

Eleventh Meeting of the UNCTAD Research Partnership Platform

17-18 December 2020

**ON-LINE DISPUTE RESOLUTION AND CONSUMER REDRESS IN
SOUTH AFRICA... AFRICA**

*Presentation by Dr. Laura Best
South Africa*

This material has been reproduced in the language and form as it was provided. The views expressed are those of the author and do not necessarily reflect the views of UNCTAD.

On-line Dispute Resolution & Consumer Redress in South Africa...Africa

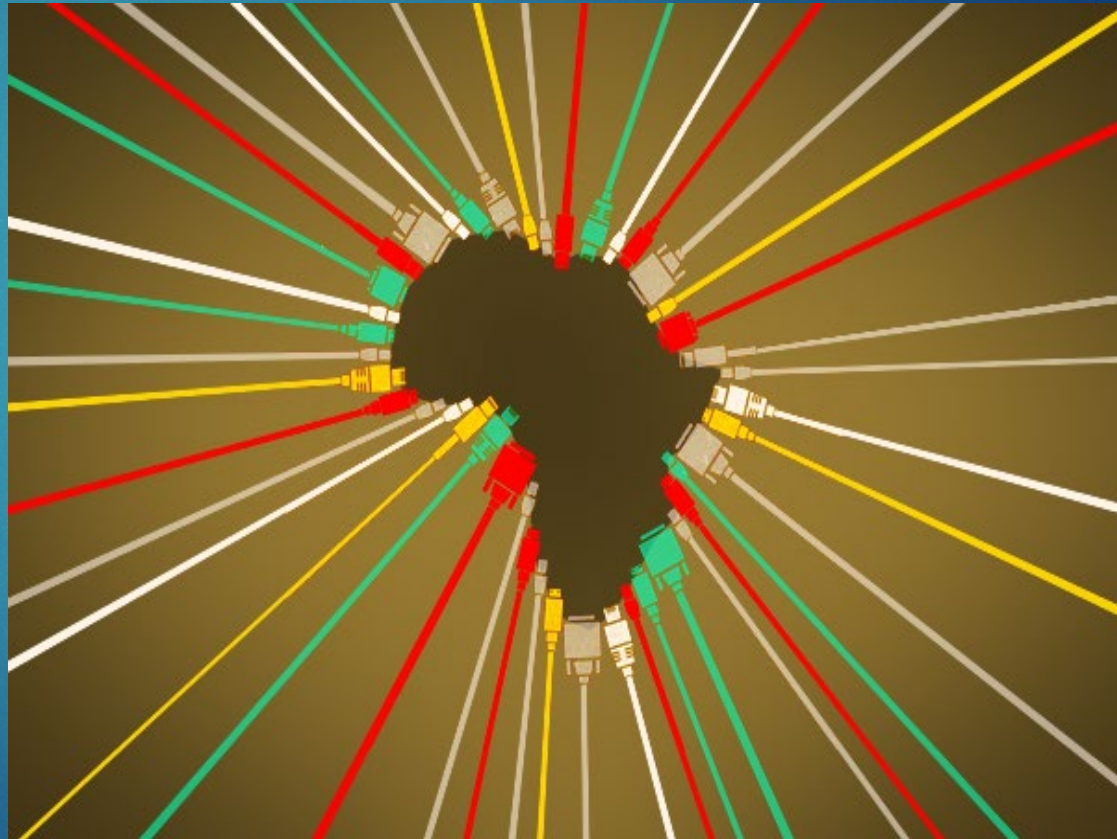
UNCTAD: RPP 2020

11th Meeting

18 December

Laura Best

South Africa



Consumers in Africa



Urban Resource
Comfortable



Urban Resource
Constrained



Rural Subsistence



e-commerce

Market Complexities & Polarities

Hybrid economy:

