Insight·LAC

Smuggling: the role of the State and e-commerce platforms

An analysis of transparency and formalization for public policy in Argentina

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In 2025, the digital channel drove the growth of commerce in Argentina

Main indicators of Argentine e-commerce, 2025

+ 9% real growth

34 trillion
invoiced in 2025 (AR$)
+9% real vs. 2024

25 M
active buyers
+1.3 M new

645 M
products sold
+28% vs. 2024

253 M
transactions
+3% vs. 2024

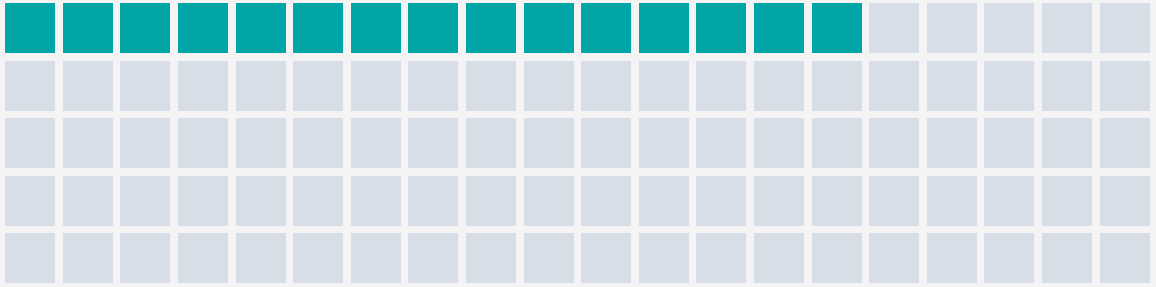
In a complex macroeconomic context

Source: CACE, INDEC, ARCA.

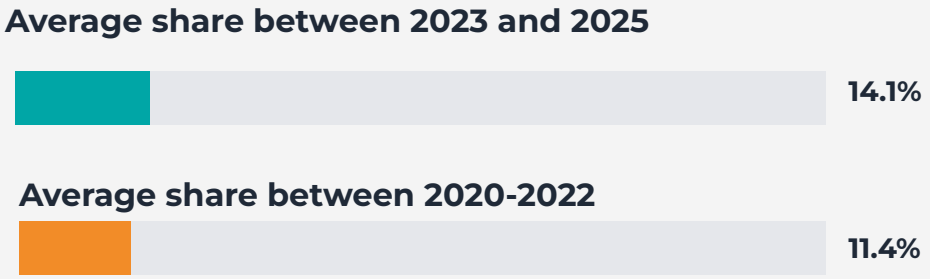
In 2025, e-commerce added 1.3 million new buyers

E-commerce still has room to expand its share of total commerce.

15 of every 100 pesos spent in retail are attributed to the digital channel in 2025.



The pandemic produced a jump in scale that did not reverse with the return to in-person work and the normalization of forms of commerce.

