

# **The National and International Dimension of Electronic Commerce. Aspects of *e-commerce* Development in France and Romania**

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## **Abstract**

*The present paper highlights certain conceptions concerning e-commerce institutionalization in the frame of World Trade Organization (WTO) and to the problems still unsettled regarding this subject. Final part of the article is a review of some concrete aspects about e-commerce development in two European Union countries: France and Romania.*

**Key words:** *e-commerce, WTO and electronic commerce*

**JEL Classification:** *L81, F13, F14*

## **Introduction**

Nowadays, Internet has an extraordinary impact over business world. This is due to the obvious advantages for buyers and sellers, related to traditional means for commercial activities running.

*e-commerce* represents today one of the most important instruments of world trade.

## **Electronic Commerce Institutionalization in the Frame of WTO**

### **Brief History of the Events after Uruguay Round**

Electronic commerce had known a rapid development only after Uruguay Round that led to the creation of World Trade Organization<sup>1</sup>.

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<sup>1</sup> In 1947 GATT (General Agreement for Tariffs and Trade) was created. From 1947 till 1995 when it was integrated in WTO, GATT passed by eight negotiations rounds (Geneva Round 1947, Annecy Round 1949, Torquay Round 1950-1951, Geneva Round 1955-1956, Dillon Geneva Round 1960-1961, Kennedy Geneva Round 1964-1967, Tokyo Round 1973-1979, 1986-1994 « Uruguay Round » Geneva. From 2001, is in course the ninth round under WTO protection named « Doha Cycle »

Agreements in the frame of WTO didn't contain in 1995 elements corresponding to this transaction type, thus World Trade Organization actions were diversified in order to identify the modalities for the multilateral framework of international trade could be adapted or modified for electronic commerce particularities.

In 1995 the first step was the liberalization of the telecoms services trade with added value and with informatics services (on-line data processing, on-line database stocking and processing, EDI, e-mail, video conferences etc.).

In 1996 there were finalized the negotiations in the field of basic telecoms services (voice telephone, telex, telegraph, facsimile, private leased circuit services, mobile telephone, radio communication, data transmission etc) by the Fourth GATS Protocol confirmed at 30th of April 1997 and took effect in 5th of February 1998.

In 1998 negotiations on "*Information Technology Agreement*" were finalized and that is focused on customs tax elimination in the trade with certain products of information technology.

In May 1998 on the WTO Second Ministerial Conference in Geneva it was adopted the „*Declaration on global electronic commerce*” that consist in two major components:

- The Decision of WTO General Council to establish a comprehensive work programme to examine all trade-related issues relating to global electronic commerce<sup>2</sup>. The work programme will take into account the economic, financial, and development needs of developing countries.
- The decision regarding the current practice of not imposing customs duties on electronic transmissions (Custom Duties Moratorium).

In 2001, WTO inaugurate „*Doha Development Agenda*”, opening in this way the negotiations concerning the definition of the modalities in the Multilateral Framework Trade that could be applied to electronic commerce and information technology.

Further we will refers widely on „*Work Programme on Electronic Commerce*” as well as to „*Doha Development Agenda*”.

## **Work Programme on Electronic Commerce**

In 1988 at *Geneva Ministerial Conference*, The General Council of WTO named four subsidiary bodies to examine the agreements between WTO and electronic commerce, each one having special duties.

Thus, the *Council for Trade in Goods*<sup>3</sup> should analyze seven aspects related to GATT incidence on electronic commerce: market access for and access to products related to electronic commerce, issues arising from the application of the Agreement on Import Licensing Procedures, custom duties and other duties and charges, standards in relation to electronic commerce, rules of origin issues, problems related to goods classification and evaluation issues.

The *Council for Trade in Services*<sup>4</sup> should examine and report about twelve issues on the treatment of electronic commerce in the GATS legal framework: scope (including modes of supply) (Article I); Most Favored Nation MFN (Article II); transparency (Article III); increasing participation of developing countries (Article IV); domestic regulation, standards, and recognition (Articles VI and VII); competition (Articles VIII and IX); protection of privacy and public morals and the prevention of fraud (Article XIV); market-access commitments on

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<sup>2</sup> WTO Work Programme for Electronic Commerce

<sup>3</sup> See [http://www.wto.org/english/tratop\\_e/ecom\\_e/wkprog\\_e.htm](http://www.wto.org/english/tratop_e/ecom_e/wkprog_e.htm)

<sup>4</sup> Ibidem

electronic supply of services (including commitments on basic and value added telecommunications services and on distribution services) (Article XVI); national treatment (Article XVII); access to and use of public telecommunications transport networks and services (Annex on Telecommunications); customs duties; classification issues.

The *Committee on Trade and Development*<sup>5</sup> should examine five aspects: effects of electronic commerce on the trade and economic prospects of developing countries, notably of their small- and medium-sized enterprises (SMEs); challenges to and ways of enhancing the participation of developing countries in electronic commerce, in particular as exporters of electronically delivered products; use of information technology in the integration of developing countries in the multilateral trading system; implications for developing countries of the possible impact of electronic commerce on the traditional means of distribution of physical goods; financial implications of electronic commerce for developing countries.

The *Council for trade-related aspects of intellectual property rights (TRIPS)*<sup>6</sup> should examine three issues: protection and enforcement of copyright and related rights; protection and enforcement of trademarks; new technologies and access to technology.

