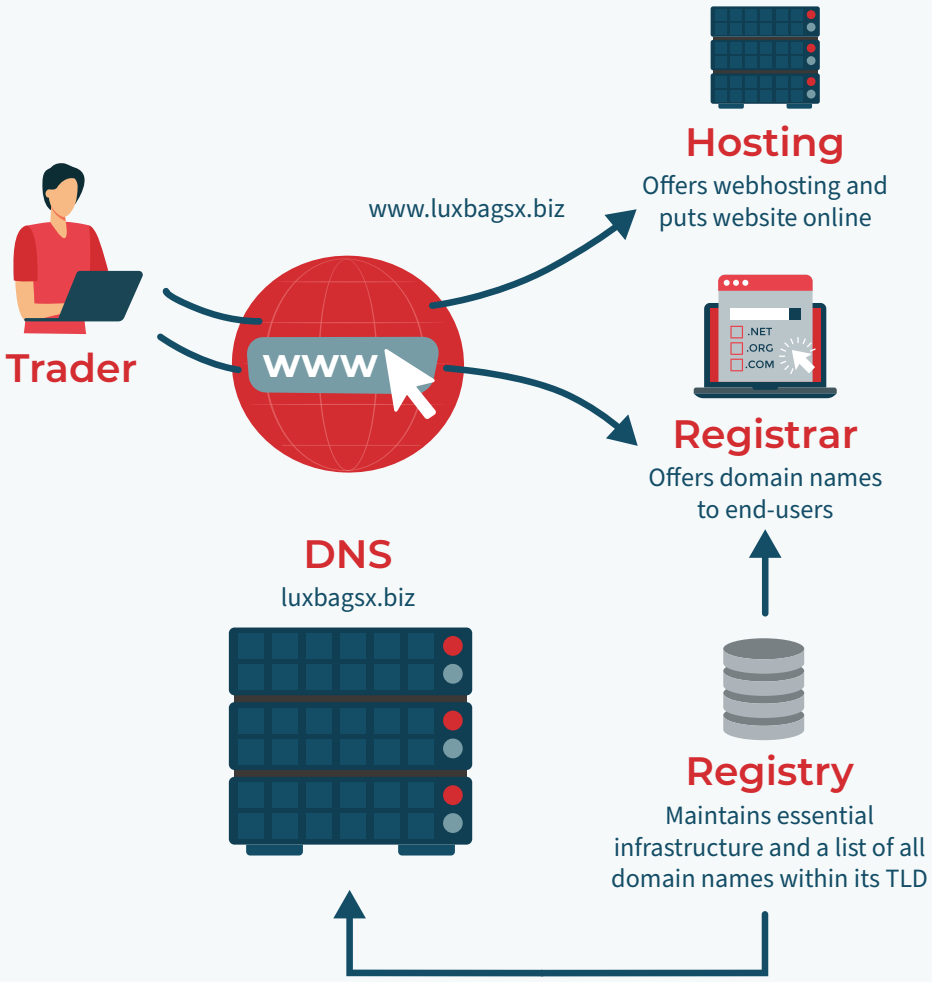
INCREASING CONSUMER PROTECTION ONLINE:

the role of intermediaries in addressing infringing content

Council of European National
Top-Level Domain Registries


Hosting
Offers webhosting and puts website online
www.luxbagsx.biz
Trader
www
.NET
.ORG
.COM
Registrar
Offers domain names to end-users
DNS
luxbagsx.biz
Registry
Maintains essential infrastructure and a list of all domain names within its TLD

It is important that online actors who have the capacity to address infringing content TAKE ACTION

Content which infringes consumer protection law can be identified online.