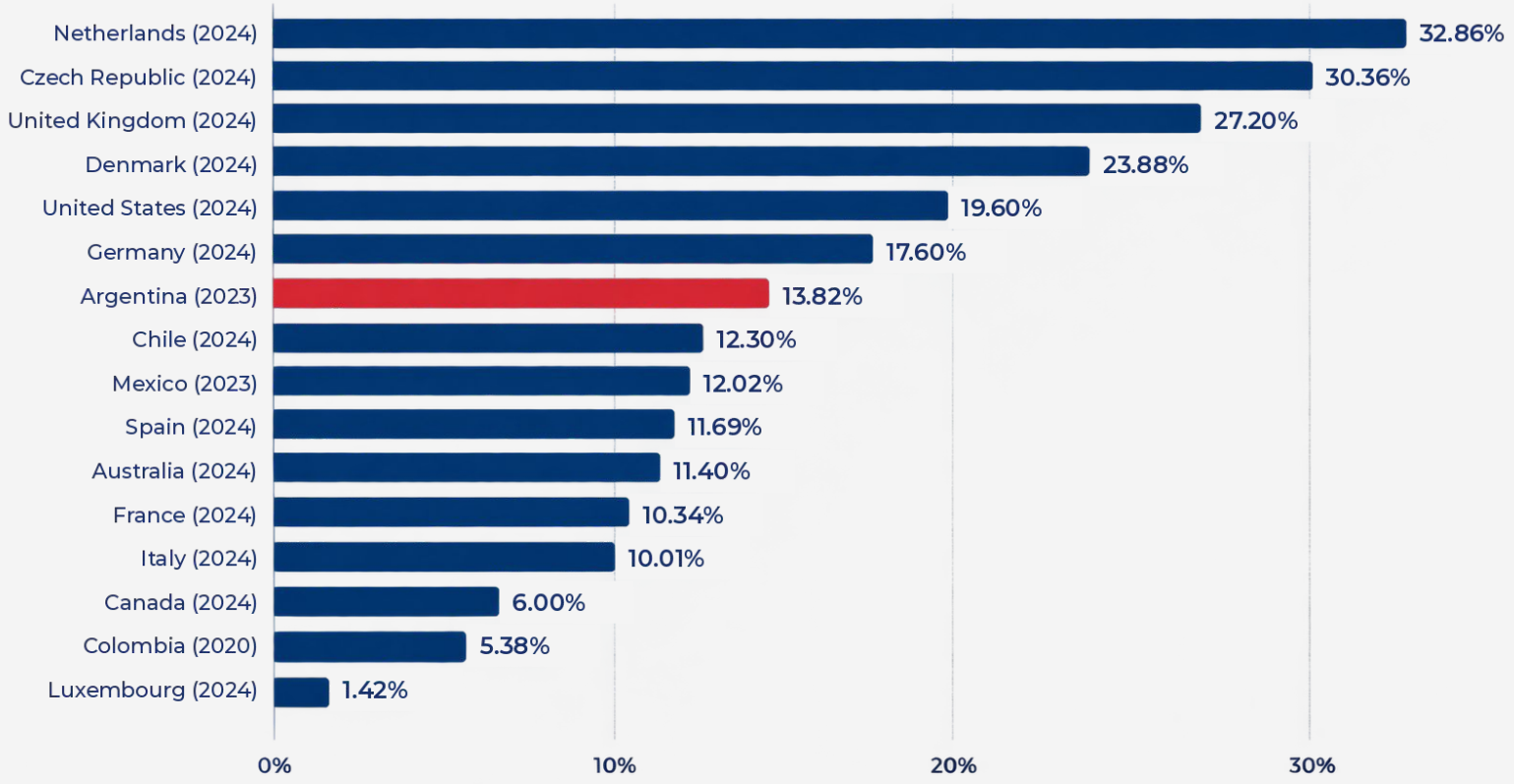


The digital channel keeps growing and complements physical retail, without fully replacing it.

Source: CACE, ARCA and INDEC, Insight LAC Report, "Smuggling: the role of the State and e-commerce platforms".

That is why the growth opportunity in Argentina remains significant

E-commerce share of total retail sales by country, latest available year (percentages)



Argentina ranks above other Latin American economies surveyed, although still below the markets with the highest digital channel penetration

Source: UNCTAD, Central Bank of Chile, INDEC, ARCA and CACE.

In addition, e-commerce contributes to employment and consumption dynamism

The economic weight of the channel is not limited to its revenues

44%

of e-commerce companies hired or reassigned staff in 2025 (**+5 jobs each on average**)

+ 32.3 %

year-on-year growth of e-commerce in mass consumption in December 2025 **(+14.1% cumulative for the year)**

330,000

Argentine SMEs and entrepreneurs sold on Mercado Libre (2025)

almost 50%

for whom it is their main sales channel

Source: CACE 2026, Scentia 2025 and MELI EFFECT Report 2026

Depending on their services and architecture, some marketplaces can generate greater traceability than conversational channels

ACCESS AND REGISTRATION

Seller identification (KYC)

Seller verification and onboarding, with CUIT cross-checked against tax registries.

OPERATIONAL TRACEABILITY

Transaction records

Persistent history of orders, amounts, dates and payment methods.

PROACTIVE DETECTION

Proactive detection and moderation

Mechanisms to detect, identify and remove illegal content on their own initiative.

EXTERNAL OVERSIGHT

Complaint and reporting tools

External reporting channels and cooperation programs with brands (notice and takedown).

