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Contribution
by

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The views expressed are those of the author and do not necessarily reflect the views of UNCTAD
Intergovernmental Group of Experts on Consumer Protection Law and Policy
Capacity building in Consumer Protection: Challenges and Perspectives

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Road Map

• Economic Environment and Background

• UNCTAD Mandate - Local and Regional Capacity Building Needs

• FTC - Innovative Technical Assistance Program
  - Cross Border Collaboration: Sharing Consumer’s Complaints; Investigative Assistance; Consumer Education; International Fellows Program; Networking the Networks

• UNCTAD Capacity Building Nexus and Possibilities
DYNAMIC ECONOMIC ENVIRONMENTS

• A more challenging consumer marketplace
  ▪ Increasingly complex products and a growing role for services
  ▪ Rapid technological change
  ▪ Greater awareness of the needs of disadvantaged consumers
  ▪ Higher public expectations for effective consumer protection
• Commerce had become increasingly cross-border in nature...and so had fraud.

• But the jurisdictional limitations of consumer protection authorities remained in place.
UN Mandate for Capacity Building

- **UN Resolution 70/186. Clause 7:**
  - The General Assembly:
  7. Decides to establish an intergovernmental group of experts on consumer protection law and policy within the framework of an existing commission...

- **UN Guidelines: VII B.97 (e).**
  - The intergovernmental group of experts on consumer protection law and policy shall have the following functions:
  (e) To provide capacity-building and technical assistance to developing countries and economies in transition in formulating and enforcing consumer protection laws and policies.

- **Method of work and work programme, 2016-2020: III. D. 37.**
  - Capacity-building and technical assistance:
  The group is mandated to provide capacity-building and technical assistance (GL 97 (e)). This mandate is more ambitious than the annual sessions of the Group; May be carried out by Member States, international organizations and networks, through activities and projects.
Key Issues: Capacity Building Needs AT THE LOCAL LEVEL

- **Policy and Law Reform**: identify the laws, policies, regulations, and frameworks that require reform
- **Best Practices**: identify international best practices and conduct benchmarking exercises
- **Localize**: research the impact of the proposed reforms in the local context, including stakeholder engagement, and key issues (consumer complaints and consumer education)
- **Implement**: implement the legislative and policy reforms, with focus on not dampening legitimate commercial activity or economic development
Key Issues: Capacity Building Needs AT THE REGIONAL LEVEL

• At Regional Level: cross border collaboration! Share information and best practices to create synergies and maximize resources

• Train Specialized Experts: training and upgrading skills, not only in CP in general, but also in various areas, including economics and redress

• Share Investigative Techniques: such as evidentiary support for unlawful acts and practices

• Important Areas: ecommerce and mobile-commerce, remedies, financial issues, cross border cooperation and, as well as consumer product safety
NATIONAL AND REGIONAL CONCERNS

• Review Consumer Protection Laws: review of bills and laws by CP experts before they are approved on a regional level.

• Develop Comprehensive Capacity Building Programs: allow knowledge to reach entire agencies and not just the managers (which may change with government elections/appointments). Allowing front-line professionals to be involved in the structuring of programs and topics of training activities to make them more enriching and useful.

• Encourage: establishment of standard procedures and methods of work for the agencies (use voluntary peer reviews by CP experts as a spring board)

• Cross Border Consumer Education: efforts expanded to help sensitize consumers, “train the trainers” and leverage resources.

• Individual Consumer Protection and Systemic Approaches
The Office of International Affairs (Consumer Protection)

- Provide law enforcement/litigation support
- Expand cooperation and information sharing
- Develop international e-commerce policies
- Provide international technical assistance/collaborations
INCREASED FTC CROSS BORDER COLLABORATION

• The Federal Trade Commission (FTC) has conducted well over 100 investigations with international components, such as foreign targets, evidence, or assets, and has filed more than 50 cases involving cross-border components, since January 2007. The FTC has used the Act’s authority in many of these matters, and in related actions brought by other U.S. and foreign enforcement agencies.

• The FTC has provided evidence in response to 93 information-sharing requests.

• The FTC has issued 93 civil investigative demands (equivalent to administrative subpoenas) in 39 investigations and also filed one proceeding under 28 USC 1782.

• In cases relying on the SAFE WEB Act, the FTC has to date collected more than 10 million in restitution for injured consumers, despite the challenges of collecting money from defendants in foreign jurisdictions, and has stopped frauds costing consumers hundreds of millions of dollars.
Consumer Complaints as an Enforcement Tool

- One way to measure detriment is with consumer complaints
- Enforcement tools
- Helps identify:
  - Key Issues Impacting Consumers
  - Patterns and trends in consumer fraud and identity theft
  - The issues and actors causing the greatest harm to consumers
- The complaint collection process may also help assist consumers and businesses by identifying key issues for educational materials
Sharing Complaints

- Domestic law enforcement
- Sectoral cooperation
- Engagement with stakeholders
- Cross-border cooperation
ICPEN: econsumer.gov

econsumer.gov provides certified law enforcement and regulatory agencies in over 30 ICPEN member countries access to consumer complaints to assist in investigating fraud and uncovering new scams.
US FTC Technical Assistance Overview

• Goals:
  – Help foreign counterparts develop and strengthen institutional frameworks to better protect U.S. and foreign consumers
  – Inspire consumer trust in the marketplace and contribute to robust, sustained economic development and competitive market-oriented economies
US FTC Technical Assistance Overview

• Key topics:
  – E-commerce;
  – Mobile commerce, including mobile payments;
  – Privacy and data security;
  – Financial practices, including financial literacy;
  – Credit report;
  – Payday lending;
  – Pyramid schemes;
  – False and misleading advertising;
  – Legal framework and regulatory reform;
  – Enforcement capacity; and
  – Consumer fraud

