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Contribution of consumer protection to sustainable consumption

The contribution of consumer protection to sustainable consumption

Executive summary

This note explores the connection between consumer protection and sustainable consumption. It refers to the interplay between sustainable consumption, the Sustainable Development Goals and the United Nations guidelines for consumer protection. Consumer protection laws may not always include specific provisions on sustainable consumption, yet consumer protection agencies have used existing provisions to act in this area, engaging in consumer education and providing guidance to businesses, as well as addressing related cases, for example those related to environmental claims. Finally, the note provides some policy recommendations and areas for further discussion.



I. Introduction

1. Sustainable consumption entered the international policy discourse at the United Nations Conference on Environment and Development, held in 1992, whose Agenda 21 states, “the major cause of the continued deterioration of the global environment is the unsustainable pattern of consumption and production, particularly in industrialized countries, which is a matter of grave concern, aggravating poverty and imbalances”.¹

2. The World Summit on Sustainable Development held in 2002 recognized the necessity of changing unsustainable patterns of consumption and production, and its Johannesburg Declaration on Sustainable Development stated that action to be taken at all levels should include encouraging and promoting “the development of a 10-year framework of programmes in support of regional and national initiatives to accelerate the shift towards sustainable consumption and production”.²

3. Under the 2030 Agenda for Sustainable Development, Goal 12 on ensuring sustainable consumption and production patterns details the responsibilities of and actions to be taken by various stakeholders, including Governments, businesses and consumers.³

4. The United Nations guidelines for consumer protection were adopted in 1985, first revised in 1999 and most recently revised in 2015.⁴ A new section on sustainable consumption was adopted by the Economic and Social Council in its resolution 1999/7 of 26 July 1999, and sought to address the impact of consumption habits on the environment and their negative effects on existing resources.

5. This note draws on research by scholars and work by United Nations agencies and other international organizations on sustainable consumption, and is also based on the contributions received from 11 member States⁵ and other stakeholders that shared their experiences in this matter in response to a questionnaire circulated by the UNCTAD secretariat. Chapter II connects consumer protection policy with the 2030 Agenda and the United Nations guidelines for consumer protection. Chapter III focuses on promoting sustainable consumption through consumer policy. Chapter IV provides examples from specific sectors of promoting sustainable consumption through consumer policy. Chapter V highlights some areas for further discussion.

II. Consumer protection policy as an instrument for achieving the Sustainable Development Goals: The contribution of the revised United Nations guidelines for consumer protection

6. Governments are encouraged to enact laws that protect consumers from unfair commercial practices and help ensure that the environment is preserved for the benefit of future generations. Consumer education and business engagement are key activities under an effective consumer protection policy and play a role in achieving sustainable consumption and in its relation to consumer choice. Consumers not only play a crucial role in sustainable consumption matters, they also have the right to a sustainable environment in which they contribute to ensuring that their habits do not reduce the capacity of other people to live well, now and in the future.

7. The United Nations has undertaken a number of efforts over the years to address the contribution of consumer protection to sustainable consumption. The United Nations guidelines for consumer protection as revised in 1999 are one of the main instruments in this regard. The term “sustainable consumption” is mentioned many times in the guidelines for consumer protection, thus representing a clear objective (box 1).

¹ A/CONF.151/26/Rev.1 (Vol. I).

² A/CONF.199/20.

³ A/RES/70/1.

⁴ A/RES/70/186.

⁵ Australia, Bulgaria, Ecuador, Jamaica, Japan, Latvia, Peru, South Africa, Spain, the United States of America and Zambia.

Box 1

United Nations guidelines for consumer protection

I. Objectives

1. Taking into account the interests and needs of consumers in all Member States, particularly in developing ones, recognizing that consumers often face imbalances in economic terms, educational levels and bargaining power and bearing in mind that consumers should have the right of access to non-hazardous products, as well as the right to promote just, equitable and sustainable economic and social development and environmental protection, these guidelines for consumer protection have the following objectives:

...

(h) To promote sustainable consumption.

...

III. General Principles

...

6. Unsustainable patterns of production and consumption, particularly in industrialized countries, are the major cause of the continued deterioration of the global environment. All Member States should strive to promote sustainable consumption patterns; developed countries should take the lead in achieving sustainable consumption patterns; developing countries should seek to achieve sustainable consumption patterns in their development process, having due regard for the principle of common but differentiated responsibilities. The special situation and needs of developing countries in this regard should be fully taken into account.

7. Policies for promoting sustainable consumption should take into account the goals of eradicating poverty, satisfying the basic human needs of all members of society and reducing inequality within and between countries.”

Source: A/RES/70/186.

A. Key concepts and definitions

8. Some key concepts referred to in this note are defined in this section.

1. Environment

9. The environment can be defined in different ways depending on the area of speciality. This note uses the United Nations Environment Programme definition which implies the natural environment of the planet and its interaction with all living species, the weather and natural resources and how they affect human survival and economic activity.⁶ This definition is relevant to sustainable consumption and related issues.

2. Sustainability

10. The United Nations has stated that sustainable development “implies meeting the needs of the present without compromising the ability of future generations to meet their own needs”.⁷ Sustainability is a complex concept that, “far from being a mere doctrine of development science”, has emerged as a way of using resources without depleting them, through human options that are expected to yield social and environmental vitality.⁸ In addition, it relates to the challenge of both preserving the environment and guaranteeing social and economic development. According to the Cambridge Dictionary, sustainability is the quality of causing little or no damage to the environment and therefore able to continue for a long time. In this note, sustainability is connected to the principle of human development, consumer rights and sustainable consumption.