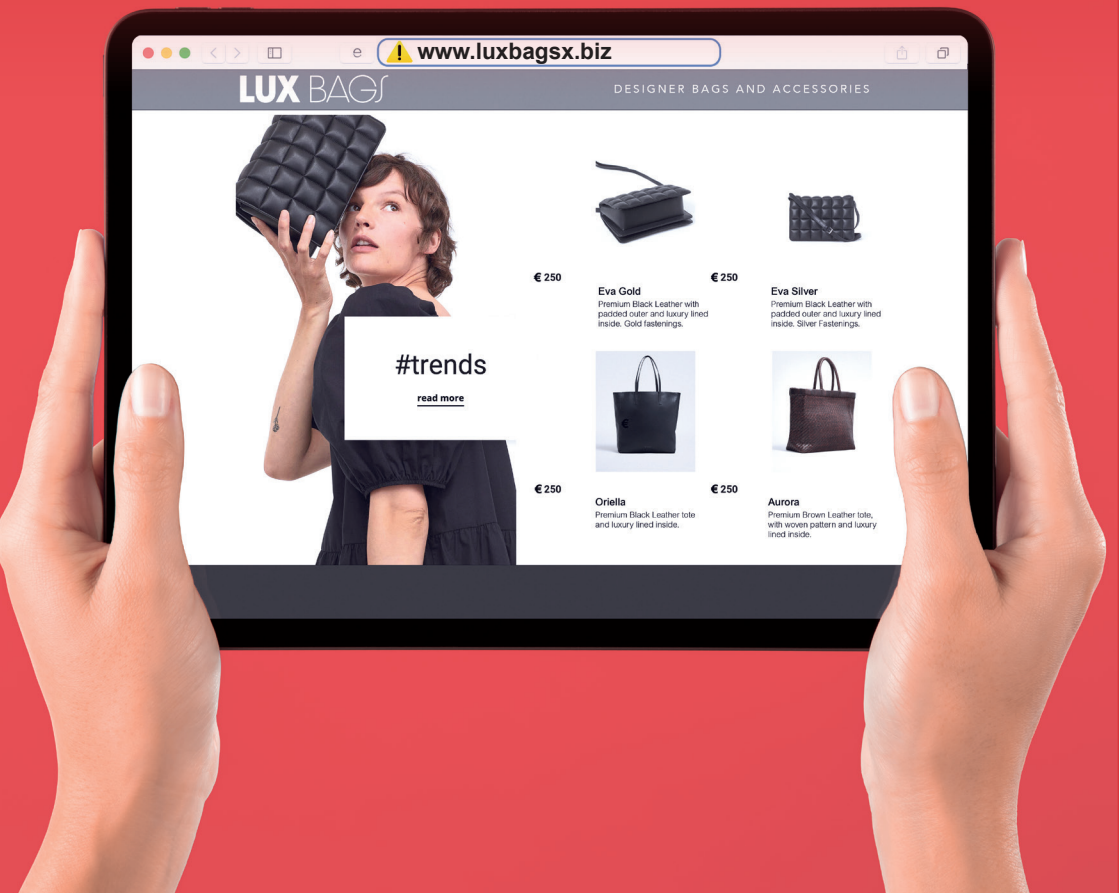
It ranges from counterfeit products and devices which do not comply with European safety and security standards, to heinous material and harmful software. To limit access to such material and increase consumer protection online, it is important that online actors who have the capacity to address infringing content take action.

But who are they and what role do they play? What course of action is the most effective? Can certain measures lead to unwanted consequences?

This flyer explains the role of different intermediaries, their relationship to infringing content, as well as the effectiveness and consequences on their actions.

