

Checklist: Are you a 'trader'?

These questions can help you understand if you are a 'trader' and if you need to know about and comply with European consumer laws. Member States might have additional conditions, so make sure to check the websites of the relevant consumer authorities.

1. Revenue (or any kind of consideration)



Do you regularly make money from content monetisation, or do you regularly receive free goods and services (e.g. clothing, travel, accommodation)?



Do you regularly make money from selling goods or providing services to consumers?

What does this mean?

Let's discuss these conditions with some examples.



GemmaLifts is a fitness creator who started out recording her content to share with a small community of fellow lifting fans, but her charismatic style meant she started to rapidly grow across TikTok and Instagram. Fitness brands started reaching out to her and now she offers her followers €10 off their order with her favourite workout fashion company and 10% discount off protein powder from her own new brand 'Fitness Foods' several times every month. She also shares posts promoting both brands within her #GRWM for the gym content. She advertises these products a few times per week.



Foodbby is a YouTuber (100k) who makes cake look like regular objects. After a viral video, Foodbby started offering online workshops to teach followers the same cooking skills. Each workshop consists of 10 bespoke pre-recorded videos with instructions, an original Foodbby e-book with recipes, and 2 online 1-on-1 calls with each participant. The workshop is offered 4 times per year and has around 50 participants for each edition.



Makeup_guru is an Instagram creator (30k) who focuses on make-up product reviews. She receives free make-up and skin care which she generally reviews positively, and she often receives money from brands to advertise new products.

These examples show a combination of sources of revenue which are typical for today's content monetisation business. Sharing affiliate links, sponsored posts and advertising an own line of products or services shows regular business activity. Member States may have additional rules regarding the tax regimes relevant for individuals, registered freelancers or start-ups engaging in commerce. Consumer protection does not have a threshold for a specific amount of revenue. Here, the important criterion is **regularity**, which means doing these activities with repetition. Anyone can sell a few things on platforms like Vinted or eBay as a hobby, but when this happens regularly, it is a characteristic of commercial activity. The same applies to offering services. It makes no difference whether creators focus on specific business models or combine them.

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2. Relationship with consumers

- Do you have consumers (not businesses) in your audience?
- Do you have technical information and expertise relating to the products you sell or advertise which consumers do not have?



What does this mean?

Let's discuss these conditions with some examples.

Molly&Phil share photography and travel trips through their Instagram, TikTok and Snapchat accounts. They sell mobile and desktop pre-sets through their website/blog to help their followers edit their content, and use the filters to make t-shirts. They also provide travel city guides for free that sometimes include gifted hotels and experiences.

Lissie is a full-time university student sharing her experiences of living abroad while studying with 550k followers on TikTok. She gives learning tips and offers her followers the opportunity to shop her looks and makeup through her curated lists on her Amazon storefront. She also advertises productivity, VPN and AI apps for education.

These examples highlight products and services which are meant to be purchased by consumers (e.g. makeup, tshirts, apps). You can be a trader and make deals with other traders (e.g. a company that buys thousands of tshirts at once), in which case consumer protection does not apply. But if you advertise products which are meant for consumers, and/or if consumers buy your products or services, it means that you are making revenue by engaging in commerce towards consumers. In these situations, consumers need to be protected with special rules that do not apply to traders. This is because traders develop important knowledge that consumers do not have. For instance, Molly&Phil have special skills in photography, and through their commercial activity, they will gain knowledge about the supply-chain of tshirt and web design. Similarly, Lissie is developing advertising skills and knowledge that her followers (fellow students) do not have. For instance, this knowledge may include how students may use productivity apps, as well as specific information about such apps.

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3. Acting as a professional

- Are you specialising in these activities (e.g. acting in connection to your trade, business, craft or profession)?
- Are you registered as self-employed, or do you have a company?
Do you pay VAT?
- Do you do these activities in an organised manner (e.g. posting regularly to grow your audience and your revenue)?

What does this mean?

Let's discuss these conditions with some examples.



StellaProjects started her Instagram account to document her first renovation project and now has 18k followers on Instagram. She shares content which includes paint she was gifted and has paid partnership with a local bank in which she shares her tips for saving money. Through her website, she keeps her followers updated on the renovation and also sells downloadable printable calendars and planners for renovations via Etsy. StellaProjects made around €30k per year during the past two years, and has registered as a freelance entrepreneur at the local Chamber of Commerce.



Miki is a passionate tennis fan who brings his followers the latest news, reactions and predictions for matches and all grand-slam tournaments. On YouTube he has 400k subscribers and receives around €300 per month through AdSense. On Twitch, he has 100k followers and also receives monthly income through subs and ad impressions. Through Patreon, people can pay €9 per month and receive 2 to 3 bonus videos per month, access to the private Discord server and early access to Live events. Miki has been making over €100k in the past three months from all his commercial activities, and registered a limited liability company with his local Chamber of Commerce.

These examples show creators manage their commercial activities in different ways. For consumer law, it does not matter if you have registered a company, are a freelancer, or whether you have not registered at all. If you specialize in commercial activities (e.g. StellaProjects selling calendars & planners), and have organized activities (e.g. use website design & transportation logistics services; but also generally trying to grow your revenue e.g. by posting regularly), you will be considered a trader. However, registrations have tax benefits, and make your commercial status clear (e.g. paying VAT). Different Member States might have additional conditions, so it's important to check the websites of the Consumer Authorities.