⁶ United Nations Environment Programme, 2007, *Global Environment Outlook: Environment for Development* (United Nations publication, Nairobi).

⁷ A/RES/42/187.

⁸ AD Basiago, 1995, Methods of defining sustainability, *Sustainable Development*, 3(3):109–119.

3. Sustainable consumption

11. Addressing sustainable consumption involves questioning some fundamental assumptions about the way modern society functions.⁹ This note uses the definition adopted at the Oslo Symposium in 1994, namely, “the use of services and related products, which respond to basic needs and bring a better quality of life while minimizing the use of natural resources and toxic materials as well as emissions of waste and pollutants over the life cycle of the service or product so as not to jeopardize the needs of future generations”.¹⁰ This definition highlights two dimensions related to sustainability, namely, the social dimension (e.g. distributional considerations) and the environmental dimension (e.g. natural resources, waste and pollutants). In addition, there is a consumer-centred understanding of sustainability, which introduces the economic dimension to a perspective not entirely based on financial profitability, but rather includes taking care of the shared Earth.¹¹ Guideline 49 of the United Nations guidelines for consumer protection states that “sustainable consumption includes meeting the needs of present and future generations for goods and services in ways that are economically, socially and environmentally sustainable”.¹²

4. Sustainable consumption and the Sustainable Development Goals

12. The 2030 Agenda provides a shared blueprint for peace and prosperity for people and the planet, now and into the future, to be implemented by all countries, and presents a commitment to making “fundamental changes in the way that our societies produce and consume goods and services” as well as recognition of the need for “a revitalized and enhanced Global Partnership”.¹³

13. In the context of the Sustainable Development Goals, strategies for ending poverty and other deprivations should go together with strategies for improving health and education, reducing inequality and spurring economic growth, all while addressing climate change-related impacts and working to preserve the oceans and forests. Achieving Goal 12 would help to decouple economic growth from environmental damage and natural resource exploitation.¹⁴ Targets under this Goal include the implementation of the 10-Year Framework of Programmes on Sustainable Consumption and Production Patterns, the sustainable management and efficient use of natural resources, the reduction of various types of waste and the environmentally sound management of chemicals and all wastes.

14. The United Nations Development Programme states as follows: “achieving economic growth and sustainable development requires that we urgently reduce our ecological footprint by changing the way we produce and consume goods and resources. Agriculture is the biggest user of water worldwide, and irrigation now claims close to 70 per cent of all freshwater for human use.”¹⁵ Such use needs to be re-examined, to preserve resources. In order to support developing countries in moving towards more sustainable consumption by 2030, encouraging industries, businesses and consumers to engage in recycling and the reuse of products is key, in order to achieve Goal 12.

15. A recent study by UNCTAD states that “consumer policy is an important means by which countries can support the implementation of many, if not all, of the 17 Sustainable Development Goals” and that consumer protection is an important tool by which to promote the Goals, “aiming to empower consumers to stand up for their rights and to make

⁹ See I Chaturvedi, 2018, Sustainable consumption: Scope and applicability of principles of international law, *Chinese Journal of Environmental Law*, 2(1):5–27.

¹⁰ See <https://sustainabledevelopment.un.org/topics/sustainableconsumptionandproduction>.

¹¹ R Emas, 2015, The concept of sustainable development: Definition and defining principles, Brief for *Global Sustainable Development Report 2015*.

¹² A/RES/70/186.

¹³ A/RES/70/1.

¹⁴ Stockholm Environment Institute, 2018, SDG 12: Responsible consumption and production, available at <https://www.sei.org/publications/forskning-for-agenda-2030/>.

¹⁵ See <https://www.undp.org/content/undp/en/home/sustainable-development-goals/goal-12-responsible-consumption-and-production.html>.

informed and sustainable choices”.¹⁶ The effective enforcement of consumer protection laws helps protect consumer rights and provide channels for dispute resolution and redress.

16. Consumer protection allows consumers to play an active role in the marketplace which, in turn, is meant to stimulate more dynamic and competitive markets. Equally, this helps them assert their rights as consumers, either individually, collectively or through non-governmental organizations, leading to a more inclusive and balanced society.

17. Sustainable consumption patterns that encourage the use of products and services to satisfy basic needs without negatively impacting the environment, so that future generations can meet their needs, require consumers to intentionally make informed choices of goods and services, to consume and to dispose of whatever remains with due regard for the economic, social and environmental impacts of their acquisitions and use. Consumers should be encouraged to refrain from purchasing goods and services that negatively affect their lives and those of future generations. They have a duty to be active participants in such efforts. The rights of consumers to safe and effective products and services go together with their responsibility to help preserve the planet.