STEP 1

REMOVING THE CONTENT AT ITS SOURCE



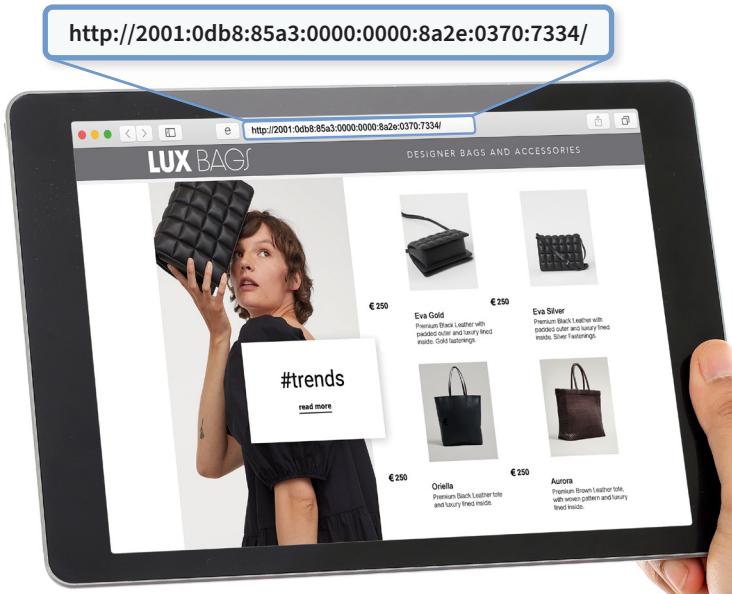
The most efficient way of dealing with infringing content is to remove the content from the internet at its source, making it unreachable for users. They will no longer be able to access and consume the content further. Very few actors or service providers have the capacity to do so:

- **The content publisher** (i.e. the infringing trader) is usually the one uploading the unlawful content to the internet and therefore has the tools and access codes to change or remove the content they have put on a website or elsewhere. Removal orders from competent authorities towards the unlawful trader should always be the first course of action as they are directly responsible for the harm caused. Domain name registries can assist authorities in retrieving the contact data of infringing traders through existing access protocols such as WHOIS and RDAP.

- **The hosting provider** supplies the content publisher with the storage for its content thanks to its large data centres. Hosting providers are therefore close to the content and have the capacity to either remove the infringing websites fully or partially from their servers, making the content inaccessible online.

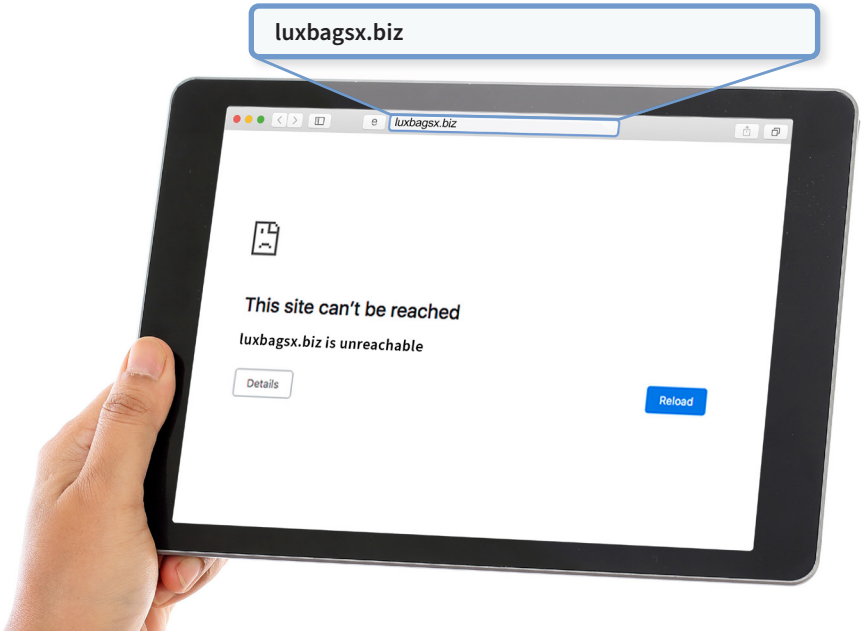
It should be noted that hosting providers do not decide what is and is not published (their customers do). Furthermore, they usually store content from different clients on the same physical machine, therefore disconnecting or seizing a server may affect different content providers and make legitimate content inaccessible.

