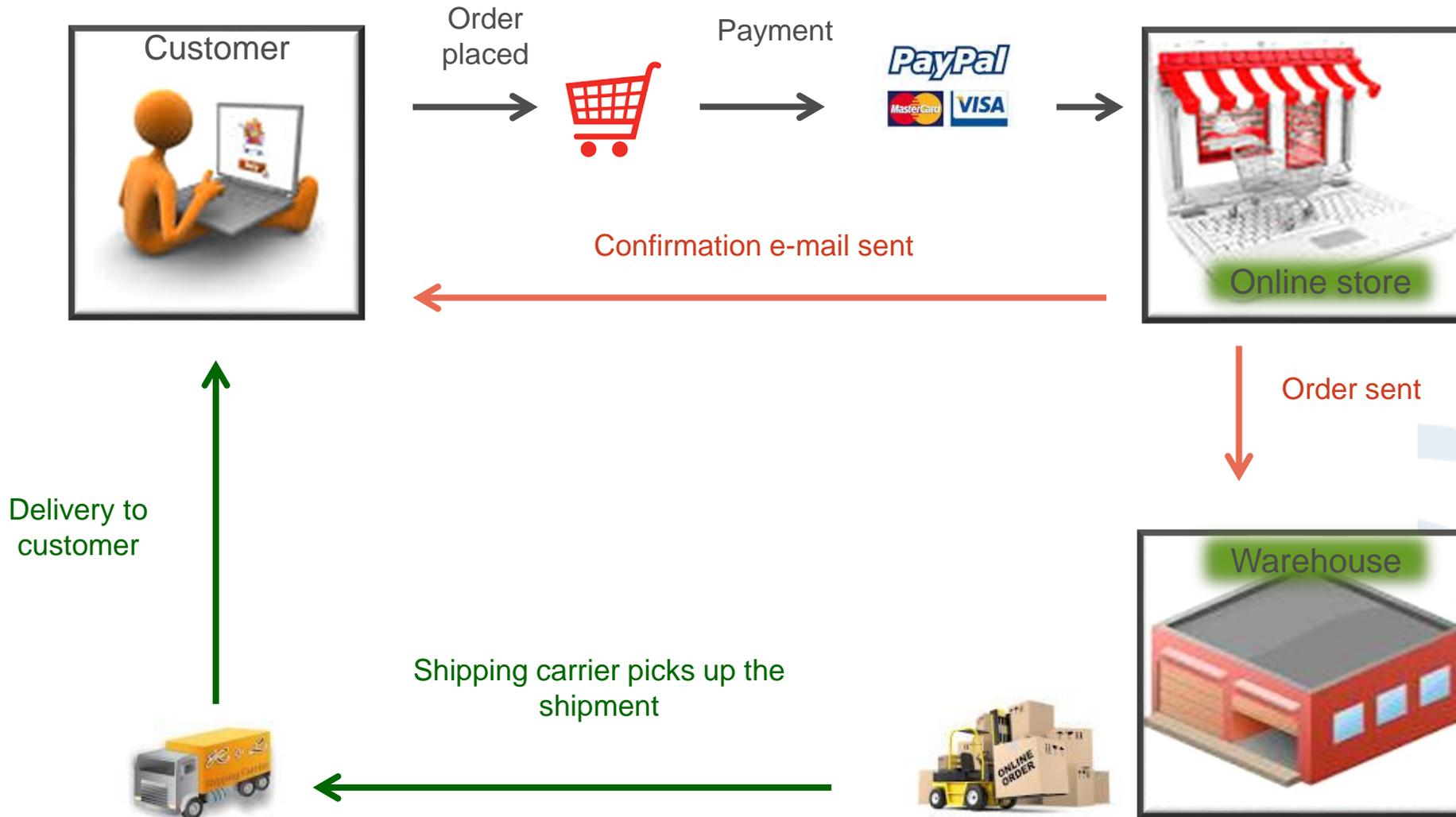
Manufacturer direct



BTSF E-trader - FBO

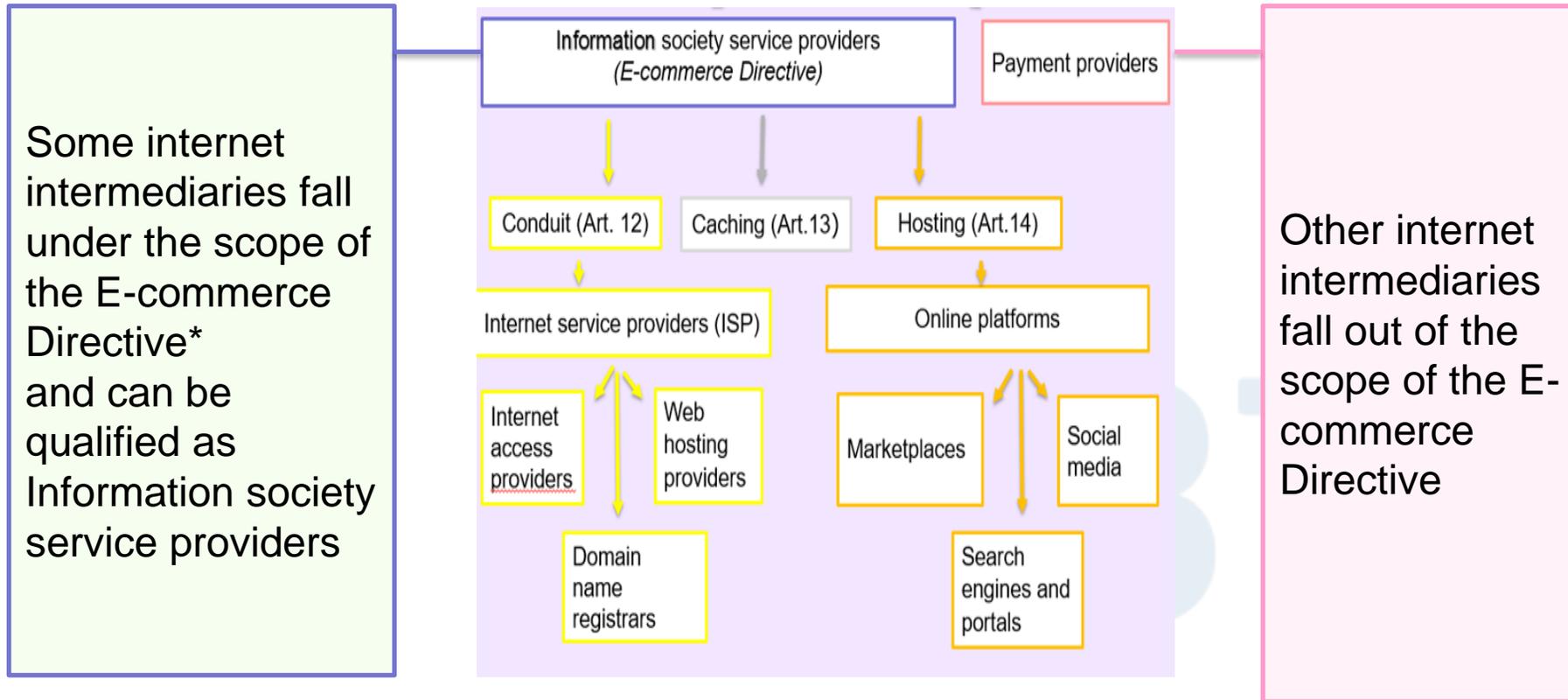


BTSF E-shop



BTSF Internet intermediaries

a wide range of service providers that facilitate the use of the internet.