CONTENT POLICIES

Policies and enforcement

Rules on prohibited items and conduct and on intellectual property infringements.

COOPERATION WITH AUTHORITIES

Responding to requests

Institutionalized channels for responding to requests from judicial and administrative authorities.

Source: Insight LAC Report, "Smuggling: the role of the State and e-commerce platforms".

In particular, e-commerce is driving the digitalization of payments

Structure of payment methods in Argentine e-commerce, 2025 — cash has practically disappeared

67%
Credit card

10%
Debit card

22%
Wallets and transfers

1%
Cash
(Pago Fácil, Rapipago)

By design, e-commerce brings greater traceability of money flows

Source: CACE (2026), Annual E-Commerce Study 2025.

Commercial informality and irregular trade are a real problem in Argentina

5.06% **of Argentina's GDP estimated as illicit trade**

3rd place

Commerce ranks third in VAT evasion, behind construction and services

However, since 2017 the incidence of evasion has decreased considerably (from 60% to 42% in 2023).

170/190

Argentina's ranking in the global Paying Taxes index.

Tax complexity is one of the factors that discourage business formalization in Argentina.

0.91%

Associated increase in the customs record gap for each additional percentage point of tariff.

The higher the tariff, the greater the incentive to under-declare or reclassify imports (Park, 2020)

Source: ASIPI (2025, p. 21), Center for Tax Studies (Univ. Austral, 2025, p. 21), Park (2020, p. 27) and World Bank (Paying Taxes, p. 23).

But what are we talking about when we talk about informality?

Dimension	What it consists of	Applicable legislation (non-exhaustive)
Tax informality	Failure to comply with registration, invoicing or filing obligations: the economic unit is not registered under the corresponding tax regime, remains in a category that does not reflect its level of operations, or does not comply with invoicing and filing.	Law 11.683 on Tax Procedure; Law 24.977 on Monotributo; VAT and Income Tax rules; possibly General Companies Law 19.550
Smuggling (customs offense)	Entry or exit of goods through artifice or deception to evade customs control (concealment, unauthorized crossings, false documentation). It is defined by the intent to evade control, not by the type of product. If the goods do not exceed the legal threshold, it is minor smuggling: an administrative infringement, not a criminal offense.	Customs Code (Law 22.415), arts. 863 to 876 (smuggling offense) and art. 947 (minor smuggling)
Customs infringements (customs irregularity)	Failure to comply with customs obligations without artifice or deception, such as inaccurate declarations of the quantity, value, origin or classification of goods (e.g., under-invoicing). Penalized through administrative proceedings, mainly with fines. All smuggling is a customs irregularity, but not every customs irregularity is smuggling.	Customs Code (Law 22.415), Section XII, Title II; inaccurate declaration (art. 954)

Source: Insight LAC Report, "Smuggling: the role of the State and e-commerce platforms".

But what are we talking about when we talk about informality?

Dimension	What it consists of	Applicable legislation (non-exhaustive)
Prohibited or restricted items (black market)	Goods whose production, importation, possession or sale is prohibited (e.g., narcotics) or only permitted with authorizations and through authorized circuits (e.g., weapons, prescription drugs). The illegality derives from the product itself, not from the channel or the seller's tax status.	Criminal Code; Law 23.737 (narcotics); Law 20.429 (weapons and explosives); Law 16.463 (medicines)
Counterfeit and pirated products	Goods that reproduce, imitate or use registered trademarks without authorization or infringe copyright or related rights	Trademark Law 22.362; Law 11.723 on Intellectual Property;
Genuine products outside the official network (gray market in the strict sense)	Authentic products sold outside the official distribution network or one authorized by the manufacturer: what is "gray" lies in the channel. It is independent of tax, customs and regulatory compliance, although it may overlap with other irregularities (e.g., smuggling or lack of type approval).	There is no specific public regulation: it is governed by agreements between private parties (e.g., contracts with official distributors). Once a trademark owner legitimately sells an original product, it loses control over subsequent resales
Products without regulatory authorization (gray market in the broad sense)	Genuine products of a lawful category that do not meet the requirements for local sale: type approvals, safety or energy efficiency certifications, health registrations or labeling. It does not depend on the channel: it can occur even with authorized distributors.	ENACOM: Law 27.078 and Res. 57/2026 Electrical safety: Res. SIC 16/2025 Toys: Res. 163/2005 and 313/2025 Auto parts: Law 24.449 and Decree 196/2025 Food, supplements and cosmetics: Law 18.284 (Argentine Food Code) and ANMAT regulations

Source: Insight LAC Report, "Smuggling: the role of the State and e-commerce platforms".