Finally it conclude the impossibility of establishing a distinct regulatory domain for international trade transacted through electronic commerce technologies because it was no consensus on following topics:

- classification of digital products as goods or services;
- decision regarding elimination of custom duties for electronic transmissions;
- institutional arrangements to continue Work Programme.

#### *Doha Ministerial Conference*

Doha Ministerial Declaration<sup>7</sup> recognized the efforts and decided to continue Work Programme on Electronic Commerce. They recognized the importance of creating and maintaining an environment which is favorable to the future development of electronic commerce and instruct the General Council to report on further progress to the Fifth Session of the Ministerial Conference. Members will maintain their current practice of not imposing customs duties on electronic transmissions until the Fifth Session,

#### *Cancun Ministerial Conference (The July package)*

The so-called July 2004 Package<sup>8</sup> (Doha Work Programme Decision adopted by the General Council on August 2004) injected new momentum into the negotiations. The July Package contained a target date of May 2005 for the submission of revised offers and adopted a set of recommendations: members that had not yet submitted initial offers to do so as soon as possible; ensuring a high quality of offers, in particular in sectors and modes of export interest to developing countries, with special attention being given to least-developed countries (LDCs); intensifying efforts to conclude the rule-making negotiations; providing “targeted” technical assistance to developing countries with a view to enabling them to participate effectively.

#### *Hong Kong Ministerial Conference (2005)*

The Ministerial Declaration adopted on the 18<sup>th</sup> of December 2005, in the article 46 referring to e-commerce affirm:

*“We take note of the reports from the General Council and subsidiary bodies on the Work Programme on Electronic Commerce, and that the examination of issues under the Work*

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<sup>5</sup> Ibidem

<sup>6</sup> Ibidem

<sup>7</sup> See [http://www.wto.org/english/thewto\\_e/minist\\_e/min01\\_e/mindecl\\_e.htm](http://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_e.htm)

<sup>8</sup> See [http://www.wto.org/english/tratop\\_e/serv\\_e/key\\_stages\\_e.htm](http://www.wto.org/english/tratop_e/serv_e/key_stages_e.htm)

*Programme is not yet complete. We agree to reinvigorate that work, including the development-related issues under the Work Programme and discussions on the trade treatment, inter alia, of electronically delivered software. We agree to maintain the current institutional arrangements for the Work Programme. We declare that Members will maintain their current practice of not imposing customs duties on electronic transmissions until our next Session<sup>9</sup>”.*

In conclusion, Work programme continues the General Council has the obligatorily to report the progress registered in the frame of relevant subsidiary bodies and WTO will continue the current practice of not imposing custom duties on electronic transmissions.

### **Doha Development Agenda**

Electronic commerce does not appear as a private domain in Doha Round negotiations. The only mentions are related to the continuity according to the Work programme and maintaining the practice of no imposing custom duties on electronic transmissions.

Aspects related to electronic commerce will be discussed in future negotiations regarding market-access for non-agricultural products, services trading and TRIPS agreement revision (Trade Related Aspects of Intellectual Property Rights).

We'll refer further on the main issues related to electronic commerce in WTO framework: *Application of custom duties on electronic transactions* and *Problems of digital products classification, Electronic commerce liberalization in WTO framework*.

### **Aspects regarding the Application of Custom Duties on Electronic Transactions**

There are two main aspects of WTO decision to not impose custom duties on products delivered on electronic way.

The first aspect refers only to electronic transmissions: *goods ordered via Internet but imported by traditional means are explicitly excluded from exemption custom duty*.

WTO decision take into account only custom duty.

*Note: This thing shouldn't be important if all products treated electronic could be associated with goods and under GATT incidence – that not forecast other duty forms exempting custom duty. But the most part of these products is represented by services and in this case it has to be under GATS incidence.*

In GATS framework the members could decide to not impose non-tariff barriers to trade and that why many GATS members didn't assume engagements for certain services with electronic delivery. So, WTO Decision could be beneficent. Only these countries can resort to internal discriminatory duty (not to the custom) or to quantitative restriction.

Electronic commerce can be divided in two main categories: *a) Commerce with digital media products* and *b) Electronic commerce with services*.

#### *a) Commerce with digital media products*

These products, traditionally delivered as goods, can be delivered now by telecommunication network and by digital form.

For the most part of countries, the commerce with digital products represents less that 2% from the total of trading. Commercial flux generate by these products are insignificant and their

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<sup>9</sup> See Hong Kong – Sixth Ministerial Conference, WT/MIN(05)/DEC 22 décembre 2005 PROGRAMME DE TRAVAIL DE DOHA Déclaration ministérielle adoptée le 18 décembre 2005 [http://www.wto.org/french/thewto\\_f/minist\\_f/min05\\_f/final\\_text\\_f.htm#services](http://www.wto.org/french/thewto_f/minist_f/min05_f/final_text_f.htm#services)

physical delivery continue to be important even their electronic transmission will continue to develop with costs decreasing.

*b) Electronic commerce with services*

Informational communications services, financial services and business services are mostly transaction by communication network. Crossing borders electronic trade in services represents over 30% from world trade services and around 6% from total world trade, over the percent of media digital products trade<sup>10</sup>.

In the same time with costs decreasing for telecommunication services and Internet commerce development, crossing border electronic transfers intensified.

