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INTERNATIONAL ASSOCIATION
OF YOUNG LAWYERS



Growing Friction between Brand Owners and (Offline) Resellers

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Introduction

- New technologies
- Changes in customer behavior
- Some figures



Key Figures for E-Commerce (2017)

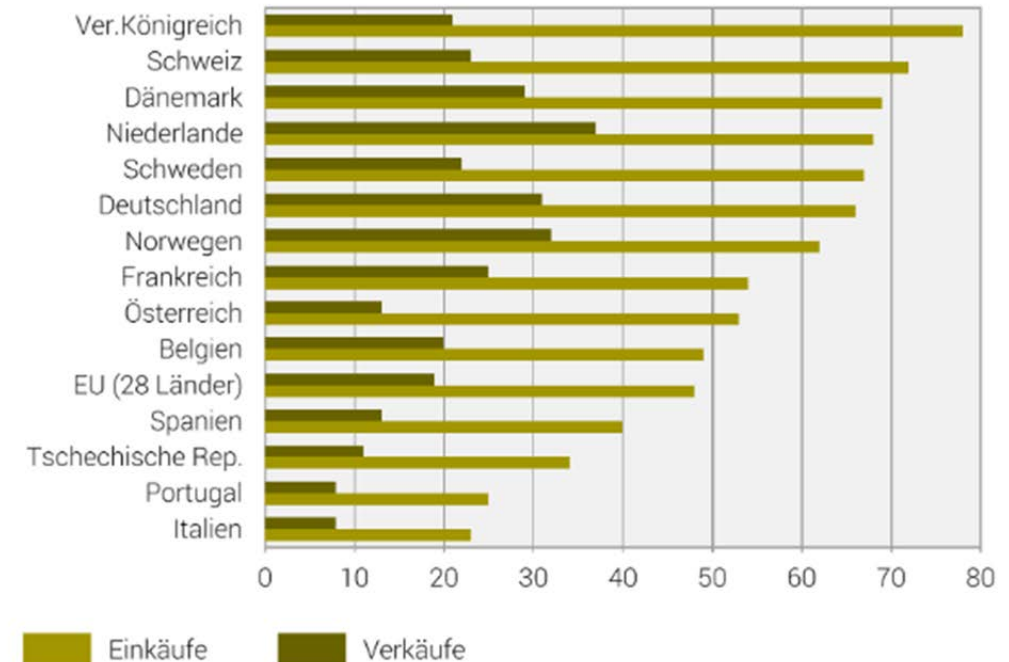
In the last three months before the survey, **72%** of the **Swiss** population aged 16 to 74 made at least one online purchase.

Switzerland is above the **European Union** average of 2017 (**48%**).

It is only surpassed by the **United Kingdom**, which is the **leader in e-commerce** with **78%**. Southern European countries such as Portugal and Italy are lagging far behind.

Online-Einkäufe und -Verkäufe¹, internationaler Vergleich, 2017

In % der Bevölkerung (16-74 Jahre)



¹ in den letzten drei Monaten

Quellen: Eurostat, BFS – Omnibus IKT

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Key Figures for E-Commerce (2017)

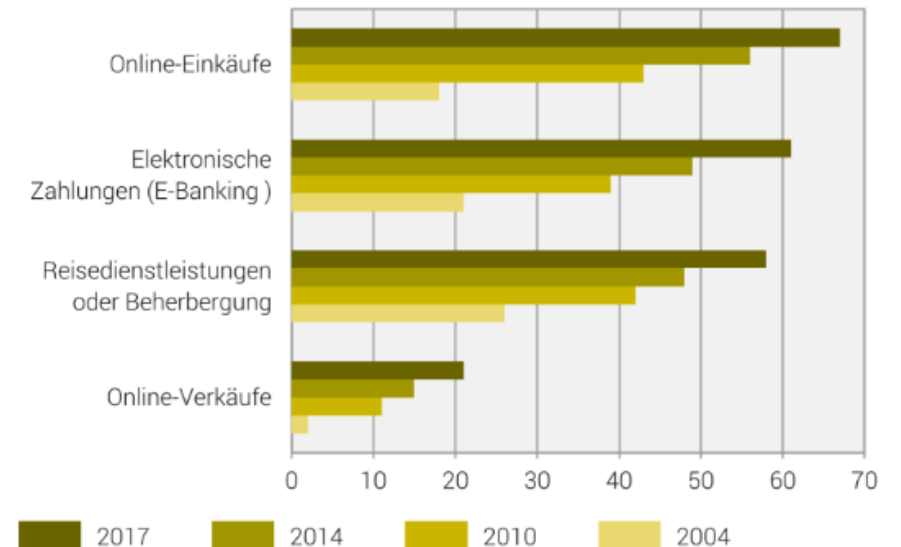


More than half (**67%**) of the Swiss population made **online purchases** or orders in 2017 in the last three months prior to the survey. This represents a **sharp increase** (2016: **56%**; 2010: **43%**; 2004: **18%**).

