Expert Meeting on

CYBERLAWS AND REGULATIONS FOR ENHANCING E-COMMERCE:
INCLUDING CASE STUDIES AND LESSONS LEARNED
25-27 March 2015

Global E-commerce and Cyberlaw Developments

By

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GLOBAL E-COMMERCE AND CYBERLAW DEVELOPMENTS

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Implications of E-commerce

- Access global value chains
- Access to markets/exports
- Access to suppliers/imports
- Higher productivity
- More competition
- Greater consumer choice
- Job creation

- Risk of fraud
- Costs of adaptation
- Risk of crowding out
- Risk of losing tax revenue
- Risk of job losses
- Risk of widening divides
Different e-commerce transactions

- **Business-to-business (B2B)**
  - Online sales between enterprises, including as a result of outsourcing and offshoring. Small enterprises may need to engage in B2B e-commerce to participate in value chains.

- **Business-to-consumer (B2C)**
  - Involves sales by "pure play" e-commerce enterprises and by traditional bricks-and-mortar firms adding online sales channel.

- **Consumer-to-consumer (C2C):** e.g. eBay and Taobao

- **Government-to-business (G2B):** e.g. e-procurement
B2B revenues by far the largest

- Share of B2B in e-commerce revenue
  - US: 89%
  - Canada: 64%
  - EU: 87%
  - Rep. of Korea: 91%
  - Russia: 57%

Source: UNCTAD estimates based on national sources, eMarketer, and others.
B2C e-commerce growing fast especially in developing countries

B2C e-commerce sales, by region, 2013 and 2018 ($ billions)

Source: eMarketer, July 2014.
Wider scope for inclusive e-commerce

- Improved connectivity in developing countries
  - Mobile telephony, Internet use and social media

- Reduced barriers to entry
  - New e-commerce applications and platforms
  - New e-commerce services
  - New payment solutions

- Rise of many new e-commerce companies in the South
Barriers to E-commerce

• Economic barriers
  – Inadequate ICT infrastructure and power supply
  – Limited use of credit cards and under-developed financial systems
  – Lack of purchasing power

• Socio-political barriers
  – Weak legal and regulatory frameworks
  – Cultural preferences for face-to-face interaction
  – Reliance on cash in society.

• Cognitive obstacles
  – Poor ICT literacy
  – Lack of awareness and knowledge of e-commerce

Source: Kshetri 2007
Payment methods for e-commerce

- Credit cards dominate at global level
- New methods growing in importance
- In Africa, cash on delivery is most used, while mobile payment is increasing

E-transactions value, by payment method, by region, 2012 (percent)

<table>
<thead>
<tr>
<th>Region</th>
<th>Credit cards</th>
<th>E-wallets</th>
<th>Direct debit</th>
<th>Cash on delivery</th>
<th>Bank transfer</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States and Canada</td>
<td>71</td>
<td>18</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>7</td>
</tr>
<tr>
<td>Europe</td>
<td>59</td>
<td>13</td>
<td>5</td>
<td>5</td>
<td>8</td>
<td>11</td>
</tr>
<tr>
<td>Latin America</td>
<td>47</td>
<td>10</td>
<td>4</td>
<td>8</td>
<td>13</td>
<td>18</td>
</tr>
<tr>
<td>Africa and Middle East</td>
<td>34</td>
<td>5</td>
<td>0</td>
<td>48</td>
<td>3</td>
<td>10</td>
</tr>
<tr>
<td>Asia and Oceania</td>
<td>37</td>
<td>23</td>
<td>1</td>
<td>11</td>
<td>14</td>
<td>14</td>
</tr>
<tr>
<td>World</td>
<td>57</td>
<td>17</td>
<td>2</td>
<td>5</td>
<td>7</td>
<td>12</td>
</tr>
</tbody>
</table>