We have to say that „costs policies for telecommunications field dramatically varying from a country to another. This is an important factor for Internet using. OECD studies showed a direct link between telecommunication infrastructure absence, high costs and Internet using low rates”<sup>11</sup>. Market-access and increased commitments for telecommunications would improve access conditions for Internet users and would have a positive effect on Internet commerce.

WTO Decision to suspend custom duty on electronic transactions create an important discrepancy: identical products are different treated function of their delivery modality. Thus, music, software, films, electronic books are excepted from custom duties but there are duties payment if they are imported in non-electronic form (CDs, DVDs, memories, computers etc).

*“Another question upon which there is disagreement among WTO Members is that of classification of products which may be converted into digitized information and delivered electronically. Taking one of numerous possible examples, does the delivery of digitized music, supplied via Internet constitute the supply of a good, a service, or a different type of product that can be classified neither as a good, nor a service? Added to this classification question is that of new services that are created in response to electronic commerce, for example: web-hosting, web site design, electronic authentication services.<sup>30</sup> Are these services adequately covered by existing classifications, or can they be slotted into those categories? While electronic authentication services may be readily slotted into one of the financial services sub-sectors (e.g. payment services), where to put web site hosting is not as obvious”<sup>12</sup>.*

Another problem is represented by services – other than those with electronic products – that could be delivered by electronic means (professional services, financial services, health services, judicial services, educational services etc).

WTO members agree that services are under GATS incidence because the agreement refers to all services categories independent of their delivery way. But the problem is to classify the products that traditionally were transacted in non-electronic form and now they are delivered by electronic means or downloaded in digital form and than incorporate in a physic support (DVD, computer etc.). Are they services or should be considered goods?

### **Digital Products Classification Problems**

Classification of digital products is a measure of liberalization level that exporters of those products could expect from WTO members.

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<sup>10</sup> Mattoo, A., Schuknecht, L. – *Trade Policies for Electronic Commerce*, 2001

<sup>11</sup> OECD, *Information Technology Outlook 2000*; OECD, *Internet access pricing*, OECD/EC/COMTEC Workshop, Dublin, June 20, 1996

<sup>12</sup> “Electronic Commerce: a Cluster Approach to the Negotiation of Input Services”, TD/TC/WP(2000)33/FINAL, I20, p.11 [http://appli1.oecd.org/olis/2000doc.nsf/c5ce8ffa41835d64c125685d005300b0/c125692700623b74c1256a6c00405916/\\$FILE/JT00109628.PDF](http://appli1.oecd.org/olis/2000doc.nsf/c5ce8ffa41835d64c125685d005300b0/c125692700623b74c1256a6c00405916/$FILE/JT00109628.PDF)

Between GATT regulation framework for goods trade and GATS for services trade there are three important differences for electronic commerce:

1) In GATT framework, national treatment according<sup>13</sup> is a *general obligation* but applicable only to internal measures (tax and regulation inside the country not at the frontier).

In GATS framework, the principle of Most Favored Nation *is applicable to all measures* that affect service carrying out but *is not a general forecast* (applicable only to the sectors inscribed by every member, explicitly, for liberalization and these could be submit to limitation).

2) GATT allows custom duties assessment on imports (members didn't agree for their complete elimination).

GATS treats tax problem only to stipulate that tax and fiscal policy should respect the agreements that refers to national treatment.

3) In GATT, *quantitative restriction is prohibited* (exemption some specific cases).

In GATS, *quantitative restrictions is forbidden* only for the sectors where there were assumed *agreements to guarantee free market access*.

In consequence, the treatment of a product could be significantly different related to its classification as goods or service.

European Commission considers that all digital transmissions represent transactions with services and they are regulated by GATS.

In WTO framework USA suggested that because of the high level of liberalization in GATT, it would be more advantageous to consider that electronic commerce is GATT problem, so it would open the market of digital products import from USA.

WTO Secretariat adopted a neutral position but it is more inclined to a classification under GATS incidence.

The specialists and WTO members proposed at least four solutions for the problem of classification of digital products in international trade:

*Solution 1:* Going to Dispute Settlement Body (DSB) for every particular case – this is a constrained solution

*Solution 2:* Create a new category – hybrid – for products with status-quo (good and/or service). This could complicate the mechanisms of settlement and undermine the coherence of the two agreements GATT and GATS.

*Solution 3:* Classification of digital products as suggested of Indonesia and Singapore in the category of intellectual property. This would by-pass the problem and it would be not a progress for trade liberalization.

*Solution 4:* Defining new criteria for goods and services classification. Two relevant criteria for digital products classification as goods could be: if they become physical meaning local stocked (invalidate the services perishable) or transferable (invalidating variability/heterogeneity of services).

- *Local stocked goods.* These are products downloaded on a physical support, even it is computer, without implying the producer or making a separate copy on another physical support.
- *Transferable goods.* These are products for that the value could be kept independent of initial customer and transferred to another customer, without producer intervention. So, a

<sup>13</sup> By „national treatment” we understand the obligation of governments to not treat foreign products less favorable that local products – without discrimination.

CD could be downloaded in a specific form and could be adopted than by a another customer with the same value. Initial adaptation is not specific to a certain customer and producer should not interfere in the process of product adaptation.