Parallel markets grow as the price gap between the formal and informal channels widens

*AFARTE sector estimates

TAX ASYMMETRY

80%

Tax burden on the final price of tobacco

Cigarettes can cost up to **3 times more** in Argentina than in Paraguay, creating a margin for massive arbitrage at border crossings.

Extreme tax differentials create parallel supply channels without customs control.

PRICE GAP

30–40%

Price difference in high-end electronics and mobile phones

The accumulation of customs duties, VAT and excise taxes widens the gap with identical products in neighboring countries.

The formal channel loses competitiveness and pushes consumers toward informal circuits.

CHANNEL STRUCTURE

3.7 times lower

Apparel prices in La Salada/Flores vs the formal online channel

An in-person survey of equivalent garments found prices 2.5 to 4.5 times lower than in the formal online channel.

The gap responds to different factors depending on the product, not to a single cause.

Recognizing this diversity does not mean downplaying informality: it means policy responses must be product-specific, not generic.

Integrated approach

Source: Insight LAC Report, "Smuggling: the role of the State and e-commerce platforms", based on ASIPI (2025), AFARTE (2025) and Schteingart, Ludmer, Schuffer, Sidicaro and Ibarra (2024), Fundar.

For example, costly and slow certification/type-approval systems generate market distortions

They work as para-tariff barriers

According to UNCTAD, compliance costs associated with certifications, type approvals and technical standards can, in many countries, exceed the ad valorem equivalent of the tariffs themselves, especially for small importers.

They can create de facto legal monopolies

Concentrating the certification process in a single accredited body can create bottlenecks, higher costs and delays in market access.

They can impose costs with no added safety value

Mandatory periodic renewals for products without technical modifications impose recurring costs with no added safety value.

Source: Insight LAC Report, "Smuggling: the role of the State and e-commerce platforms".

In Argentina, the system of mandatory certifications and type approvals works as a hidden barrier to trade

High transaction costs

Argentina requires mandatory type approval or certification in at least 5 distinct regulatory areas, with duplicated procedures, shifting costs to users and lengthening the time to reach the formal market

Restrictive market access regime

According to the OECD PMR index, Argentina has one of the most restrictive market access regimes in the region. Moreover, in 2025 it warned that these barriers remain high and their effect on competition is not systematically assessed

Reducing costs works better

Gray markets respond better to lower certification costs, shorter type-approval timelines and smaller tariff gaps than to sanctions

Insight LAC Report, "Smuggling: the role of the State and e-commerce platforms", based on OECD, Product Market Regulation (PMR) Indicators, and OECD (2025), OECD Economic Surveys: Argentina 2025.

Smuggling requires control and the right incentives; digital tools can contribute to those goals

In domestic sales, the customs irregularity may precede the platform. In cross-border transactions, the available information can contribute to State control.

Electrical safety

Res. SIC 16/2025

Health products

Law 16.463 · ANMAT

Toy safety

Res. 313/2025 · IRAM-NM 300

Safety auto parts

Traffic Law 24.449

Telecommunications

Law 27.078 · ENACOM type approval

RG 5884/2026 (courier): admissible value of up to USD 3,000 FOB per shipment (max. 3 units of the same kind) and exemption from prior technical controls (ANMAT, SENASA, electrical safety). In return, it requires an advance declaration with a tax identifier: the data point that makes it possible to cross-check what is imported with what is later sold.

Source: Insight LAC Report, "Smuggling: the role of the State and e-commerce platforms".

But strict liability does not solve the problem of informality and smuggling, and would have a negative economic impact

"Rodríguez, María Belén v. Google"

CSJN, Fallos: 337:1174 · October 28, 2014

Fault-based liability: liability may arise when the intermediary acquires actual knowledge of the unlawfulness of third-party content and does not act diligently. The ruling does not establish a general obligation of preventive monitoring of third-party content.