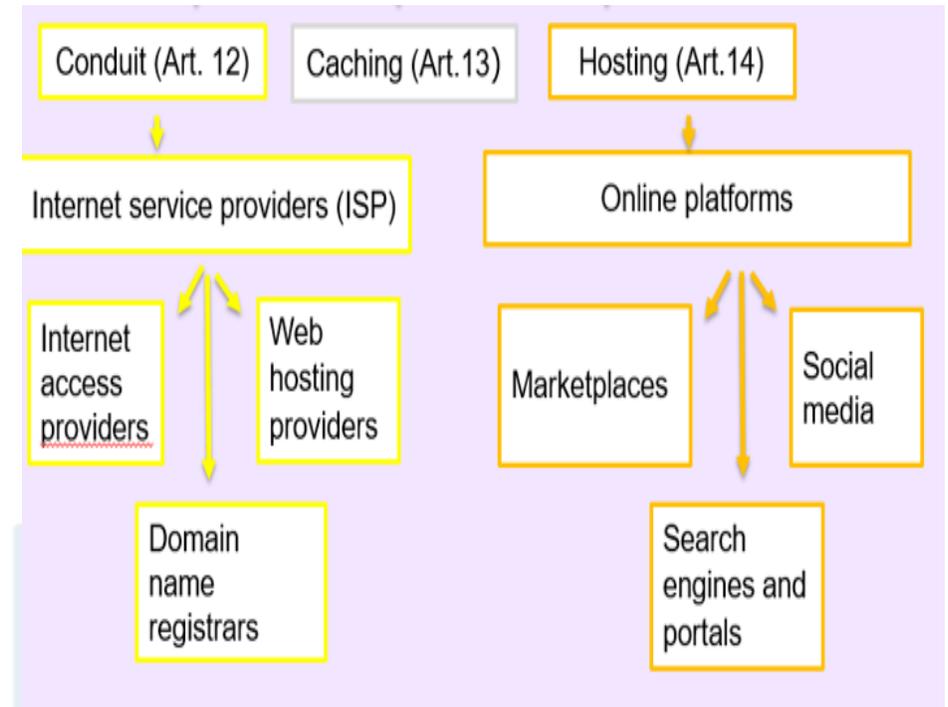
BTSF Information society service providers

The e-Commerce Directive* describes different kinds of internet intermediaries which fall into two broad categories: “conduits” and “hosts”. The “caching” has been of little importance.

“**Conduits**” are technical providers of internet access or transmission services. Conduits do not interfere with the content they are transmitting.

“**Hosts**” are providers of content services – for instance, online platforms and storage services.

Hosting is the most relevant from a product safety and agri-food compliance point of view.



* Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market

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Liability of the Internet Intermediaries



In general, intermediary liability is known as “secondary” or “indirect” liability because it does not relate directly to the intermediary’s own conduct.

Internet intermediaries carrying out hosting activities **can** enjoy protection from liability under the hosting safe harbor of Article 14 of the E-commerce directive

However a website operator may lose its defense, when it:

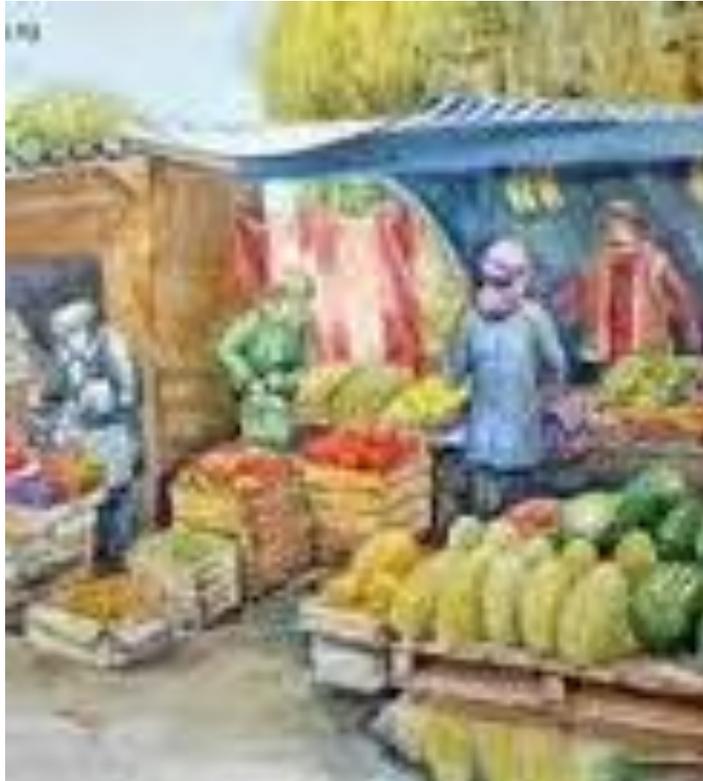
is aware of facts or circumstances from which illegal activity or information become apparent

or

performs an "active role" in an illegal activity (according to the CJEU).