## **WTO Electronic Trade Liberalization**

Negotiations in Doha Round offers to GATS members the following opportunities to contribute on electronic trade development and liberalization:

- Commitments assumption for modes 1 and 2 of supplying services<sup>14</sup>;
- Getting commitments for mode 4;
- Barriers elimination for electronic commerce by commitment enlargement;
- Telecommunications services transactions liberalization;
- New services commitments – for services that appeared after Uruguay Round.

Even if all these aspects have been negotiated in the frame of GATS Council, the majority didn't find the solution.

Doha Round negotiations could contribute to clarifying some of them if it would focus on some essential problems settlement: 1) electronic supplied services classification; 2) Services similarity; 3) regulations that affect electronic commerce; 4) applicability of regulations concerning telecommunications services and basic telecommunication services to electronic commerce.

### *1. Classification of electronic supplied services*

Electronic commerce rise the problem of delimitation between mode 1 and mode 2 for services supply (see footnote). Electronic supply eliminate the necessity of physical proximity between dealer and customer. The actual level of agreements concerning market access shows that the most part of the countries decided to not restricted mode 2 of supplying (a great number of agreements without limitations), but with the reserve to place restrictions on the mode 1.

Another problem is the problem of jurisdiction. If a transaction is classified as mode1 is under the incidence of customer jurisdiction, if is classified as mode 2 is under dealer jurisdiction.

The problem of electronic supply services classification could be solved with a consensus in special sessions of GATS Council or by demanding and bilateral compensatory offers.

Concerning Web Hosting and Authentication is not clear if they are value added services or data processing services or they need specific agreements negotiations. Companies that manage and allocate denomination of domains and Internet addresses are under GATS incidence or they have to be under Government authority? Internet creates an interfingering of the sectors so that regulations refers only to primary sectors or to the content transfer too?

There are questions that need answers from WTO Member in order to clarify all the problems related to classification.

### *2. Services similarity*

Article II – Most Favored Nation Principle – of GATS oblige Members to extend the treatment for Members to other countries concerning services and suppliers.

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<sup>14</sup> The GATS distinguishes between four modes of supplying services: mode 1 – cross border supply; mode 2 – consumption abroad; mode 3 – commercial presence and mode 4 – presence of natural person (services performer transportation)

Article XVII - National treatment –individual Member have the obligation to apply regardless of whether or not foreign services and suppliers are treated in a formally identical way to their national counterpart. What matters is that they are granted equal opportunities to compete. The problem for electronic commerce is to clarify the modality of application for all these principles under conditions that *discriminatory measures effect rise exponentially in the network., where a national connection point could open the access on the global market of services.*

The wide adaptation of digital products make more difficult to appreciate their similarity. A supplier on-line should offer an adapted service that is classified as standard product and both products appear to be different in customer perspective. Do they support the same regulations or different regulations?

A service electronically provided at distance will be treated in the same manner if it is delivered inner the country or outer the country. The same service delivered inner the country will be equal treated if it is delivered by other means that electronically? According to the principle of technological neutrality it wouldn't exist any reason for a different treatment.

Technological neutrality assume that Members not apply discrimination between suppliers concerning the delivery modality. If this principle is not accepted GATS agreements (market access, national treatment, most favored nation principle) to electronically deliverers is uncertain. There is necessary an agreement very clear regarding technological neutrality.

Even the decision to not apply custom duties to electronic transmissions undermine the notion of technology neutrality. The initiative to treat electronic supply (software e.g.) different that mail supply creates uncertainties regarding the principle according to the similarity of products is not conditioned by identical supplying modalities.

### 3. Regulations that affect electronic commerce

Article VI of GATS – Internal regulations – applied to national measures that were not negotiated as exceptions in agreements lists, even if the supply is electronic or non-electronic. According to these regulations, Member should assure the administration of general measures that affect services trade *reasonable, objective and impartial*. But what's the significance of these terms?

On International plan the business community considers that article VI could give to regulation bodies too high prerogatives to regulate Internet. WTO Member are worried related to the their capacity to impose in international markets regulation. European Union affirmed that *self-regulating is not sufficient for electronic commerce.*

GATS member didn't agree concerning the modality for that new previsions of GATS Article VI that will be negotiated in the future could be applied to electronic commerce.

### 4. Applicability of the regulations regarding telecommunications services and basic telecommunication services to electronic commerce

Conditions on telecommunication market have a major impact to imply persons and organizations in electronic commerce. Telecommunications public operators, as monopolies, could impose restrictions that limit the value of the agreements regarding foreign companies market access.

Evaluation of GATS instruments regarding telecommunication services was an important element of Work Programme Framework on electronic commerce. During the negotiations there were adopted two key instruments: „Annex on telecommunications” and “Agreement for basic telecommunications services”.

At Uruguay Round WTO Member decided to include „Annex on telecommunications” in GATS, as integrated part.



By according access to public networks, „Annex on telecommunications” scope is to guarantee the application and using of assumed agreements for other services sectors, by external suppliers. E.g. if a country listed for liberalization the insurance services to a foreign supplier, it has to guarantee the access on network and public telecommunication services.