18. The United Nations guidelines for consumer protection are “a valuable set of principles for setting out the main characteristics of effective consumer protection legislation, enforcement institutions and redress systems and for assisting interested Member States in formulating and enforcing domestic and regional laws, rules and regulations that are suitable to their own economic and social and environmental circumstances, as well as promoting international enforcement cooperation among Member States and encouraging the sharing of experiences in consumer protection”.¹⁷

19. The guidelines state that Member States should develop and implement consumer protection policies, setting their “own priorities for the protection of consumers in accordance with the economic, social and environmental circumstances of the country and the needs of its population, and bearing in mind the costs and benefits of the proposed measures” (guideline 4). The legitimate needs of consumers that the guidelines are intended to meet include the following: the protection of consumers from hazards to their health and safety; access by consumers to adequate information to enable them to make informed choices according to individual wishes and needs; consumer education, including education on the economic, social and environmental consequences of consumer choice; and the promotion of sustainable consumption patterns (guideline 5). Guidelines 6 and 7 on consumer policies and sustainable consumption may be linked to the 2030 Agenda and the Goals. In addition, consumer education is recognized as an important component of consumer protection.

20. Following the latest revision, the guidelines address businesses directly for the first time, establishing benchmarks for businesses to operate in a more responsible manner. The guideline on good business practices is relevant in the context of sustainable consumption, as the private sector is expected to play an active role in consumer protection (guideline 11).

21. The guidelines emphasize the use of standards for the safety and quality of consumer goods and services (guidelines 33 to 35). Voluntary and other standards, at the national and international levels, are instrumental for the private sector in pursuing sustainable consumption and production, complementing existing legal and regulatory frameworks.

22. Member States are encouraged to promote programmes related to consumer education and information, including such aspects as environmental protection and the efficient use of materials, energy and water (guidelines 42 to 48). The need to foster education and awareness initiatives that inform consumers, citizens and businesses of the importance of preserving the environment is crucial in both developed and developing countries. Contributions received from member States in response to the questionnaire circulated by UNCTAD show that consumer agencies are involved in consumer education in different ways (see chapter IV).

¹⁶ UNCTAD, 2017a, *Achieving the Sustainable Development Goals through Consumer Protection* (United Nations publication, New York and Geneva).

¹⁷ A/RES/70/186.

23. Finally, the guidelines state that responsibility for the development of sustainable consumption patterns is shared by all members of society, including consumers, businesses, labour organizations and environmental organizations (guidelines 49 to 62). In this process, consumers have the right to be informed about the impacts of their choices and the products and services they purchase. The guidelines state that Member States should encourage the design, development and use of products and services that are safe and energy- and resource-efficient; encourage consumers to both recycle wastes and purchase recycled products; promote the development and use of national and international health standards; and promote awareness of the health-related benefits of sustainable consumption and production patterns (guidelines 52, 53 and 56). The guidelines state that policymaking “should be conducted in consultation with business, consumer and environmental organizations and other concerned groups. Business has a responsibility for promoting sustainable consumption through the design, production and distribution of goods and services. Consumer and environmental organizations have a responsibility for promoting public participation and debate on sustainable consumption, for informing consumers and for working with Member States and businesses towards sustainable consumption” (guideline 50).

5. International cooperation

24. The United Nations guidelines for consumer protection encourage international cooperation, and this is especially relevant in sharing information and dealing with cross-border issues related to sustainable consumption, in order to seek joint solutions to better address the complex issue of sustainability through consumer protection policy (guidelines 79 to 94). The guidelines note that such cooperation could include “the setting up or joint use of testing facilities, common testing procedures, exchange of consumer information and education programmes, joint training programmes and joint elaboration of regulations” (guideline 79). Cross-border enforcement cooperation could be enacted between specialized agencies on consumer protection, health, metrology or food regulation, to combat fraudulent and deceptive commercial practices.

25. Agenda 21 of the United Nations Conference on Environment and Development aimed at achieving global sustainable development and combating environmental damage, poverty and disease. The United Nations guidelines for consumer protection provide a guide for all stakeholders in order to ensure proper regulatory mechanisms, policies and incentives to reduce pollution and the depletion of resources.

III. Promoting sustainable consumption through consumer protection policy

26. Promoting sustainable consumption and production are important aspects of sustainable development, which aims at achieving long-term economic growth that is consistent with economic, social and environmental needs. Public authorities at the local, national, regional and global levels can influence the sustainability of consumption and production by providing a framework within which business and consumers can operate, including mandatory obligations for producers and taxes on unsustainable goods and services. Other sustainable consumption tools include education and information campaigns that encourage citizens and institutions to adopt sustainable consumption patterns. Soft law, including best practices, codes of conduct and guidelines for business, and civil society initiatives targeting consumers, are necessary instruments that complement legislation. The United Nations guidelines for consumer protection therefore encourage Member States and all relevant stakeholders to establish a wide range of instruments.

27. According to one study, consumer protection policies aim to manage the socioeconomic reality of a country.¹⁸ Such a definition provides for a spectrum within which consumer protection policies operate, recognizing that “consumers often face imbalances in economic terms, educational levels and bargaining power”.¹⁹ The study notes

¹⁸ L Best, 2017, Framework to incorporate sustainability into South African consumer protection policy, PhD dissertation, Nelson Mandela Metropolitan University.

¹⁹ A/RES/70/186.

that even if the necessary infrastructure is in place, consumer policies do not necessarily target consumption patterns in terms of how and what is consumed.²⁰

28. Many developing countries have not yet incorporated sustainable consumption into their consumer protection policies and laws. There has been some effort to include sustainability aspects, for example in South Africa; the Consumer Protection Act, 2008, refers to a sustainable marketplace, yet the “consumer protection policy does not holistically incorporate sustainability”.²¹

29. Insufficient policy coordination between government departments dealing with consumer and environmental protection reduces the gains that could accrue if policy coordination in this area was increased, to ensure that, as consumer protection is encouraged and promoted, sustainable consumption is also encouraged and practised at all levels of society. A collaborative effort can be an effective means of promoting sustainability (box 2).