Safe harbor as a condition of possibility

An econometric study published in 2022 by SmC+ Digital Public Affairs and the Argentine Chamber of E-Commerce (CACE) estimated the possible effects of a general regime of strict and joint liability on e-commerce platforms.

+ 31,000 sellers affected

up to 47,000 jobs affected

1.1–1.5% drop in total e-commerce volume

***Ex ante estimates, not observed results; subject to the assumptions and market conditions at the time of the study.**

Source: Insight LAC Report, "Smuggling: the role of the State and e-commerce platforms".

Having a record of a transaction does not legitimize the private exercise of public enforcement functions

A platform's technical capacity to record transactions is a consequence of its operating model and can contribute to the State's work in preventing and prosecuting illegal activities, without implying a delegation of State functions.

Non-delegable roles

Enforcement, customs control and prosecution of infringements are exclusive powers of the State.

What they do do

Depending on their business model and the applicable regime, they can cooperate with authorities and report certain information within reasonable and proportionate limits

The right question

How to combine the right incentives, State controls and specific, proportionate obligations, while preserving innovation and formalization

Source: Insight LAC Report, "Smuggling: the role of the State and e-commerce platforms".

Some proposals expand the liability and obligations of platforms, with different effects depending on their scope

Common obligations that go beyond the intermediary's technical role and shift functions that belong to public authority

LIABILITY REGIME

Strict and joint liability

ATTRIBUTION WITHOUT FAULT OR INTENT

It treats the platform like the seller or manufacturer, making it financially liable for third-party defects or offenses.

Regressive effect: encourages platforms to close their doors to small entrepreneurs.

MASS SUPERVISION

General and preventive prior monitoring

UNIVERSAL EX ANTE FILTERING

Requirement to proactively supervise millions of listings to verify the customs origin or physical authenticity of the goods.

Contradicts international (DSA) and local (CSJN, Rodríguez case) doctrine.

POLICE POWER

Shifting verification and enforcement

E.G. DUTIES UNDER ENACOM RES. 57/2026

Imposition of technical verification duties that belong to the manufacturer or the State (e.g., requiring the platform to check the RAMATEL number).

Shifts to the intermediary data and powers outside its infrastructure.

Imposing these measures does not follow who is best placed to carry them out: the State and manufacturers hold the customs powers and technical specifications; shifting them to platforms works as a regulatory shortcut on the visible link.

Regulatory shortcut

Source: Insight LAC Report, "Smuggling: the role of the State and e-commerce platforms" based on comparative doctrine (DSA, EU), CSJN and ENACOM Res. 57/2026.

Different regulatory and cooperation mechanisms contribute to the traceability of e-commerce

The Argentine framework combines advance collection mechanisms, third-party information regimes and operational cooperation mechanisms.

Advance collection

RG 5319/2023

VAT collection at differential rates (1%–8%) depending on the seller's tax status.

Third-party information

RG 4614/2019 · RG 5804/2025

The parties covered by these regimes report certain information on sellers, transactions and/or accounts to ARCA, depending on the applicable regime.

Operational cooperation

Collaboration agreements and programs

Legal or judicial requests, specific agreements and voluntary cooperation initiatives with public agencies and other actors.

2019
RG 4614

2023
RG 5319

2024
RG 5554
Repeal of withholdings

2025
RG 5794 / 5804
habitual-activity thresholds / Expands information required from PSPs

2026
Information exchange
Meta–Consumer Protection: suspicious posts.
Mercado Libre–ARCA: sensitive categories.

Source: Insight LAC Report, "Smuggling: the role of the State and e-commerce platforms".

Four public policy lines

01 Strengthen customs intelligence through the integrated use of existing information

02 Redefine the incentives behind smuggling and gray markets

03 Support the formalization of small sellers

04 Build a permanent monitoring system for digital commerce and formalization

Source: Insight LAC Report, "Smuggling: the role of the State and e-commerce platforms".

01 Strengthen customs intelligence through the integrated use of existing information

The problem

The relevant information already exists, but it is fragmented across different State agencies. In addition, some regimes in force in Latin America require prior consent from the sector regulator.