Even if “Agreement for basic telecommunications services” is not integrant part of GATS, because it was comprised in agreements lists for Member, representing around 90% from global telecommunications market, transform it in an instrument of electronic commerce. m

Concerning the previsions comprised in the too instruments mentioned above, we could make the following observations:

1. „Annex on telecommunications” shall apply to all measures of a Member that affect access to and use of public telecommunications transport networks and services. Annex shall apply only if there were assumed specific agreements and many Members did not subscribe agreements concerning the sectors and relevant supplying modalities for electronic commerce. Member shall ensure that the obligations of this Annex are applied with respect to suppliers of public telecommunications transport networks and services by whatever measures are necessary.
2. Both instruments are general. E.g. Annex doesn’t have regulations concerning: interconnections, price set up, counts, promptitude of the access – all of them being key element for electronic commerce.
3. There are not defined networks types and services to apply for these instruments. If at the very first beginning governments decided to focus on their applicability on telephony public network, when private providers of Internet did appear – and they are not telephony operators – it become necessary to extend regulations for these companies.

European Union moves on this direction, even if this regulation would create problems to USA where the „Federal Commission for telecommunications” persistent refused Internet access as telecommunications service submitted to the legislation for ordinary operators.

WTO Members concluded that Annex foreseen will apply to access and Internet using only if Internet is regulated in the state member as a public network for telecommunications. If that condition is not present, there are no conclusions regarding the appropriate tool.

Doha Round Negotiations could contribute to the clarification of such aspects.

## Aspects regarding e-commerce Development in France

### The Comparison regarding the Internet Development in Romania and France

Table 1 shows the comparison regarding the population, rate of Internet penetration (internet users percentage reported to population) and the increasing of this rate in 2000 – 2007, in France and Romania.

**Table 1.** The increasing of Internet penetration rate in 2000-2007 in France and Romania

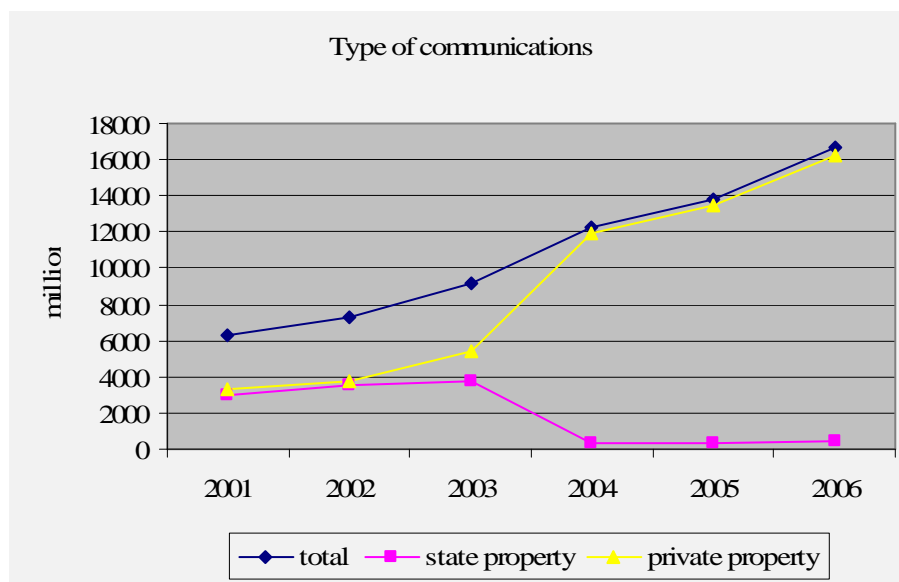
	<b>Population</b>	<b>% internet users /population</b>	<b>Increasing 2000-2007</b>
<b>France*</b>	63 718 187	54.7	<b>310%</b>
<b>Romania**</b>	<b>21 154 226</b>	<b>23.9</b>	<b>663%</b>

\*) According to Plunkett’s E-Commerce and Internet Industry Almanac 2008 (E-Book) <http://books.google.ro/books?id=dHdAQIMkrKkC&pg=PT221&dq=France+E-commerce+2008+report#PPT75,M1>

\*\*\*) According to [www.internetworldstats.com/eu/ro.htm](http://www.internetworldstats.com/eu/ro.htm)

Romania started with a major handicap regarding the *e-commerce* pass in, thereby in 2000 recorded only 3.6%<sup>1</sup> of Internet users reported to population, comparing to 17.6% in France at that time.

ITC domain has developed, however, with higher rates, mainly due to a dynamic private area. In Figure 1, for example, the development of communications services shows *the property form* with the performed services values.



**Fig. 1.** The development of communications services in Romania, in property forms (Romanian currency type millions)<sup>15</sup>

Concerning the increasing rate of consumption of ITC and rate of Internet penetration, Romania is among the 10 countries in the world.

### The comparison regarding the *e-commerce* development in Romania and France in 2008

See below the comparison of some defined elements for *e-commerce* development in Romania and France.

**Table 2.** Comparison of defined elements regarding *e-commerce* development in Romania and France

Number	Element	Romania	France
1	E-commerce in 2008	No comparative data	<b>14 milliards Euro – (according to a)</b>
2	Annual increasing (in the last 9 years)	No global estimation of e-commerce in Romania in the last nine years; for 2009-2011 period provided an increasing of virtual shops with 50% per year (according to b)	<b>20% - (according to a)</b>

<sup>15</sup> Data was collected from website [www.insee.ro/cms/files/pdf/ro/cap19.pdf](http://www.insee.ro/cms/files/pdf/ro/cap19.pdf)

Tab. 2. (cont.)