Box 2

Sustainability model: South Africa

Sustainable Wine South Africa, an alliance between the Wine and Spirit Board, Wines of South Africa and the integrated production of wine scheme, aims to commit the wine industry to sustainable, eco-friendly production methods through a sustainability model. A certification seal is applied to each container of wine or estate brandy certified by the Wine and Spirit Board, to guarantee origin, vintage and variety as stated on the label. This combined action provides checks and balances in wine production and processing, and introduces a way of thinking about future generations and assuring quality for consumers.

The voluntary integrated production of wine scheme was established in 1998 and, since then, 95 per cent of exporting producers representing 97 per cent of grapes harvested have joined. There are 15 guidelines for the production of grapes and 13 for the production of wine and the work of a committee of experts revises these guidelines biennially. Another group evaluates spray records based on the intellectual property coding of registered agrochemicals and assesses the environmental impact of each product. Compliance with the guidelines for grapes and production is further evaluated by the producers and winemakers themselves and audited by another body and other environmental specialists on a random basis. Evaluation records are made available to consumers.

The wine sector in South Africa is actively involved in promoting sustainability in all areas of the production chain. The collaboration between the Government and producers and processors in promoting sustainable consumption illustrates the shared responsibility of all stakeholders in the wine sector, including grape producers, wine processors and the government standards certification body. In addition, consumers are responsible for their choices, and may opt to purchase quality-controlled wine that takes into consideration the economic, social and environmental aspects of production, processing and distribution.

Source: Wines of South Africa, n.d., Sustainable Wine South Africa, available at <https://www.wosa.co.za/swsa/en/Overview/>.

A. Consumer education and awareness-raising

30. The UNCTAD *Manual on Consumer Protection* states that consumer education “refers to the process of gaining the knowledge and skills to manage consumer resources and taking steps to increase the competence of consumer decision-making”, while consumer information “refers to the provision of data relating to particular products or transactions so as to enable decision-making in relation to a purchase”, and consumer information is thus “situation-bound, while consumer education is a prerequisite for the effective use of consumer information”.²² Both are key features of the revised United

²⁰ Best, 2017.

²¹ Ibid.

²² UNCTAD, 2017b, *Manual on Consumer Protection* (United Nations publication, Geneva).

Nations guidelines for consumer protection and are particularly important in the promotion of sustainable consumption.

31. Consumer-oriented education campaigns are one of the ways through which Governments communicate knowledge. Education is a strong tool in promoting long-lasting individual behavioural changes in society, including sustainable consumption habits. Many countries, for example member States of the European Union and the Organization for Economic Cooperation and Development (OECD) such as Australia, Czechia, Finland, Ireland, Italy, the Republic of Korea and the United Kingdom of Great Britain and Northern Ireland, have been developing and teaching curricula on sustainable development, which includes sustainable consumption as one of its pillars.

32. At the United Nations, consumer education to enhance sustainable consumption is addressed by the Marrakech Task Force on Education for Sustainable Consumption, led by Italy, which develops lessons and exercises that demonstrate sustainable consumption at all stages of the education system. The United Nations Environment Programme notes that the success of public campaigns is linked to planning, market inquiries, the identification of target groups and areas and the best tools, as well as persistence and resilience, until results are obtained.²³

33. Contributions received from member States in response to the questionnaire circulated by UNCTAD illustrate their engagement with consumer education campaigns touching on all key areas provided for in State legislation. Such campaigns take different forms and involve the use of media (television, radio, newspapers and social media) and other platforms in their implementation. Some countries have set up educational programmes, as follows:

(a) Australia: Education and Information Advisory Committee handles national-level cooperation and coordination of education and information activities related to consumer law and consumer issues;

(b) Japan: Dietary and environmental education in schools;

(c) Spain: Annual Consumópolis competition in schools;

(d) United States: Federal Trade Commission disseminates information online, including through blogs and videos, on going green, shopping green, the language of recycling, the Energy Guide label, saving energy at home and lighting-related facts. Some of these initiatives have been geared to encouraging sustainable consumption for more than a decade;

(e) Zambia: Public drama performances.

34. The rise of electronic commerce and the digital economy has challenged traditional business models, broadened the channels for communications and facilitated the dissemination of education and awareness-raising campaigns. The use of social media may be an effective means of communication, as it covers a broad audience, in particular millennials, who represent an emerging group of entrepreneurs. Well-targeted messages that spread rapidly through social media provide a unique platform for consumer education and information provided by Governments, consumer agencies and civil society organizations.

B. Business practices and sustainability

35. Businesses aiming to adopt sustainable patterns should be guided in producing, selling and distributing according to such patterns. In addition to legally binding rules aimed at achieving sustainable production, awareness-raising and self-regulation activities can lead the private sector to operate in a more responsible manner.

²³ See United Nations Environment Programme, 2005, *Communicating Sustainability: How to Produce Effective Public Campaigns* (United Nations publication, Nairobi), and United Nations Environment Programme, 2015, *Sustainable Consumption and Production: A Handbook for Policymakers* (United Nations publication, Nairobi).