Competent authorities should therefore only address the hosting provider when all orders targeting the infringing trader have proven to be inefficient (i.e. refusal to comply).



STEP 2

SUSPENDING THE DOMAIN NAME



Another way of addressing infringing content is to suspend the fully qualified domain name from the internet. Users who aim to reach the content will then be presented with an information message stating that the underlying website does not exist.

The content nevertheless remains reachable by typing the IP address manually or using proxy services, which renders this course of action much less effective than removing the content from the source.

The internet infrastructure actors which are capable of suspending domain names are domain name registries, such as operators of country code top-level domains (also known as 'ccTLDs') and registrars. The role of ccTLDs is to act as the "phone book of the internet", by mapping user-friendly domain names to numeric IP addresses. ccTLDs possess 'zone files', which contain all the data that is necessary to fulfil their function (i.e. IP addresses). They also maintain a registration database with the names and contact details of domain name holders.

They however do not store, transmit or enhance any content online, which means that it is technically impossible for them to remove infringing content at its source.

The suspension of a domain name has drastic consequences on the internet, as all the services related to it (i.e. email addresses) will no longer be functional. Such an action also disables the ability of users to navigate to both lawful and unlawful content on websites linked to the domain name. It is also important to note that suspended domain names are usually registered again, often by the same infringing traders. To avoid this from happening, domain names can be transferred to competent authorities, who will then be in charge of choosing a registrar and maintaining the domain (i.e. paying for renewal fees). The suspension of a domain name also has consequences on lawful traders, who may be unaware that their domain name is being used for unlawful purposes and who will be prevented from conducting their business due to the suspension of their domain. This can also limit the ability of users to access information via services related to the suspended domain.

Competent authorities should therefore only address domain name registries as a measure of last resort when all other effective means to bring about the cessation of the infringement have failed.

WHAT DOES THE LAW SAY?

The legal framework for consumer protection enforcement online is laid down in the EU Consumer Protection Cooperation (CPC) Regulation.

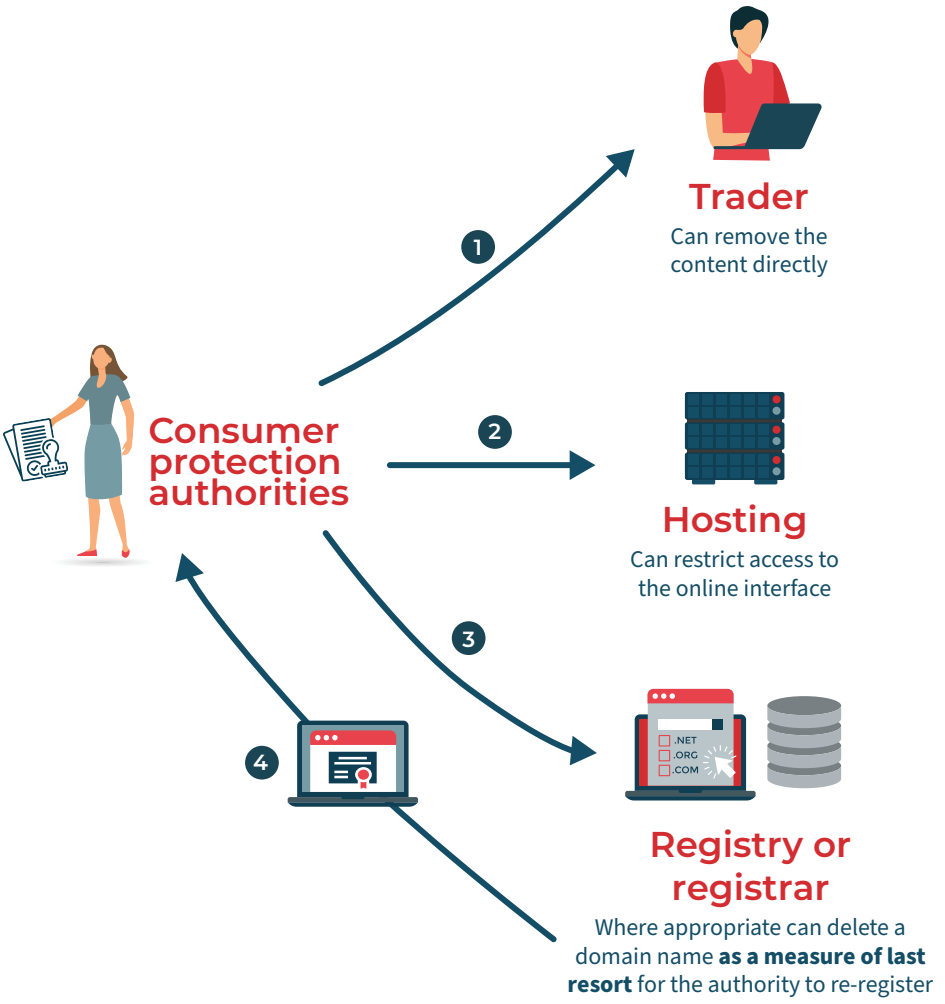
In its Article 9(4)(g), the CPC stipulates that where no other effective means are available to bring about the cessation or the prohibition of the infringement covered by the Regulation and in order to avoid the risk of serious harm to the collective interests of consumers, competent authorities should have:

1) the power to remove content or to restrict access to an online interface or to order the explicit display of a warning to consumers when they access an online interface;

2) the power to order a hosting service provider to remove, disable or restrict access to an online interface; or

3) where appropriate, the power to order domain registries or registrars to delete a fully qualified domain name and **4)** to allow the competent authority concerned to register it.

The proportionate and hierarchical approach laid down in Article 9(4) of the CPC Regulation **accurately reflects the gravity** of interference by different actors of the internet ecosystem when targeting infringing content online.


Trader
Can remove the content directly
1
Consumer protection authorities
2
Hosting
Can restrict access to the online interface
3
.NET
.ORG
.COM
4
Registry or registrar
Where appropriate can delete a domain name **as a measure of last resort** for the authority to re-register

On these pages you will find a list of the organisations that run EU ccTLDs.

Austria, .at

www.nic.at

Belgium, .be

www.dnsbelgium.be

Bulgaria, .bg

www.register.bg

Denmark, .dk

www.dk-hostmaster.dk

Estonia, .ee

www.internet.ee

Finland, .fi

www.traficom.fi

Hungary, .hu

www.domain.hu

Ireland, .ie

www.weare.ie

Italy, .it

www.nic.it

Malta, .mt

www.nic.org.mt

Netherlands, .nl

www.sidn.nl

Poland, .pl

www.dns.pl

Slovenia, .si

www.register.si

Spain, .es

www.dominios.es

Sweden, .se

internetstiftelsen.se

Croatia, .hr

domene.hr/portal/home

Republic of Cyprus, .cy

www.nic.cy

Czech Republic, .cz

www.nic.cz

France, .fr

www.afnic.fr

Germany, .de

www.denic.de

Greece, .gr

grweb.ics.forth.gr

Latvia, .lv

www.nic.lv

Lithuania, .lt

www.domreg.lt

Luxembourg, .lu

dns.lu

Portugal, .pt

www.pt.pt

Romania, .ro

www.rotld.ro

Slovakia, .sk

sk-nic.sk

European Union, .eu

Powered by EURid

www.eurid.eu

Council of European National Top-Level Domain Registries

About CENTR

CENTR is the association of European country code top-level domain (ccTLD) registries, such as .de for Germany or .si for Slovenia. CENTR currently counts 52 full and 9 associate members – together, they are responsible for over 80% of all registered domain names worldwide.

The objectives of CENTR are to promote and participate in the development of high standards and best practices among ccTLD registries.

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