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BTSF E-marketplaces AKA marketspaces



- The online marketplace is basically a place (in our case a website) in which sellers and buyers exchange goods and services for money (or for other goods and services).
- As in the real world, offers and demands are brought together in a special trading space.
- **Famous online marketplaces:** Amazon, eBay, Walmart, Etsy, Alibaba.com

BTSF Types of online marketplaces

C2C (Customer to Customer)

Marketplace focused on building communities of buyers and sellers. Typically, buyers can shop for free, but sellers sometimes have to pay a fee to list their products.

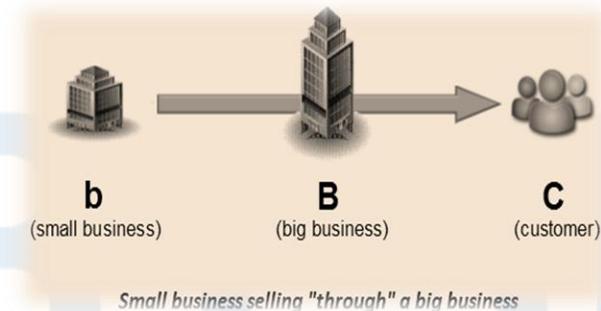
Example: eBay



B2B2C (Business to Business to Customer)

Marketplace (E-mall) offering a common selling platform for smaller businesses to sell their goods

Example: Amazon



BTSF Cooperation with marketplaces

Competent authorities of some MS established a good cooperation with some marketplaces
It can save the CA the time spent in identifying and tracing sellers

Competent authorities can notify the marketplaces about:

- a non-compliant product
- a product offered under a fictitious name
- when contact details of sellers are not correct.

Corrective actions:

products are usually taken down when evidence is presented to the marketplace
contact details of private sellers are provided to CA
contact details corrected (otherwise offers are deleted).



BTSF Contact points of marketplaces



Some marketplaces provided MS or SANTE with the contact details and procedures for communication

Difficulties in communicating with cross-border operating e-platforms should be reported by the competent authorities to DG SANTE.

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BTSF Contact points of marketplaces

eBay established the Global Asset Protection (GAP)-Team as contact point for competent authorities to promote the safe use of its platforms and published a law enforcement guide (http://pages.ca.ebay.com/securitycentre/law_enforcement_guide.html)



eBay provides two different systems for being contacted by CAs:

Law Enforcement Portal - LEP for control authorities already registered on eBay's **system Law Enforcement eRequest System – LERS** for competent agencies, without access to LEP

It is recommended to start with the LERS procedure



BTSF Contact points of marketplaces

Amazon provided two e-mail addresses for competent authorities

1) for general questions or to establish contact

eu-compliance-questions@amazon.com

2) for information about non-compliant offers

eu-authority-takedown@amazon.com



BTSF Contact points of marketplaces



Alibaba Group provides a uniform contact email address to specifically deal with non-compliance cases with the coverage of all Alibaba business units

Taobao, Tmall, Aliexpress, Alibaba.com, etc.

productcompliance@service.alibaba.com

This email address can be used by EU competent authorities for any product compliance issue.



BTSF Contact points of marketplaces

Facebook Ireland has established a dedicated email reporting channel for food control authorities of EU Member States:

consumerpolicy@fb.com

active since 1 January 2018

Intended exclusively **for up to two email addresses per Member State**

Each Member State can inform Facebook about non-compliant offers from Facebook users via this reporting channel **using exclusively the former notified email addresses**

facebook®



BTSF Payment service providers (PSP)



A third party provider that facilitates and helps merchants in the accepting of payments.

In online shopping, the PSP provide various methods of payment including:

direct debit, bank transfer, real-time bank transfers using online banking, and credit card.

Typically, they use a [software as a service](#) model and form a single [payment gateway](#) for their clients (*merchants*) to multiple payment methods.

