E-COMMERCE & CONSUMER PROTECTION IN DEVELOPING COUNTRIES

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The views expressed are those of the author and do not necessarily reflect the views of UNCTAD
Electronic Commerce (E-Commerce) & Mobile Commerce

- Business transaction carried out over electronic systems is growing rapidly and continue to play an increasingly important role in our personal and professional lives.
  - Allows us to discover new and interesting products
  - Allows us to access a wide range of goods or services
  - Bill payment
  - Banking
  - Insurance
TYPE OF E-COMMERCE

- Business-to-business (B2B)
  - Supports business transactions parties to a contract
- Business-to-consumer (B2C)
  - Connects individual consumers with sellers without going through the middleman
    - E.g. Amazon.com
- Consumer-to-consumer (C2C)
  - Connects individual sellers with people shopping for used items
    - E.g. ebay.com
To Businesses

- Easy and speedy communications
- Business expansion opportunity
- Lower Cost
- Increase advertising possibilities

To consumers

- Convenience
- Increased choices
- Informed choices
- Cheaper products
**RISK OF E-COMMERCE**

- Scams
- Payment risk
- Fulfillment risk
- Deceptive Business Practices
- Security Risks
- Privacy
- System and Data Integrity
Consumers should not be afforded any less protection in e-commerce than in other forms of commerce such as:

- Consumer protection from fraud
- Right to choice of institutions and payment methods
- Transaction privacy, safe record keeping and proof of payment
- Managing information privacy
- Risk management.
E-COMMERCE & CONSUMER PROTECTION

- **Consumers should be protected against**
  - False Representations
  - Unsolicited goods, emails etc
  - Bait advertising
  - Misleading and deceptive conduct
  - Pyramid selling
  - Referral selling

- **Secure Payment**
  - Consumers should be provided with easy to use, secure payment mechanism and information on the security level of these mechanisms
E-COMMERCE & CONSUMER PROTECTION

- **Disclosure of information**
  - Providers of goods and services should be obliged to make certain information available to consumers in E-Commerce

- **Consumer Redress**
  - Consumers should be provided
    - meaningful access to fair and timely dispute resolution
    - redress without undue cost or burden
    - Redress with special attention to cross-border transactions

- **Education and Awareness**
  - Consumers should be provided with educated about e-commerce
The emerging e-commerce has created new and emerging business and legal challenges. Despite highly perceived benefits and optimism, the level of adoption of E-commerce by in Africa is still low. This is due to a number of constraints and barriers.

- Building trust/ confidence
  - orders and payments are conducted with minimal risk
  - Enforcement of buyers’ and sellers’ rights and obligations
A critical element necessary for e-commerce to succeed.

 Raises challenges for most developing countries.

 Infrastructure is required
  - to link national businesses with global banking networks
  - to allow efficient domestic and international business-to-business transactions;
  - to give consumers, small businesses, and local communities access to financial resources and services that will allow them to participate effectively in e-commerce.
Constraints

- Many consumers in Africa do not have regular access to the Internet,
- hinders the ability to develop e-commerce.
- Access to the internet is expensive and sometimes very slow.
- The most common Medias that reach people are radio, TV and mobile phone access.
- The internet is not yet a convenience in many countries in Africa for e-commerce.
The essence of B2C e-commerce is the placing of an instant order, equally quick payment, followed by appropriately quick delivery of the goods.

Constraints
- Airfreight is risky, infrequent and expensive in Africa;
- Sea Freight can be very lengthy for some countries
- Threat of piracy attack at sea (e.g. in Indian Ocean)
- customs clearance procedures are long and complex;
The legal framework for e-commerce is increasingly becoming complex and burdensome.

In E-Commerce agreements are between customers/suppliers located anywhere in the world.

Constraints

- Which country’s laws are to be applied to address the respective rights and obligations of the parties?
- What is the consequence of a country’s lack of jurisdiction?

Different countries have different

- Legal systems
- Criminal law
- Consumer protection legislation
- Competition Law
Constraints

- In some countries Consumer Protection law is non-existent
- In others, although exist
  - Additional protection inherent to e-commerce are lacking
    - (e.g. data protection, payment security etc)
  - companies and consumers are still unaware of
    - the legal constraints they may encounter by entering electronic transactions
    - Their rights and obligations in e-commerce
Even if the law is present there is the perpetual problem of enforcement.

- At national level
- Due to cross-border issues
  - Lack of dispute settlement mechanisms
  - Lack of standardized framework for minimum consumer protections.
  - "choice of law" and jurisdictional rules
CHALLENGES- FINANCIAL SERVICES

- **Financial Services**
  - Requires creative and co-operative efforts by
    - banks, Government, businesses and community leaders
  - Require concerted collaborative efforts between
    - fiscal authorities, banks and private sector merchants

- **Legal Framework - Countries need to Enact or Review laws regarding**
  - customs and taxes,
  - protection of intellectual property rights
  - Digital signatures
  - Online privacy and security,
  - data protection,
  - competition law
  - ICT laws
  - Online payment & banking
  - Contract
  - Cyber Criminal activity
E-commerce requires
- the careful planning and integration of a number of technology infrastructure components
- large investment and expertise

Cross border
- International rules are required for electronic trade, especially in relation to law applicable to cross-border transactions.
  - Which taxation laws apply?
  - Which criminal laws apply?
  - Which consumer laws apply?
  - What laws apply to contracts agreed upon over the Internet?
International bodies must play a key role to address cross-border Consumer Protection issues through
- International consultation, corporation, information exchange
  - at regional and international level
  - between judicial and law enforcement agencies
- development of harmonize provisions of consumer protection law for e-commerce across various jurisdictions
It is evident that to foster global online commerce to the benefit of consumers and merchants in every country requires sustained efforts by all interested groups to build alliances and relationships. Joint forces of Government Institutions, Businesses, Consumers, regional and international bodies.