36. The inclusion of economic, social and environmental impacts in business models has been increasing. Sustainable business practices and business guidance have been key to this shift. The “triple-bottom-line” concept, also known as the people, profit and planet or three Ps concept, has emerged as a tool for promoting sustainable business. The concept adds, to the importance of profits, the consideration of social (e.g. on employees and local communities) and environmental (e.g. on the use of energy and water) impacts in the course of doing business. The business model was designed in part to promote sustainable consumption.²⁴

37. The World Business Council for Sustainable Development was formed to engage businesses worldwide in creating together an analysis of how the business community can adapt and contribute to sustainable development. The Council has been redefining certain business-related aspects, including profit and loss and performance and value creation and considering long-term social and environmental impacts.²⁵ Three measurement units are used for business performance and success, namely, true value, true costs and true profits.²⁶ With regard to diversity, purpose and profits, there is a need for an integrated, multidimensional reflection of business sustainability, that is, a method that, if well implemented, can provide businesses with an opportunity to contribute to preserving the environment for the benefit of future generations.²⁷

38. With regard to business guidance through public policy, Governments may promote the sustainability aspects of the distribution of goods and services. For example, the Government of Sweden has put in place mechanisms to encourage businesses to operate in accordance with sustainability standards based on existing international standards as outlined in the 2030 Agenda, under the United Nations Global Compact, in the *Guiding Principles on Business and Human Rights* of the Office of the United Nations High Commissioner for Human Rights, in the fundamental conventions and tripartite declarations under the International Labour Organization and in the OECD *Guidelines for Multinational Enterprises*. For example, one requirement refers to mandatory sustainability reporting according to international standards and, as part of the export strategy – one of the elements of the sustainable business policy of the Government – “sustainable business must be seen as a cornerstone in Swedish companies’ ability to create, grow and export”.²⁸

39. Labelling, whether mandatory or voluntary, by providing information on product characteristics and production methods, is also a useful means of informing consumers of the social and environmental impacts of products acquired and of raising awareness of more socially and environmentally beneficial products.²⁹

40. With regard to Africa, there may be efforts to promote sustainable consumption and production that have yet to be studied. One example of how sustainable consumption can be encouraged, to bring about positive change, is in Kenya, where the prohibition of the use of non-biodegradable plastic bags took effect in August 2017.³⁰ Plastic bags take over 100 years to degrade and in Kenya, about 100 million plastic bags were being handed out in supermarkets alone, not including other business outlets such as street vendor stalls and small and medium-sized enterprises.³¹ Many citizens have welcomed the ban and the efforts of the National Environment Management Authority, as plastic bags have had major consequences for the environment and various sectors of the economy.³² Currently, all

²⁴ J Elkington, 2004, Enter the triple bottom line, in: A Henriques and J Richardson, eds., *The Triple Bottom Line: Does It All Add Up?* (Earthscan, New York).

²⁵ World Business Council for Sustainable Development, 2015, *Reporting Matters: Redefining Performance and Disclosure* (Geneva).

²⁶ See <https://www.wbcsd.org/Programs/Redefining-Value/External-Disclosure/Reporting-matters/Resources/Sustainable-Development-Reporting-Striking-the-balance> and <https://journals.sagepub.com/doi/abs/10.1177/1086026615575176>.

²⁷ See <https://www.theguardian.com/sustainable-business/unilver-ceo-paul-polman-purpose-profits>.

²⁸ Sweden, Ministry of Enterprise and Innovation, 2017, *Sustainable Business: The Government’s Policy for Sustainable Business* (Stockholm).

²⁹ See UNCTAD, 2017b.

³⁰ *The Kenya Gazette*, 2017, Notice No. 2356, 14 March.

³¹ J Konchellah, 2017, Plastic bags ban is a blessing for Kenya, National Environment Management Authority, available at https://www.nema.go.ke/images/Docs/Notices/Chairman_statement_on_ban_of_plastic_bags.pdf.

³² *Ibid.*

major supermarkets, street vendors and other shops must use biodegradable packaging materials, which are more beneficial to the environment. This example shows how government intervention, including fines and court proceedings in place for those who infringe the prohibition, can target both businesses and consumers, with positive responses from both sides.

41. Both businesses and consumers have a duty to promote sustainable consumption and production. Some of the actions discussed in this section are aimed at businesses, yet there are cross-cutting actions that both businesses and consumers can take to promote sustainable consumption and production, as applicable. Consumer responsibility lies primarily in the choice of goods and services purchased, the disposal of products that are no longer in use and the verification of information on packaging. Private companies may develop codes of conduct, guidelines or good business practices, following national and international standards. Such initiatives are an important complement to applicable legal frameworks and illustrate the voluntary commitment of businesses to go further in achieving sustainable consumption and production.

IV. Sector-specific examples

42. Some examples from specific sectors of promoting sustainable consumption through consumer protection policy are provided in this chapter.