The proposal

Under common protocols for format, purpose, frequency, data security and protection, ARCA, the General Customs Directorate and the competent technical agencies could integrate the information they already hold on importers, sellers, frequency, quantities and transactions to build cumulative risk profiles by CUIT, category and origin. In addition, prior physical customs control could be replaced by subsequent electronic enforcement, based on the information the system itself already generates.

What does the State gain?

Reduces delays at the border, discourages informality and improves traceability.

What is required?

Gradual development of State interoperability infrastructure, information governance and security protocols, risk analysis systems and training of competent officials.

Who implements it?

The General Customs Directorate and ARCA, with operational coordination with courier operators and the Postal Service, agencies such as ANMAT and ENACOM, and logistics operators as parties.

Source: Insight LAC Report, "Smuggling: the role of the State and e-commerce platforms".

02 Redefine the incentives behind smuggling and gray markets

The problem: It is argued that smuggling and gray markets do not respond solely to enforcement failures.

Four concrete mechanisms for the certification system as a whole:

Close the regulatory gap between the courier/personal regime and commercial importation.

For example: a free "sworn declaration" procedure for products for personal use.

Guarantee mutual recognition of authorizations issued by agencies accredited in international reference markets

Assess opening the certification process to multiple accredited bodies

Periodically assess the necessity, proportionality and impact on competition and prices of technical requirements.

For example: creating a new import category for personal use: a "very low risk category" for telecommunications equipment

Source: Insight LAC Report, "Smuggling: the role of the State and e-commerce platforms".

03 Support the formalization of small sellers

The problem

For a small seller, entering the formal circuit entails administrative costs associated with registration and categorization. At the same time, depending on their business model and the services provided, some platforms maintain daily contact with their sellers, identify who they are and record their volume of activity.

The proposal

ARCA could develop simplified assistance mechanisms for sellers reaching the habitual-activity thresholds, reducing the administrative cost of first registration and facilitating access to the corresponding procedures.

What does the State gain?

A broader formal tax base, higher collection of monotributo and social security contributions, and better knowledge of real economic activity.

What is required?

Development by ARCA of simplified procedures and official assistance materials. Any collaboration by platforms should be voluntary, limited and compatible with their technical and operational capacities.

Who implements it?

ARCA, with the possible voluntary participation of e-commerce platforms and the coordination of the Ministry of Human Capital regarding entrepreneur support programs.

Source: Insight LAC Report, "Smuggling: the role of the State and e-commerce platforms".

04 Build a permanent monitoring system for digital commerce and formalization.

The problem

The absence of official data to estimate what proportion of informal trade is currently channeled through digital platforms, social networks or street fairs, and how that distribution evolves over time.

The proposal

Entrust INDEC with an annual estimate of the distribution of retail trade by channel, following the methodology of the joint OECD-UNCTAD-IMF-WTO handbook and primarily using statistical and administrative information already available. Collaboration by ARCA, CACE or platforms would be voluntary, with aggregated or anonymized information.

What does the State gain?

A solid empirical basis for designing and evaluating public policies on e-commerce, informality and competition; internationally comparable information.

What is required?

Strengthening INDEC's capacities and updating existing economic activity surveys.

Who implements it?

INDEC, with the possible voluntary participation of ARCA, CACE and other private actors, within the limits provided for by the applicable regimes.

Source: Insight LAC Report, "Smuggling: the role of the State and e-commerce platforms".

IN SUMMARY

Leveraging traceability with policies proportionate to risk and to each actor's role

Public policy can leverage digital information without imposing general surveillance duties or displacing the State's customs enforcement.

1 E-commerce grew approximately 9% in real terms in 2025; its retail penetration was estimated at 15.5%.

2 Illicit trade is estimated at 5% of GDP.

3 The information available varies by platform model. Legal duties must be express and proportionate to the function and the risk.

4 The agenda covers customs intelligence, incentives, formalization, statistics and more controls on the courier regime.

Source: Insight LAC Report, "Smuggling: the role of the State and e-commerce platforms".

Smuggling: the role of the State and e-commerce platforms

Full report, methodology and sources available on request.

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