

Online selling - be legal

BUSINESS GUIDE

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Selling your goods or services online makes good business sense. In fact, many new businesses launch online before considering having a physical outlet.

Costs associated with retail and other types of bricks and mortar business premises makes online selling an attractive, cost-effective choice. As well as being economical, with minimal overheads, the internet offers start-ups a potentially huge, global reach.

With instant access to a pool of literally millions of potential customers, online selling is now so popular that it is impacting the high street. According to Guru Focus, around 87% of consumers in the UK have shopped online at least once in the past year. And latest data from the Office for National Statistics suggests online sales increased by 21.3% in 2016 and predicts it will hit 30% by 2018.

If you want to embrace e-commerce and take your products to market via the web, you are in good company. However, there are legal considerations to take into account before you promote your products.

The basics

If you launch an online business, make sure your brand is unique, does not infringe trademarks and that your products and services are ethical and socially responsible. Tell the taxman and keep a proper record of revenues and expenses.

Pay particular attention to product descriptions. To meet advertising standards, they must be honest, decent and socially responsible.

Selling on e-commerce platforms

For many, selling goods through major online marketplaces, such as Etsy, Amazon and eBay, offers a quick, hassle-free route to connecting with customers. As well as having basic legal checks in place, the review element of the platforms quickly identifies any issues. Sellers who fail to comply with guidelines will soon know.

With the opportunity to have your own 'store' on a major platform, such marketplaces can seem perfect for start-ups. However, there are drawbacks. As well as the risk of buying too much or too little stock, for the privilege of having access to its audience, each platform will take a percentage of every sale.

They may also impose other, on-going charges and encourage you to pay more for better positioning in search results. The review process can be open to abuse (i.e. rival sellers downgrading your rating).

"Online sales increased by 21.3% in 2016 and predictions are that it will hit 30% by 2018."

ONLINE SECURITY

You are responsible for keeping your customers' data secure



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TIP: Regulations governing how you collect and store customers' data is changing

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Therefore, a growing number of businesses are launching online shops with their own website as well as investing in a small presence on a major e-commerce platform.

Selling via your own website, while sounding easy, does come with legal responsibilities. This means you have to know the law, so for example, your terms and conditions, selling practices and payments are compliant.

Selling on your own website

Be aware that you should be fully versed in consumer rights and data protection legislation.

1. Consumer rights

Your business must follow guidelines set out in regulations relating to distance selling, which now also apply to online selling. As a seller, you must make the following available to consumers immediately before they make a purchase:

- Information clearly outlining their legal right to cancel an order within 14 days
- A description of the goods a consumer intends to purchase, the details of the seller and the cost of the goods (including any delivery charges)
- The button a customer presses to purchase goods must make it clear there is a fee involved. Failure to make it clear that there is a fee involved is a criminal offence

After a purchase has been completed, an invoice should be sent stating again all the information listed above. Ensure, when you build your website that it has the functionality to do this.

Other legal requirements:

- You must state your geographical address, if your business takes payments in advance
- When sending your invoice after completing a sale, you must clearly explain how the customer can exercise their right to cancel the purchase
- You must make it clear who is responsible for the cost of returning any goods
- If the item to be purchased is out of stock and you want to send the buyer a substitute, you must tell them before they pay for their order
- The seller must always pay for the return of any substituted goods

"If you are launching an online selling business, tell the taxman and keep a proper record of revenues and expenses."

MARKETPLACES

There are pros and cons associated with selling via global marketplaces



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TIP: Do the terms and conditions give buyers the right to cancel their order within 14 days?

"If you are selling on your own website, you should be fully versed in consumer rights and data protection legislation."

2. Data protection

The law surrounding data protection is changing. How you collect, store and use customers' data is subject to stringent rules.

Any data an online seller collects from customers or subscribers is subject to the Data Protection Act. Therefore, you must ensure that you have a privacy policy, explaining how you intend to use customer data.

In most instances, you will require personal data in order to fulfil an order. However, you will need explicit consent to send the customer future marketing material or to disclose their data to a third party.

Credit and debit card payments

Be aware that online collection of payments via debit and credit cards must comply with Payment Card Industry Data Security Standards. These include requirements for security and encryption. They are not straightforward to achieve, particularly for start-ups. That is why many online sellers choose to use a payment gateway, such as PayPal, Stripe, Square, Sage Pay etc.

Using a trusted payment gateway should ensure:

- Your customers are paying for goods through a secure network
- Customers' data is protected

If you decide to use a payment gateway, be aware that charges are involved. PayPal, for example will take a small percentage of the value of your sale. Be extra careful to ensure that the payment gateway you use is compliant with data protection regulations.

Top links

1. [Full guidelines on UK advertising codes](#)
2. [More information on distance selling regulations](#)
3. [Full details of the General Data Protection Regulation](#)
4. [Information on the Payment Card Industry Data Security Standards](#)