A. Food loss and waste

43. According to the Food and Agriculture Organization of the United Nations, food loss is the “decrease in quantity or quality of food” and food waste refers to “discarding or alternative (non-food) use of food that is safe and nutritious for human consumption along the entire food supply chain” from harvest to consumption.³³ Food waste is a distinct part of food loss “because the drivers that generate it and the solutions to it are different from those of food losses” and, each year, an estimated one third of all food produced for human consumption is lost or wasted worldwide; per capita food waste at the consumer level in Europe and North America is 95–115 kg per year and in sub-Saharan Africa and South and South-East Asia, 6–11 kg per year.³⁴

44. Food loss and waste is a global problem that threatens human existence in two ways, namely that there are people dying of hunger while others are throwing away food and that the process of wasting food leads to environmental pollution and the depletion of resources for future generations. It is estimated that almost 1 billion people do not have enough to eat and that nearly 1 billion people have micronutrient deficiencies, while at the same time 1.3 billion tonnes of food is wasted each year.³⁵

45. A high level of energy consumption is associated with the food sector, which accounts for over 30 per cent of energy use globally and 22 per cent of total greenhouse gas emissions.³⁶ In addition, food production affects soil quality, leads to deforestation, uses a high level of water and leads to fish stock and general marine depletion, which all negatively affect the ability to supply food.³⁷

46. With regard to agriculture, a large portion of environmental impacts is observed at the time of the production and processing of food, yet individuals and families also

³³ Food and Agriculture Organization of the United Nations, 2019, Technical platform on the measurement and reduction of food loss and waste, available at www.fao.org/platform-food-loss-waste/food-waste/definition/en/.

³⁴ Ibid.

³⁵ See <http://www.worldwatch.org/forgotten-1-billion-0>.

³⁶ Food and Agriculture Organization of the United Nations, 2011, *Energy-Smart Food for People and Climate* (Rome).

³⁷ See <https://www.iucn.org/news/forests/201610/how-do-we-improve-sustainability-food-production-systems-without-clearing-more-forests-and-depleting-ecosystems> and Food and Agriculture Organization of the United Nations, 2013, *Food Wastage Footprint: Impacts on Natural Resources* (Rome).

contribute through what they choose to eat and their lifestyles.³⁸ In this regard, consumer education and awareness-raising campaigns can play an important role by promoting sustainable and healthier food and living habits. Target 12.3 under the Sustainable Development Goals is to, by 2030, halve per capita global food waste at the retail and consumer levels and reduce food losses along production and supply chains, including post-harvest losses. For example, the Government of the United Kingdom has launched a collaborative scheme with businesses, charities and volunteers to address the problem of food waste by redistributing 100,000 tonnes of surplus food that is readily available but goes uneaten.³⁹

47. Food loss and waste is not confined to the developed world, but may also be observed in developing middle-income countries.⁴⁰ Effective measures that may be implemented to address this problem include consumer policy actions and initiatives, consumer education and awareness-raising in schools, the use of traditional and social media to target households, the engagement of civil society organizations and businesses and the sharing of best practices. For example, the Argentina School on Consumer Protection held an online course on food loss and waste as part of a module on sustainable consumption, which also included subjects such as healthy nutrition, quality stamps and food labelling, and had 501 participants. In addition, in 2018, regulations applicable to food donors were revised following consultations with the leading supermarket chains operating in Argentina and, following this reform, along with consumer and supplier awareness-raising campaigns, food redistribution has increased considerably, benefitting mostly children.

B. Recycling

48. According to the Cambridge Dictionary, to recycle means to sort and collect rubbish in order to treat it and produce useful materials that can be used again. This also entails the notion of reusing products in order to help preserve the environment. Recyclable products include, among others, glass, plastics, papers and metals; regulations concerning their recycling differ between States. The United States Environmental Protection Agency states that recycling is “the process of collecting and processing materials that would otherwise be thrown away as trash and turning them into new products” and that recycling can benefit communities and the environment.⁴¹ As a way of encouraging recycling, the Agency provides related guidance to households, businesses and organizations.

49. The United Nations guidelines for consumer protection state that Member States should “encourage recycling programmes that encourage consumers to both recycle wastes and purchase recycled products” (guideline 52), which may be effected through measures that combine consumer education and business engagement.

50. The United States Federal Trade Commission has developed green guides to assist businesses to make factual and substantiated environmental claims regarding their products. The term “recycled content” has been expanded in these guides to include products and packages that contain reused, reconditioned or remanufactured materials, as well as recycled raw material, to be consistent with consumer understanding and to reflect that “it is better for the environment to recycle by reusing, since reuse is likely to consume fewer resources than recycling from raw materials”.⁴² Manufacturers are required to disclose the recycle and reuse aspects of their products.

51. The benefits of recycling are many, including preserving resources for reuse, preventing the release of greenhouse gases into the atmosphere from waste that is left unattended or unprocessed and, for example, saving trees by using recycled paper. The United Nations recycles 100 per cent of the paper used at the Headquarters Building.⁴³

³⁸ See <https://www.unenvironment.org/explore-topics/sustainable-development-goals/why-do-sustainable-development-goals-matter/goal-12>.

³⁹ See <https://www.gov.uk/government/news/action-to-reduce-food-waste-announced>.

⁴⁰ See <https://www.weforum.org/agenda/2015/08/which-countries-waste-the-most-food/>.

⁴¹ See <https://www.epa.gov/recycle/recycling-basics>.

⁴² Federal Trade Commission, 1998, FTC [Federal Trade Commission] expands definition of “recyclable” and “recycled” claims agency updating its “green guides”, 22 April.

⁴³ See <http://www.greeningtheblue.org/what-the-un-is-doing/united-nations-headquarters-unhq>.