MasterCard, Visa and PayPal

are the most accepted online payment methods in the world.

BTSF Cooperation with payment service providers (PSP)

- If an online seller tries to hide its identity, it might be useful for the CA to approach the respective paying system provider in order to get the contact details of the seller.
- There is the absence of a legal basis at an EU level to solicit information from these systems
- So MS should have national provisions allowing them to request cooperation with the payment providers
- So far DG SANTE have established cooperation
Paypal and Mastercard and VISA card should be the next one



BTSF Cooperation with payment service providers (PSP)

Contact Name: Colin Horrigan (Senior Program Manager, Brand Risk Management)

Email address: chorrigan@paypal.com

Phone: +353 86 048 45 94



Contact Name: Johannes Braeutigam (Associate Program Manager, Brand Risk Management)

Email address: jbraeutigam@paypal.com

Phone: +353 87 607 01 98



These contacts can be used for general inquiries or any urgent investigations

A brief email describing the nature of the investigation including the selling venue should be included.

BTSF Cooperation with payment service providers (PSP)

Mastercard

Mastercard is not in direct contact with the online merchants - Mastercards' customers are the banks

CA must fill out the **Law Enforcement Referral Form** and send it to Mastercard.

The **Law Enforcement Referral Form** can be obtained from SANTE/G3.



Law Enforcement Referral Form



Date:

Law Enforcement Agency Information

Agency:

I am a representative of the above law enforcement agency that is reporting the illegal goods, services, and/or activity.

Please complete your contact information below.

Name and Title:

Street Address:

City: State/Province:

Country: ZIP/Postal Code:

Phone: Email:

Illegal Activity Information

BTSF Case study cooperation with eBay (1)



- April 2019 - the National Health Institute (NHI) carried out a laboratory analysis upon the request of a consumer, who had purchased the product „Natural Remedy“ from India on www.ebay.com.
- The product, offered online as a food supplement, contained mercury, in total 72,200 mg of mercury per 1 kg (the permitted limit for mercury in food supplements is 0.1 mg/kg).
- NHI informed CAFIA about its analytical results.
- In a press release, CAFIA strongly warned consumers against the consumption of the product concerned.

BTSF Case study cooperation with eBay (2)

CAFIA carried out screening of the offers on e-Bay and found a few offers from various sellers. The information was in English, though the prices were in CZK.



CAFIA decided to carry out an official inspection, including official sampling . Two products („Natural Remedy Standard“ and „Natural Remedy Premium“) were ordered by control purchase.

BTSF Case study cooperation with eBay (3)

The analysis of the product Natural Remedy Standard confirmed the presence of mercury amounting to 164,000 mg/kg (mercury thus represented 16.4% of the product).

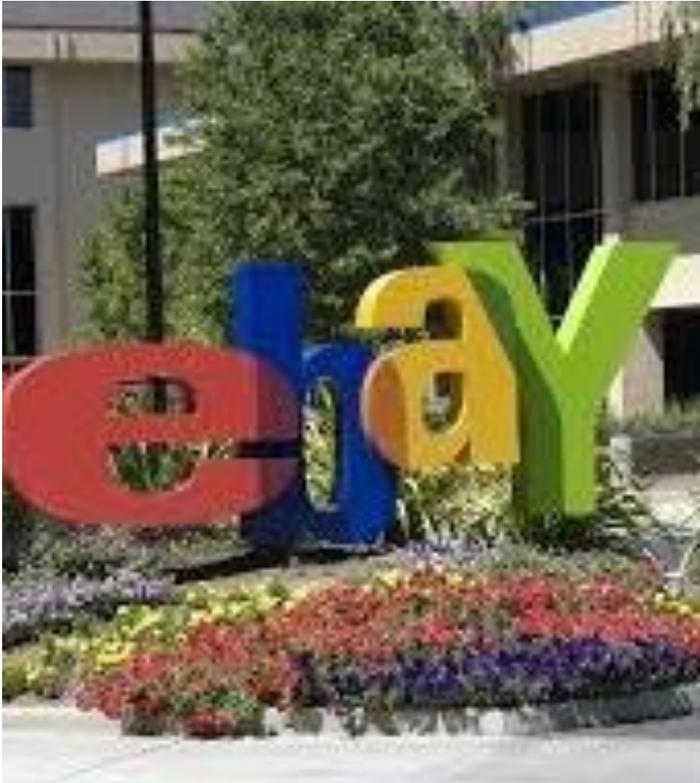
As regards the product Natural Remedy Premium, the analysis confirmed the presence of mercury no lower than 76,500 mg/kg (the proportion of mercury in the total weight of the product was thus 7.7%).