**Share of economies with e-commerce laws, 2014, by region**

<table>
<thead>
<tr>
<th>Region</th>
<th>Countries (number)</th>
<th>E-transaction laws (%)</th>
<th>Consumer protection laws (%)</th>
<th>Privacy and data protection laws (%)</th>
<th>Cybercrime laws (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Developed economies</td>
<td>42</td>
<td>97.6</td>
<td>85.7</td>
<td>97.6</td>
<td>83.3</td>
</tr>
<tr>
<td>Africa</td>
<td>54</td>
<td>46.3</td>
<td>33.3</td>
<td>38.9</td>
<td>40.7</td>
</tr>
<tr>
<td>Asia and Oceania</td>
<td>48</td>
<td>72.9</td>
<td>37.5</td>
<td>29.2</td>
<td>56.3</td>
</tr>
<tr>
<td>Latin America and the Caribbean</td>
<td>33</td>
<td>81.8</td>
<td>54.5</td>
<td>48.5</td>
<td>63.6</td>
</tr>
<tr>
<td>Transition economies</td>
<td>17</td>
<td>100.0</td>
<td>11.8</td>
<td>88.2</td>
<td>70.6</td>
</tr>
<tr>
<td>All economies</td>
<td>194</td>
<td>74.7</td>
<td>47.4</td>
<td>55.2</td>
<td>60.3</td>
</tr>
</tbody>
</table>

*Source: UNCTAD.*
E-transaction laws 2014

Share of countries with E-Transaction laws

- Developed countries: 97.6%
- Latin America and the Caribbean: 81.8%
- Africa: 46.3%
- Asia and Oceania: 72.9%

Source: UNCTAD.
Wide coverage but limited compatibility of e-transactions laws

- UNCITRAL standards largely used: technology neutrality, non-discrimination and functional equivalence but variations exist
- Three main issues:
  - Laws mostly address e-signature but are often silent on other contractual terms (time and place of dispatch, party location, choice of law);
  - Some laws are not technology neutral, for example recognizing only certain digital signatures (e.g. PKI) – can hamper cross-border trade
  - Lack of capacity of the judiciary for law enforcement
Online consumer protection laws 2014

Share of countries with consumer protection laws

- Developed countries: 85.7%
- Latin America and the Caribbean: 54.5%
- Africa: 33.3%
- Asia and Oceania: 37.5%

Source: UNCTAD.
Consumer protection online not fully addressed

- Consumers more vulnerable online: deceptive and fraudulent activities (fraud, data breaches, spams)
- Protection needed for domestic and cross-border purchases
- Cross-border enforcement big challenge – cross-agency essential (e.g. ICPEN)
- OECD and UN Guidelines on Consumer Protection currently being revised
Share of countries with privacy and data protection laws

- **Developed countries**: 97.6%
- **Latin America and the Caribbean**: 48.5%
- **Africa**: 38.9%
- **Asia and Oceania**: 29.2%

*Source: UNCTAD.*
Data protection and privacy online

- Personal data increasingly fuelling the digital economy
- Cloud computing adds complexity to data protection
- >2,100 incidents reported in 2013, exposing >822 million records (Risk Based Security, 2014)
- Main international instruments
  - OECD Guidelines on Privacy
  - EU Data Protection Directive
  - APEC Privacy Framework
- Agreement on basic principles but not on their application
Cybercrime laws 2014

Share of countries with Cybercrime laws

- Developed countries: 83.3%
- Latin America and the Caribbean: 63.6%
- Africa: 40.7%
- Asia and Oceania: 56.3%

Source: UNCTAD.
Cybercrime laws rapidly enacted but enforcement is challenging

- Growing concern to all countries
  - Estimated $2.5 billion lost in online fraud in 2012 (Cybersource, 2013)
- Mobile merchants incurring the greatest fraud losses
- Key international instruments
  - Council of Europe Convention on Cybercrime (2001)
  - African Union Convention on Cyber Security and Personal Data Protection (June 2014)
- Challenge: domestic and cross-border enforcement
Issues for Discussion

• How can the needs of countries in terms of cyberlaws best be assessed?
• What are best practices in fostering cross-border transactions and improving security of e-transactions?
• What role should the private sector play in securing transactions online and fostering consumer trust and confidence?
• What actions should be taken to monitor progress in developing countries and regions in developing relevant cyber legislation?
• How can assistance from international organizations and developments partners help to facilitate the enforcement of compatible e-commerce laws?