In many countries, local authorities include the two components of recycling and composting in their programmes, such as in municipal solid waste programmes, and deliver the recyclable materials to processing sites. The success of such programmes is dependent on a collaborative effort between households, businesses, institutions, local authorities and other stakeholders.

52. With regard to municipal solid waste programmes in OECD member States, Germany is rated as the best waste recycler, with 68 per cent of waste recycled or composted, and its success is associated with a public education initiative that informs residents of how to identify trash, compost or recycling, so that individual households do most of the work, and residents are also required to pay more based on the level of use of packaging, which has led to an overall reduction in use and increased participation in recycling and composting programmes.⁴⁴ The Republic of Korea is rated as the second best waste recycler, with 59 per cent of waste recycled or composted, and the Government has invested 2 per cent of its gross domestic product into a green growth programme that also has rules whereby waste producers must pay according to the amount of waste produced, which acts as an incentive to create less waste and to separate recycling from trash.⁴⁵ Austria and Slovenia are rated as the third best waste recyclers, with 58 per cent of waste recycled or composted; Slovenia has had the most rapid improvement in waste programmes, aided by an initiative on zero waste and the absence of garbage incinerators, and Austria has surpassed the European Union goal of increasing recycling to 50 per cent by 2020 with, for example, 80 per cent of glass either recycled or reused.⁴⁶ Other countries recycle and/or compost at the following rates: Belgium, 55 per cent; Switzerland, 51 per cent; the Netherlands, 50 per cent; Sweden, 50 per cent; Luxembourg, 48 per cent; Iceland, 45 per cent; Denmark, 44 per cent; and the United Kingdom, 43 per cent.⁴⁷

53. Both businesses and consumers have a central role to play in promoting sustainable consumption in the areas of food loss and waste and recycling. Agricultural producers and processors should ensure that their processes consider the incidence of food loss and waste. Consumers should make sustainable food choices and refrain from purchasing excess, unneeded food. Both businesses and consumers should dispose of leftover food according to principles defined by local authorities, if available. Businesses and households contribute significantly to recycling programmes in many countries and such waste management programmes may be adapted for use in developing countries.

C. Environmental claims

54. Environmental claims, also called green claims, “are assertions made by firms about the environmentally beneficial qualities or characteristics of their goods and services” and can refer to

the manner in which products are produced, packaged, distributed, used, consumed and/or disposed of. In addition to environmental aspects, these claims are sometimes defined to include the socially responsible or ethical manner in which products are produced and distributed.

Environmental claims can appear on a product (i.e. good or service) label, its packaging, in related literature or advertising material, as well as in promotional and point-of-sales material and other forms of marketing. Claims can take the form of words, symbols, emblems, logos, graphics, colours and product brand names. They can be transmitted through the written media, including newspapers and magazines, electronic media such as television and radio, and digital media such as the Internet.⁴⁸

⁴⁴ World Atlas, 2018, OECD Recycling Statistics, available at <https://www.worldatlas.com/articles/oecd-leading-countries-in-recycling.html>.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ OECD, 2011, Environmental claims: Findings and conclusions of the OECD Committee on Consumer Policy, available at https://www.oecd-ilibrary.org/environment/environmental-claims_5k9h3633prbq-en.

55. Increased environmental consciousness and the introduction of climate, energy and resource-related efficiency targets in various regions has led to an increase in the use of environmental claims by businesses. Consumer engagement has also been recognized as a vital component of this process. In order to effectively motivate consumers with regard to sustainable consumption, producers and traders may use information and advertising to draw attention to environmentally friendly products.

56. According to surveys in OECD member States, “consumers are increasingly expressing the desire to purchase environmentally friendly goods and services” and businesses should therefore ensure that environmental claims are clear, accurate and reliable.⁴⁹ Misleading and unfair commercial practices are addressed in Directive 2005/29/EC of the European Union on unfair business-to-consumer commercial practices in the internal market. Member States of the European Union then apply these provisions through national legislation, including with regard to green and environmentally friendly claims and their clarity, accuracy, substantiation and documentation.⁵⁰

57. Green products combine the “societal benefits of reduced environmental damage with higher satisfaction of consumers. There can be also relevant economic benefits for consumers, notably through more efficient use of resources, energy savings or a longer lifetime of products”.⁵¹

58. According to a study that examined the presence of environmental claims for non-food products in different markets, such claims are widespread on product packaging and advertising; 76 per cent of products assessed contained such claims in the form of a logo, textual messages and/or images and colours. The study noted that there was a low level of understanding of green claims among consumers, at 61 per cent, as well as a lack of trust in the information provided, at 44 per cent, and that consumers found it difficult to differentiate between genuine claims and self-declarations. In a sample of claims analysed against the directive on unfair commercial practices, many were found to use vague terms and to not meet the requirements of accuracy and clarity. However, several countries had published guidelines on environmental claims through official channels. Finally, the study noted that market surveillance faced resource constraints and that further measures needed to be implemented to streamline environmental claims in Europe and other regions, including through consumer education and awareness-raising, increased enforcement against misleading and deceptive environmental claims and a review and update of the European legal framework on unfair commercial practices in line with market changes and dynamics, among other legal initiatives.⁵²

59. The green guides of the United States Federal Trade Commission cover three areas, namely, general principles applicable to all environmental claims, the interpretation of particular claims by consumers and how businesses can substantiate these claims and how businesses can qualify their claims to avoid deceiving consumers.⁵³ The green guides suggest standards for businesses to use to provide consumers with credible information as they make choices in purchasing products, require that businesses be able to provide scientific evidence to substantiate environmental claims on their products or packaging and provide specific instructions to businesses in abiding by the laws.⁵⁴ Among others, the guides address claims related to environmental benefits, carbon offsets and products that are compostable, degradable, free of, non-toxic, ozone safe, recyclable, refillable or made with renewable energy or materials and, for each, the guides provide suggestions of what marketers should and should not do.⁵⁵ Consumers may file a complaint if they think that a claim is deceptive; for example, the Commission has previously dealt with deceptive practices related to recyclable products and products with recycled content.