Informal; formal; digital

Geographically dispersed

Rural-urban dichotomy

Bottom-of-pyramid

Income unpredictability

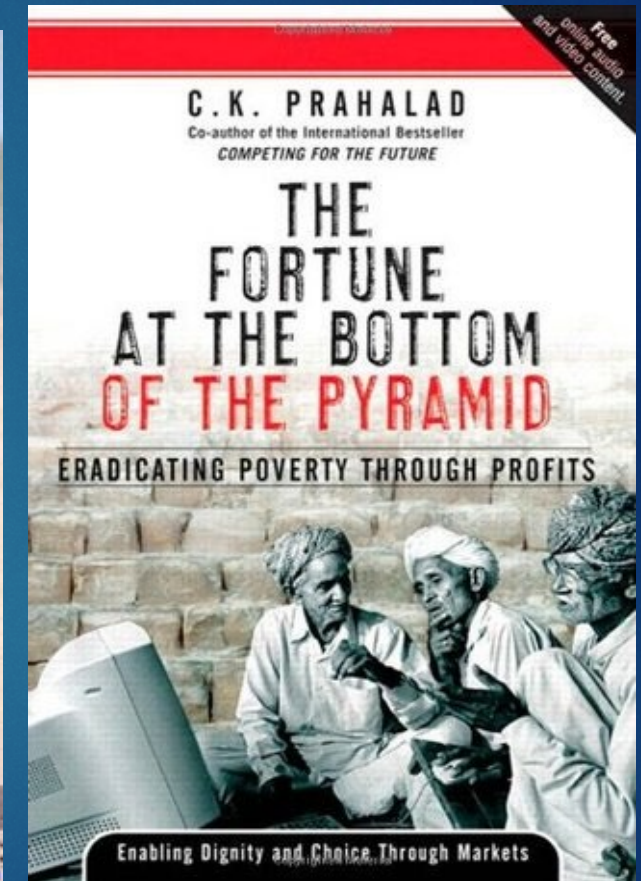
Collective purchasing & financing

Unbanked

Connectivity constraints

Consumer caution

Uneven regulatory capacity



Changing Demographics

Digital Consumer Opportunities

Rise of resource comfortable consumers

Exponential population growth

Youth dividend

Rapid urbanization & connectivity

Fast adoption of digital technologies

E-commerce: Rapidly Emerging

Implications

Global access

Expanded choices

New products & services

Consumer co-creation

Multiplicity of markets

B2B; B2C; C2C



ODR Implications: African Implementations

- ▶ Consumer readiness?
- ▶ Institutional capability?
- ▶ Market responsiveness?
- ▶ FAIR ACCESS?



South African [Uneven] Landscape



Baseline ODR Enablers

- ▶ Active consumers
- ▶ Engaged business sector
- ▶ Consumer protection legislation
- ▶ Functional redress mechanisms
- ▶ Digital capability

“Virtual door to the Tribunal”

Experimenting with Digitizing Redress

Settlement Orders

- ▶ **Asynchronous** On-line System [own time]
- ▶ Auto-upload: filing & case administration
- ▶ In-Chambers adjudication (single member)
- ▶ E-order issuing

Dispute Hearings

- ▶ **Synchronous** Case Hearing [all parties same time]
- ▶ Office-assisted filing & case management
- ▶ On-line IT meeting tools
- ▶ Written judgment

“Virtual door to the Tribunal”

Experimenting with Digitizing Redress

Settlement Orders

- ▶ Consensual
- ▶ Pre-agreement reached by parties
- ▶ Seeking Confirmatory Consent Orders
- ▶ Pre-definable outcomes

Dispute Hearings

- ▶ Oppositional
- ▶ Parties to appear in person to argue cases
- ▶ Seeking reasoned judgment
- ▶ Unknown outcome - complex factual argument

Learnings



Online by Design

IT = 4th Assistant

New behaviours: New rules: New ethics

Allow time to learn & re-learn

Meeting consumers/parties at their digital doorstep

Squeezing out?

What Next?/How Far?

- ▶ Global e-ODR system
- ▶ Centralized CyberCourt
- ▶ Algorithmic adjudication
- ▶ Hologramic hearings & courts



Closing Questions



Do UNGCP go far
enough
EXPAND/REFINE?



A sub-topic of IGE
Working Group
e-commerce?