*Partnering with others where we do not have jurisdiction
US FTC Technical Assistance Overview

• Countries:
  – TA to more than 70 countries worldwide
  – FY2016 collaborations: Brazil, Cambodia, Chile, China, Colombia, Costa Rica, India, Indonesia, Kenya, Kuwait, Moldova, Mexico, Peru, the Philippines, Qatar, Saudi Arabia, South Africa, Singapore,

• Multi-stakeholder Approach
  – Engagement with appropriate foreign government officials, NGOs, business leaders, academics, lawyers, and others
US FTC Technical Assistance Overview

• Training Methods
  – Provide law and enforcement and other c. p. capacity building, based on experience and international best practices
  – Strengthening institutional frameworks, analyzing consumer complaints and market data, and developing consumer education materials
  – Staff support from Bureaus of Consumer Protection, Competition, and Economics and other domestic and international stakeholders
  – Workshops, case studies, expert consultations, planning sessions, assessments, and resident advisers
  – Hosting foreign delegations and international fellows
  – MOUs to deepen cooperation with foreign civil and criminal agencies
WORKING WITH REGIONAL CHAMPIONS

• AFRICAN DIALOGUE

• RED Consumo y Seguro - FIAGC

• ASEAN CCP
Critical UN Guidelines Provisions Nexus

Section V:

A: National policies for consumer protection that encourage providing:
   - Accurate contact info for businesses
   - Clear and timely info about goods, services, terms, conditions
   - Clear contract terms that are not unfair
   - Transparent process for cancellations and refunds
   - Secure payment mechanisms
   - Fair dispute resolution and redress
   - Consumer privacy and data security
   - Consumer and business education

C: Promotion/protection of economic interests of consumers
   - Encourage fair and effective competition
   - Monitor/enforce false or misleading claims, including environmental claims
   - Encourage self-regulatory codes

F: Dispute resolution and redress
   - Encourage fair, effective mechanisms to address consumer complaints through administrative, judicial and ADR, including for cross-border cases

G: Education and information programs for consumers
   - One focus is e-commerce
   - Special attention to needs of vulnerable and disadvantaged consumers
   - Involve consumer groups, business, and other organizations

I: Electronic commerce
   - Level of protection the same as other forms of commerce
   - Review consumer protection policies and adapt to e-commerce

J: Financial services
Critical UN Guidelines Provisions Nexus

VI: International cooperation
- (82) improve cooperation in combatting cross-border fraud
- (85) use existing int’l networks and enter into appropriate bilateral and multilateral arrangements to implement guidelines
- (88) consumer protection enforcement agencies should have the authority to investigate, and share information and evidence relating to cross-border fraud with foreign agencies
- (89) improve cross-border cooperation in the recovery of foreign assets and the enforcement of decisions in cross-border cases.

VII: International institutional machinery
  A: Institutional arrangements (development of IGE on c.p. law and policy)
  B: functions of the IGE
     - Annual forum
     - Studies and research
     - Voluntary peer reviews
     - Collect and disseminate information
     - Capacity-building and technical assistance
     - Periodically review guidelines

• Among others
UNCTAD Possibilities

- Elevating, Targeting and Coordinating Key Issues
- Stocktaking Exercises on Key Issues at National and Regional Levels – Deeper Understanding
- Regional Collaboration & Cross Border Cooperation on Critical Issues
- Institutional Capacity Building
- Pragmatic Approaches to training programs on key issues so that they reach all staff and have greater impact (e.g., ecommerce remedies)
- Partnerships and Collaborations with both Developed and Developing Countries in Different Regions - sharing information and protecting all consumers
US FTC Technical Assistance Overview
General Consumer Protection

• Includes False and Misleading Advertising
• Protecting consumers in most areas affecting commerce (i.e., e-commerce, health, energy, green-labeling, practices that target vulnerable populations, etc.)
US FTC Technical Assistance Overview
Mobile Issues and Mobile payments

- Internet and mobile commerce and mobile payments spreading rapidly in developing countries, resulting in the proliferation of scams targeting consumers
- FTC providers consumer agencies with tools to navigate mobile issues
US FTC Technical Assistance Overview
Privacy/Data Protection

• Privacy TA focuses on privacy and commercial data security/protection in Africa, Asia-pacific, Latin America, India and China

• Focus on cross border privacy rules (CBPRs) and general interoperability schemes
US FTC Technical Assistance Overview

Financial Practices & Credit Reporting

• FTC coregulatory authority with other U.S. agencies
• Focus on pyramid schemes, business opportunity scams, and payday lending fraud
• Consumer credit matters – help stakeholders establish fair and transparent systems
• Financial literacy consumer education initiatives
• Recent financial practices TA missions – Philippines and South Africa
US FTC Technical Assistance Overview
Legal Framework & Regulatory Reform

• Comments on draft laws, regulations and policies
• Training related to implementation and transparency
• Recent comments – Afghanistan, China, South Africa, and Peru
US FTC Technical Assistance Overview
Combating Fraud and Working with Criminal Authorities

• FTC Criminal Liaison Unit (CLU) works closely with U.S. DOJ and criminal investigative agencies

• Work with foreign authorities and within several networks to combat civil scams with possible criminal dimensions
International Fellows Program

• Staff exchanges with non-U.S. competition, consumer protection, and privacy agencies for terms of 3-6 months

• International Fellows participate in investigations, enforcement actions, and other projects with FTC attorneys, investigators, and economists

• Fellows return to home agencies prepared to share what they have learned and ready to apply their experience to help improve cross-border cooperation through the relationships they have developed

• Since 2007, the FTC has hosted more than 90 staff members from more than 30 countries all around the world
THANK YOU!

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