⁴⁹ Ibid.

⁵⁰ See the guidance on the implementation and application of Directive 2005/29/EC available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52016SC0163>.

⁵¹ European Commission, 2014, Environmental claims for non-food products, available at https://ec.europa.eu/info/publications/environmental-claims-non-food-products_en.

⁵² Ibid.

⁵³ See <https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/green-guides>.

⁵⁴ See <https://www.ftc.gov/tips-advice/business-center/advertising-and-marketing/environmental-marketing>.

⁵⁵ Ibid.

60. A recent example of a case regarding environmental claims is presented in box 3.

Box 3

Environmental claims: Australia

In April 2018, the Federal Court of Australia ordered Pental Limited and Pental Products Proprietary Limited to pay penalties totalling \$A700,000 for making false and misleading representations about its flushable toilet and bathroom cleaning wipes.

The Australian Competition and Consumer Commissioner stated that the Commission had taken action “due to concerns that consumers were being misled into believing that the wipes were suitable to be flushed” and that if they are flushed, “wastewater authorities face significant problems [as] they can cause blockages in household and municipal sewerage systems”.

Pental stated that it had falsely represented its wipes, on packaging and promotional materials, as being made from a specially designed material that disintegrated in the sewage system, having similar characteristics to toilet paper when flushed and being suitable to be flushed into the sewage system.

In addition to imposing penalties, the Court made declarations that these representations were false or misleading in contravention of Australian Consumer Law, and ordered Pental to implement a compliance programme.

Source: Australian Competition and Consumer Commission, 2018, Pental to pay \$[A]700,000 in penalties for ‘flushable’ wipes claims, media release, 12 April, available at <https://www.accc.gov.au/media-release/pental-to-pay-700000-in-penalties-for-%E2%80%98flushable%E2%80%99-wipes-claims>.

61. In some countries, such as Australia, Bulgaria, the United States and Zambia, agencies apply existing provisions to deal with environmental claims; such provisions may include misleading and deceptive conduct or false or misleading representation (Australia), misleading claims (Bulgaria), unfair or deceptive acts or practices in commerce (United States) and making false claims that distort or are likely to distort consumer purchasing decisions (Zambia).⁵⁶ Australia and the United States have had cases on environmental claims in which penalties and corrective measures were imposed on various companies in different sectors. Examples of cases in the United States involve the following sectors (and claims): motor vehicles (clean diesel); light-emitting diode light bulbs (output and longevity); paints (emissions free); mattresses for babies (organic labelling); disinfectant devices (fungus and bacteria elimination); retail (bamboo-related labelling) and plastics (biodegradability).⁵⁷

62. Many developing countries may not have acquired the tools and experience required to deal with environmental claims. Imported goods from developed countries that may be the subject of environmental claims can enter developing countries, where consumers may not be aware that such claims may amount to unfair commercial practices. Experiences from more advanced consumer agencies and some developed countries remain relevant. Due to the importance of sustainable consumption, producers and traders may use environmental claims to entice consumers to choose their products and services. As with other advertising claims, environmental claims need to meet objective criteria and principles, and consumer agencies need to take stock of existing studies and methodologies to assess the truthfulness and accuracy of such claims, and learn from peers whenever possible.

⁵⁶ Contributions from member States to UNCTAD questionnaire.

⁵⁷ Contribution from the United States to UNCTAD questionnaire; see <https://www.ftc.gov/news-events/media-resources/truth-advertising/green-guides>.

V. Topics for further discussion

63. Consumer policy can be an effective instrument to promote sustainable consumption, a cross-cutting topic that is embodied in the Sustainable Development Goals and being considered by several organizations and institutions in the United Nations system. However, developing countries may lack consumer policy frameworks or have too recently implemented such frameworks and/or may face challenges with regard to consumer protection law enforcement. Stronger policy advice and technical assistance for developing countries and countries with economies in transition is therefore required, to provide support in achieving the 2030 Agenda and the Goals.

The role of UNCTAD

64. As the custodian of the United Nations guidelines for consumer protection, UNCTAD will continue to advise member States in implementing the revised guidelines. In addition, UNCTAD will endeavour to include sustainable consumption-driven education and awareness-raising activities in its capacity-building programmes in developing countries, and will gather sustainable consumption-related information for related exchanges between member States.

65. Delegates at the fourth session of the Intergovernmental Group of Experts on Consumer Protection Law and Policy may wish to consider the following questions for discussion:

- How can section H of the United Nations guidelines for consumer protection on sustainable consumption be transposed into the national laws of member States? Are developing countries prepared to undertake such a task?
 - How can international cooperation, namely through United Nations agencies and other international organizations, help to further promote sustainable consumption?
 - What other best practices can be shared in this area from States, non-governmental organizations and the private sector?
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