3	The number of e-commerce sites	<p>5% of sites have e-commerce activities (according to b)</p> <p>Based on the annual increasing percentage and the total number for 2011 (according to b) can be estimated that in 2009 will be approximately 1350 of virtual shops in Romania</p>		<b>43.000 – (according to a)</b>																									
4	The most sold products on Internet way	<table border="1"> <thead> <tr> <th></th> <th>% of all virtual shops</th> </tr> </thead> <tbody> <tr> <td>Games, toys, flowers, watches, tickets</td> <td>30</td> </tr> <tr> <td>Culture and book</td> <td>10</td> </tr> <tr> <td>Fashion and clothes</td> <td>10</td> </tr> </tbody> </table> <p>(according to b)</p>		% of all virtual shops	Games, toys, flowers, watches, tickets	30	Culture and book	10	Fashion and clothes	10		<table border="1"> <tbody> <tr> <td>Products</td> <td>% of total sales</td> </tr> <tr> <td>Techniques</td> <td>18.2</td> </tr> <tr> <td>Travel</td> <td>17.8</td> </tr> <tr> <td>Fashion</td> <td>16.6</td> </tr> <tr> <td>Culture</td> <td>16.3</td> </tr> <tr> <td>Houses</td> <td>10.2</td> </tr> <tr> <td>Insurances</td> <td>6.4</td> </tr> <tr> <td>Food</td> <td>3.5</td> </tr> </tbody> </table> <p>(according to c)</p>	Products	% of total sales	Techniques	18.2	Travel	17.8	Fashion	16.6	Culture	16.3	Houses	10.2	Insurances	6.4	Food	3.5	
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5	Buyers on Internet	<p>No global data.</p> <p>Among those who bought IT &amp; C, most are high-income and higher education (conform b)</p> <p>21.4% had problems with online stores (according to b)</p> <p>72% have become loyal customers in the last 12 months (according to b)</p>		<table border="1"> <tbody> <tr> <td>Internet users</td> <td>In 2000: 11.8 mil. In 2008: 28.8 mil.</td> </tr> <tr> <td>E-commerce buyers</td> <td>19.1 mil. (over 18 ani) 43% french people</td> </tr> <tr> <td>Internet users which see an e-commerce site</td> <td>In 2007: 19% In 2008: 62%</td> </tr> </tbody> </table> <p>(according to d)</p>	Internet users	In 2000: 11.8 mil. In 2008: 28.8 mil.	E-commerce buyers	19.1 mil. (over 18 ani) 43% french people	Internet users which see an e-commerce site	In 2007: 19% In 2008: 62%																			
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Tab. 2. (cont.)

6	Classification of known companies with significant sales in e-commerce	-	<p><b>In 2007:</b></p> <p><b>1. <i>voyages-sncf.com</i> (1 from 3 customers were ordered on this site in 2007)</b></p> <p><b>2. <i>cdiscount.com</i> (leader high-tech) and <i>laredoute.fr</i> (both exceed 30% of the total buyers number)</b></p> <p><b>3. <i>eBay</i>. The known sites: <i>amazon.fr</i>, <i>lastminute.fr</i>, <i>alapage.com</i>, <i>rueducommerce.com</i>, <i>mypix.com</i> (camera leader), <i>vente-privee.com</i> (according to e)</b></p>
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Sources:

a. Benchmark Group<sup>16</sup>

b. In September-October 2008, was realized a study for ANC by Link 2 eCommerce workers, among the Internet users and on-line stores. At launched quizzes on Internet answered by 6.095 of interrogated people among Internet users and 51 of interrogated online stores. According to this study:

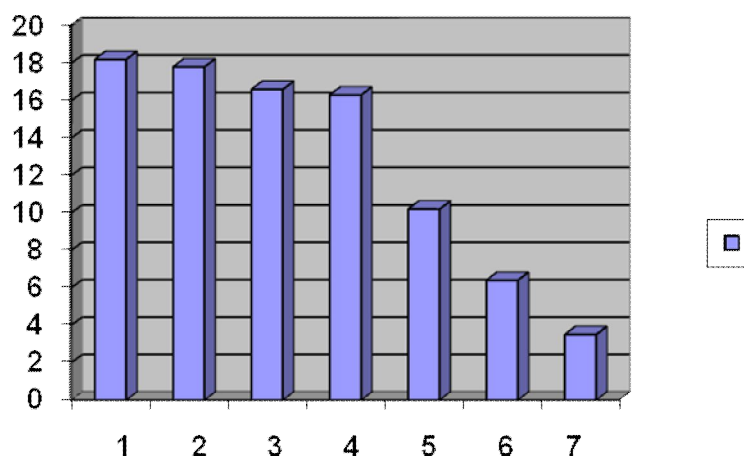
- Currently, nearly 5% of the sites operating in Romania are for e-commerce activities. This report is only numerical and don't allow for credibility, business turnover and other indicators.
- The number of online stores that will sell the products will continue to develop by 50% per year in 2009-2011, reaching to 3.000 stores which will be currently proceeding the business on Internet. The increasing can be supported by development of Internet connections, increasing of broadband access, the knowledge of legislation regarding e-commerce or increasing of Internet user confidence in online commerce.

Data from quizzes:

- Of those who buy online, most persons purchase IT & C, 1129 of interrogated peoples saying that they spent more than 2.000 Romanian lei in IT&C online shops in the last year.
- A person who buys on Internet has a higher income and has higher education. The income average of non-purchasers is 1072 RON per month, while the purchasers are 1945 RON per month.
- 72.06% of those who bought online in the last 12 months have returned to buy new products from the same shop on the Internet, becoming loyal customers.
- The figures from questionnaires applied by Link2 eCommerce workers, shows that a significant number of those who bought online (21.41%) had problems with online stores<sup>17</sup>.