The maximum limit for the presence of mercury laid down by European legislation is 0.10 mg/kg.



CAFIA entered the information into the European Rapid Alert System for Food and Feed (RASFF).

BTSF Case study cooperation with eBay (4)



- CAFIA informed the seller from India about the analytical results, but with no response.
- Subsequently CAFIA sent a request to eBay and asked for withdrawal of these products from eBay.
- eBay almost immediately removed all listings from the particular seller.
- eBay then carried out screening of all products offered under the name Natural Remedy.
- By the end of the year 2019 all Natural Remedy listings were taken down.

BTSF Example of successful cooperation with an intermediary in the Czech Republic

A few years ago dozens of online pharmacies offering food supplements made medicinal claims which are strictly prohibited.

E-pharmacy operators informed inspectors that the data had been provided by the company Pharmdata LTd and therefore they could not make any changes.

The logo for PharmData is written in a blue, cursive, handwritten-style font. The word 'Pharm' is on the top line and 'Data' is on the bottom line, with a thick blue underline that starts under 'Pharm' and ends under 'Data'.

PharmData

- a company which collects, maintains and integrates data and information from **manufacturers** and **suppliers** of medicinal drugs, cosmetics and also **food supplements** and provides this information to **e-pharmacies**

BTSF Cooperation

CAFIA and Pharmdata – have established very useful cooperation

Pharmdata – intermediary - only **secondary liability for information**

- CAFIA created Guidelines for Nutrition and Health Claims with a **list of about 300 words that could be considered to be medicinal claims)**
- Pharmdata sent a letter to manufacturers, suppliers and e-pharmacies informing them of their responsibilities with regard to regulations 1924/2006 and 1169/2011
- CAFIA Guidelines were attached to this instructive letter
- In the following weeks dozens of manufacturers and suppliers corrected their information and removed medicinal claims
- At the end of 2015 Pharmdata LTd. organized a large-scale seminar focused on requirements of regulations 1924/2006 and 1169/2011

Seznam rizikových slov, která lze považovat za léčivá

abnormální
absces
afty
AIDS
akné
akutní
alergie
alkoholismus
alopecie
Alzheimerova
anemie
angína
anorexie
antibiotika
apatie
arterioskleróza
artritida
artróza
arytmie
ateroskleróza
atopický
autismus
běrcové vředy
bolavý
bolení
bolest
bolestivý
borelie
borelioza
bradavice
bronchitida
bulimie
celulitida
cirhóza
Crohnova nemoc
cukrovka
cysta
cystická
degenerace

BTSF Summary



- E-commerce refers to buying and selling goods online. The most important categories are B2C, B2B, C2C
- The following subjects are important to know for better control of e-commerce: e-trader (offers and sells products), e-advertiser (advertises products on the Internet), Service provider/internet intermediary (facilitates the use of the Internet)
- E-commerce intermediaries include marketplaces, Internet access and service providers (ISPs) and Internet payment intermediaries
- E-commerce intermediaries have secondary liability for information so it is very important to establish a useful cooperation with them
- DG SANTE has established a good cooperation with some marketplaces – Amazon, Ebay, Alibaba and payment providers – Mastercard and Paypal

BTSF

Thank you

European Commission
Consumers, Health and Food Executive Agency
DRB A3/042
L-2920 Luxembourg

AENOR INTERNACIONAL
6, Genova street. 28004. Madrid, SPAIN
Tel: +34 91 432 61 25
Mail: 20179605NFIT@aenor.com
www.btsf-aenor.com

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