

**Intergovernmental Group of Experts on Consumer Protection
Law and Policy, First Session**

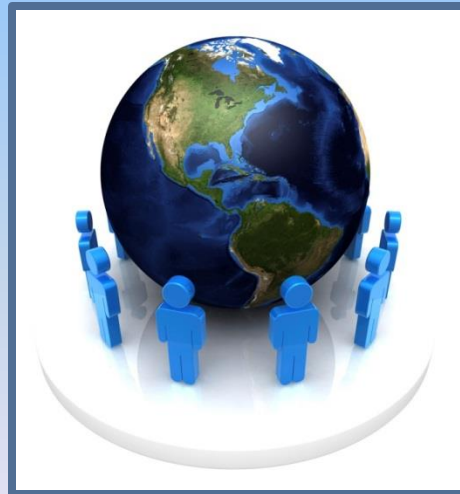
Geneva, 17-18 October 2016

**Contribution
by
*US Federal Trade Commission***

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




These comments are mine and don't reflect the official position of the FTC.


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October 2016




Road Map

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- Economic Environment and Background

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- UNCTAD Mandate - Local and Regional Capacity Building Needs

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- 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**

PROBLEM!



- 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

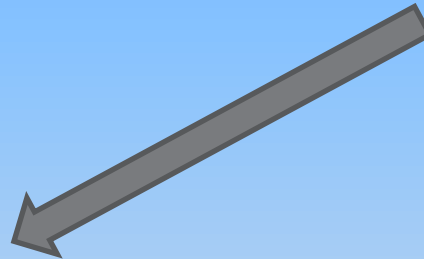
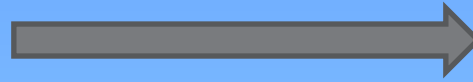
- One way to measure detriment is with consumer complaints
- Enforcement tools
- Helps identify:
 - Key Issues Impacting Consumers
 - Patterns and trends in consumer fraud and identity theft
 - The issues and actors causing the greatest harm to consumers
- The complaint collection process may also help 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.

A screenshot of the econsumer.gov website. The header includes the ICPEN logo, the text "econsumer.gov is an initiative of the International Consumer Protection and Enforcement Network.", and a "Privacy Policy" link. Below the header is a navigation bar with "FILE A COMPLAINT" (highlighted in blue), "OTHER STEPS YOU CAN TAKE", and "NEWS AND TRENDS". The main content area features a "Report international scams online!" section with bullet points: "econsumer.gov is a partnership of more than 35 consumer protection agencies around the world." and "Your complaint helps authorities spot trends and combat fraud." Below this is a "Click on a complaint subject below to get started" section with a grid of categories: Online Shopping/Ecommerce Services/Computer Equipment, Credit and Debt, Telemarketing and Spam, Jobs and Making Money, Impostor Scams: Family, Friend, Government, Business or Romance, Lottery, Sweepstakes, or Prize Scams, Travel and Vacations, Phones/Mobile Devices, and Phone Services, and Other. A "How we use and share your data" link is also present. The bottom section includes "WHAT IS ECONSUMER.GOV?" with a globe icon and a "Member Countries" section with a world map showing 30 member countries highlighted in blue.

Consumer Education

CONSUMER INFORMATION

Search

MONEY &
CREDIT

HOMES &
MORTGAGES

HEALTH &
FITNESS

JOBS &
MAKING MONEY

PRIVACY &
IDENTITY

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Take Action

-  [File a Consumer Complaint](#)
-  [Register for Do Not Call](#)
-  [Report Identity Theft](#)
-  [Get Your Free Credit Report](#)
-  [Order Free Resources](#)

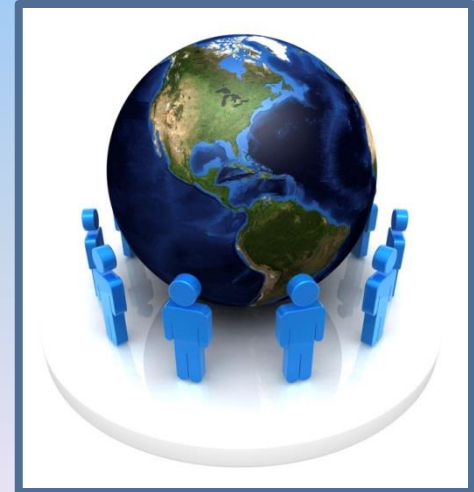
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US FTC Technical Assistance Overview

- 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 provides 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

THANK YOU!



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