<sup>16</sup> See *L'e-commerce change de dimension*, „L'Expansion”, déc.2008, no.736

c. Regarding the categories of the most sold products on Internet, *L'Expansion* in cooperation with *comScore* – world expert in audience – made a classification, according to an own methodology among the 21 millions of French people who buy on Internet. The result (see figure 2) shows that the most sold products are technical, followed by travel, fashion and cultural products, while products for houses, insurance and foods has a lower percents.



**Fig. 2.** Categories of the most sold products in France on internet (in percent of total sales)

1 – Technical products; 2 – Travel; 3 – Fashion; 4 – Cultural products; 5 – House equipment; 6 – Finance – insurance; 7 – Foods

d. The studies using TNS Sofres – French leader and one of the world leader of ad-hoc studies, in 70 countries in an integrated network – shows the *e-commerce* Barometer realized on 8.000 of on-line buyers. The study was realized before April 2008, within 6 months<sup>18</sup>.

e. Direct Panel Barometer was realized following a study which included 12.000 internet users and 500 of e-commerce sites and shows the areas and the most dynamic on-line buyers<sup>19</sup>.

The Internet has become the biggest commercial centre of France.

According to M.Marc Lollivier – manager of *e-commerce* Federation and remote sales (*Fevad*) – „among the 43.000 of *e-commerce* centers, the 50 of the most popular sites cumulates more than half of total sales”<sup>20</sup>.

To avoid the bankruptcy in 2009, the main objective of the dealers on Internet is to wait, now, *the balance*, because for most actors, even if the figures are still secret, the profitability is not that expected.

To make place on the market they had to invest in logistics and communications. Today is much more expensive to be visible on search engines like Google, or with the aid of price comparers. The low margin of this branch doesn't allow compensating this inflation of traffic acquisition costs. "If you should spend 3-10% of our business turnover to attract internet users on our website, while our raw margin is approximately 13%, our work would be loss" – explains Gauthier Picquart the founder and general manager of *RueDuCommerce*<sup>24</sup>. This situation is even

<sup>17</sup> See <http://www.anrcti.ro/Portals/57ad7180-c5e7-49f5-b282-c6475cdb7ee7/2008.11.11%20Studiu%20eCommerce%20-%20sumar%20executiv%20Raport%20ecommerce%20ANC.doc>

<sup>18</sup> See „E-commerce, la stratégie multi-canal adoptée par les Français”, <http://www.tns-sofres.com/espace-presse/news/56D5890E9A554CEB8B55FDD21387E3F5.aspx>

<sup>19</sup> Vezi „Baromètre Direct Panel des e-commerces français”, <http://e-commerce.over-blog.net/article-19535293.html>

<sup>20</sup> See *L'e-commerce change de dimension* „L'Expansion”, déc.2008, no.736

more dramatically as *more than 95% of internet users that normally accesses a website leave without purchasing anything!*

To increase the rate of purchases on the Internet, the commerce websites *search all the possibilities*: the ergonomic simplifications, the video, more interactive functionalities, published user notices, etc. They also multiply the loyalty operations of customers and marketing at distance.

### **The General Frame of Electronic Commerce Strategy in Romania and Some Measures that Should Be Imposed**

In Romania, electronic commerce is very new. In 2002, Romanian Parliament adopted Law 365/2000 regarding electronic commerce that define basic principles for electronic commerce.

In 2003 it was adopted Law 250/2003 for modern payments systems, with practical modalities to use terminals payments to dealers as well as the framework for agreements between banks and dealers, in addition to regulation 4 of Romanian National Bank.

Another important and specific document for electronic payments activities is Communications and Information Technology Ministry Order 218/2004 regarding notice procedure for payment instruments with distance access, Internet banking type, home banking or mobile banking, using computers or mobile phones.

An important actor on the scene of controlling activity in the field of electronic commerce in Romania is National Agency for Communications (Agenția Națională pentru Comunicații – ANC)<sup>21</sup>.

In Romania, from '90 there were elaborated studies and documents having a strategic character for CIT sector development through an informational society, having technical assistance from developed countries (France/Sema Groupo, Denmark/DataCentralen, USA/TDA) whose provisions were fulfilled only in a small measure. Cause: no mechanism of monitoring and coordination of activities, no adequate funding for the importance of the objectives, incoherence in action of administration responsible factors.

Impact of this industry on the society make it not to be an ordinary economic branch. The most countries in the world adopted priority proactive policies to create a favorable environment tot sustainable development of Communications and Information technology sector in the context of Digital Divide creation between reach and poor countries<sup>22</sup>.

A General Framework of Electronic Commerce Strategy in Romania should contain:

#### *1. Priorities definition*

- First of all it is necessary to install the confidence in numeric economy, in the same time with the settlement of rules for e-commerce market;
- It has to continue the process of strengthening of informational infrastructures at the level of whole country;

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<sup>21</sup> Art. 6 alin. (3) pct. 2 from Ordonanta de urgenta a Guvernului nr. 106/2008 concerning the National Authority for Communications (Autoritatea Nationala pentru Comunicatii, ANC) setting up: *“monitoring and controlling legal foreseen in the field of electronic commerce as regulation authority, according to Law 365/2002 regarding electronic commerce, republished”*.