The use of **services in connection with travel or accommodation** is also one of the most frequent consumption activities on the Internet. In 2017, **58%** of the population stated this use (2014: **48%**; 2010: **42%**).

Online-Einkäufe, -Verkäufe und -Zahlungen mit Reisen¹, 2004-2017

In % der Bevölkerung²



¹ In den letzten drei Monaten

² Personen ab 15 Jahren; ab 2017 Bevölkerung von 15 bis 88 Jahre



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Key Figures for E-Commerce (2017)



- 3,5 million Greek consumers shop on-line with transactions totaling approx. 5 bn Euros

Most popular on-line transactions:

83% Travel services (most money spent)

66% Ticket and event services (most orders made)

72% Accommodation

59% Food (largest increase in nr. of transactions)

67% Equipment and peripherals

49% Books

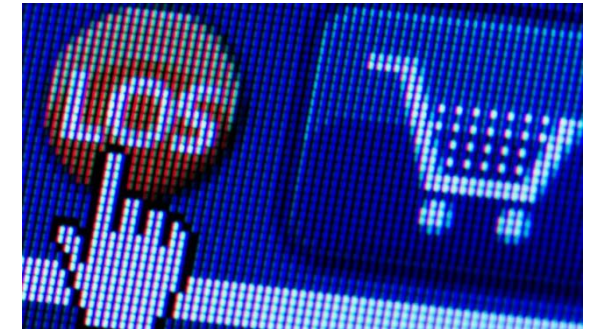
- In 2017, 31% of consumers complete 1 out of 2 transactions online (upwards trend from 29% in 2016 and 9% in 2014)
- 70% of consumers make 80% of their transactions on Greek e-shops (upwards trend from 60% in 2016 and 50% in 2015)



Key Figures for E-Commerce (2017)



- In 2017, consumers in Germany bought goods for **58.5 billion euros** on the Internet. This corresponded to an increase of almost eleven percent.
- Online marketplaces such as **Amazon and Ebay** generate the highest revenues.
- BUT: The strongest growth was registered with regard to **mail-order companies** that are originally “based” in **stationary retail**. They grew by **26.2 percent**.



→ *This shows that the specialist trade can “hold its ground” without the need of called for state regulation.*

- **Clothing, electronics, computers and shoes**, which together account for more than half of total sales, account for the largest turnover on the Internet.
- Household goods, furniture and interior design, as well as everyday goods such as food, drugstore articles and pet supplies, are increasingly gaining ground.





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Legal Framework for Online Sales - Overview



Germany

- Certain Sections of the German Civil Code („Distance Selling Act“; General Terms and Conditions)
- Price Indication Regulation
- Telemedia Act
- Act against Restraints of Competition
- Unfair Competition Act
- Geoblocking Regulation
- Privacy Act / General Data Protection Regulation



Greece

- Civil Code provisions on sale
- Presidential Decree 131/2003 on Information Society Services
- Consumer Protection Legislation (2251/1994)
- Code of Conduct for e-commerce (Ministerial Decision 31619)
- Unfair Competition Act
- General Data Protection Regulation



Switzerland

- no e-commerce legislation as such
- Unfair Competition Act
- Order on the Indication of Prices
- Swiss Code of Obligations (as applicable to «traditional» sales contracts)
- Data Protection Act





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Start Finding the Friction: Strategies of Manufacturers vs. Strategies of Retailers



- Which interests are aligned?
- In which respect do the interests differ?
- Why do manufacturers restrict retailers as regards online sales?

Typical Restrictions on Retailers

Overview



Pricing

price restrictions or recommendations, dual pricing, restriction on use of price comparison tools etc.



Product Presentation

website design, prescribed use of manufacturer's website, trademark use limitations, restrictions in keyword advertising etc.



Brick & Mortar Shop

requirement to operate a stationary shop

Typical Restrictions on Retailers

Example Cases

01

Complete Ban of Online Sales

Electrolux / V-ZUG
(household appliances)

Decision Swiss Competition
Commission of 11 July 2011

02

Various Restrictions of Online Sales

ASICS
(running shoes)

Decision of the German
Federal Cartel Office of 26 August 2015
confirmed by the
Federal Court of Justice in a Decision of
12 December 2017

03

Partial Restrictions of Online Sales

Roma Pizza
(fast food restaurants)

Decision 639/2017 of the Hellenic
Competition Commission
Concluded on the basis of commitments
offered by Roma Pizza

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