<sup>22</sup> See Bibere Camelia – Dezvoltarea comerțului realizat pe Internet (implicațiile acestuia în România), Ph.D. Thesis in Economy, Universitatea Liberă Internațională din Moldova, specialization Economie Mondială – Relații Economice Intenaționale, Chișinău, 2006, op.cit.p.116

- Last but not least it must according attention to the concretization of all the possibilities and opportunities of e-commerce developing in the actual context of world economy (the world economical and financial crises).

### *2. Determine the role of politic and economic factors*

- The Private sector, having the sustain of the Government is the engine of e-commerce development;
- There are necessary: confidence in this type of commerce, market rules settlement for e-commerce and harmonizing the official policies of different institutions for e-commerce;
- Draw attention that social incidents that could appear in e-commerce belong to institutions and public interest defense groups.

### *3. International context free market-access*

- Romanian integration in European and world e-commerce;
- Romanian participation to international Organization of cooperation and regulation in e-commerce field;
- Continuous harmonization of the policy in e-commerce with European Union Directives.

In order to realize the strategy e-commerce in Romania there are necessary:

- Private sector and the Government have to sustain standard technologies implementation to allow e-commerce operations be safe, the logistic solutions to apply these technologies, create access infrastructures as well as services supply to implement these solutions.
- In private life, a special attention has to be oriented for personal data protection, according to law in force. New security measures are permanently implemented in order to protect the data of users, guidelines that one or more organizations voluntarily agree to follow (Voluntary codes). It is also necessary an adequate public education in this field. The actions of businesses, consumers and governments in the development of a consumer protection framework for electronic commerce over open networks.
- It has to be settled all the problems related to fiscality, custom duties, services and financial market, and new services and products in electronic commerce, as well as competition related problems.
- It is important to settle up the responsibility of Internet suppliers and other intermediates, firms need to asses the relevance of brands, of individual branding-strategies in the context of electronic commerce, origin denomination and competition law relationship.
- A solid informational structure is the best card of the growth and development of electronic commerce. That's why the policy in telecoms field has to be reinforced concerning high-speed networks and Internet access for institutions, firms and consumer groups.
- To adhere on worldwide e-commerce there is necessary to elaborate common standards for operability:
- standards of inter-operability for public networks and for communication;
- adoption and implementation of informational technologies (it is necessary to transform current standards for trade from a physical form to an electronic form).

## **Conclusions**

1. Electronic commerce had known a rapid development only after Uruguay Round that led to World Trade Organization creation.

2. In May 1998, on the Second Ministerial Conference of WTO in Geneva, it was adopted the „Declaration on Global Electronic Commerce” that include The decision of General Council of WTO regarding the adoption of a „*Work Programme for Electronic Commerce*”<sup>23</sup>, in order to examine all the commercial aspects referring to global electronic commerce taking into account the needs of developing countries.
3. In 2001, WTO inaugurate „*Doha Development Agenda*”, opening in this way the negotiations concerning the definition of modalities to apply to the electronic commerce and information technology the multilateral commerce framework.
4. WTO decision to suspend custom taxes on electronic commerce creates an important discrepancy: identical products are different treated related to delivery modality.
5. A product could be treated different if it is a good or a service. There is no agreement in WTO concerning classification criteria of digital or electronic delivery products.
6. Negotiations in the frame of Doha Round could contribute to clarify some problems raised by electronic commerce if it could focus on the following essential disputes: 1) classification of services electronically delivered; 2) the problem of services similarity; 3) regulations that affect electronic commerce; 4) the applicability of the regulations concerning the services in telecommunication and services for basic telecommunication, to electronic commerce.
7. To avoid the crash in 2009, the main objective of Internet dealers is to wait the equilibrium, because, for the majority of the actors, even if the digits are secret, the earning capacity is not the expected one.
8. According to statistics made by ANC, in this moment near 5% from Romanian sites are meant to electronic commerce. This reference is only numeric and does not take into account credibility, turnover or other indicators. According to the same statistic, the number of on-line shops will grow with 50% per year till 2011, about 3000 shops with current commercial activities in Internet.
9. The general frame of electronic commerce in Romania includes:
  - Setting up the confidence in digital economy, in the same time with *e-commerce* market regulations clarifying;
  - Paying attention to the materialization of all the possibilities and opportunities to develop *e-commerce* in the actual context of world economy (world economic and financial crises);
  - The private sector, with government support, is the engine of *e-commerce* development, and it must: setting up the confidence in this type of trade, clarifying the market rules for *e-commerce* and harmonize the official policies of different institutions in the field of *e-commerce*;
  - Romania integration in European and world electronic commerce, as well as Romania participation to international organizations for cooperation and regulation in *e-commerce* field.

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## Dimensiunile naționale și internaționale ale comerțului electronic. Aspecte ale dezvoltării *e-commerce* în Franța și România

### Rezumat

*Articolul pune în valoare o serie de noțiuni privind instituționalizarea comerțului electronic în cadrul Organizației Mondiale a Comerțului (OMC) și a problemelor rămase neelucidate referitoare la acest subiect. Articolul se încheie cu trecerea în revistă a unor aspecte concrete privind dezvoltarea e-commerce în două din țările Uniunii Europene: Franța și România.*