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## **Building trust in digital markets through enhanced consumer protection on online platforms\***

**Note by the UNCTAD secretariat**

### *Summary*

The growth of the digital economy depends on the trust that consumers place in it. One of the main drivers of value creation in the digital era is the process of “platformization”, which has also become central to consumers’ access to digital marketplaces. In this note, an overview is provided of emerging consumer protection issues in the context of online platforms, as a means of building trust in digital markets, namely in relation to information and advertising, education, product safety, data protection, dispute resolution, responsibility and liability of platforms, and enforcement. Reference is also made to the role that member States have identified for UNCTAD in the field. A brief conclusion follows, with policy recommendations for policymakers and proposed questions for discussion at the seventh session of the Intergovernmental Group of Experts on Consumer Protection Law and Policy.

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## I. Introduction

1. The General Assembly, in its resolution 70/186 of 22 December 2015 on consumer protection, considered that electronic commerce (e-commerce) “has become increasingly relevant to consumers worldwide and that the opportunities it offers should be harnessed to help facilitate economic development and growth based on emerging network technologies, with computers, mobile phones and connected devices that promote consumer welfare”. In the Bridgetown Covenant of 2021, the widening digital divide and the uneven speed of digital transformation were identified as one of the major global challenges; as stated in the document, “it is fundamental for fair, sound and robust competition and consumer protection policies and enforcement to maintain a robust, level playing field and enhance transparency for all participants... Ensuring effective competition, including through support in developing and implementing competition policies and through cooperation among competition authorities, paired with robust consumer protection in the market, will help foster economic efficiency, resulting in safer and better products at lower prices for consumers” (TD/541/Add.2, para. 56).

2. From 2019 to 2022, the proportion of the global population that uses the Internet increased from 54 per cent to 66 per cent; there were 5.3 billion Internet users in 2022.<sup>1</sup> The growth of the digital economy depends on the trust that consumers place in it. Indeed, according to a survey by the Centre for International Governance Innovation–Ipsos, conducted in collaboration with UNCTAD, on the state of the global digital economy,<sup>2</sup> consumers refrained from purchasing goods or services online mainly due to a lack of trust. Another such survey concluded that, as distrust of the Internet prevails, consumers across the world are taking precautions, one of which is making fewer online purchases.<sup>3</sup> The United Nations guidelines for consumer protection, revised in 2015, contain a specific section on e-commerce and recommend that member States should “work towards enhancing consumer confidence in electronic commerce by the continued development of transparent and effective consumer protection policies, ensuring a level of protection that is not less than that afforded in other forms of commerce” (A/RES/70/186, annex, para. 63).

3. Despite fragile consumer trust, UNCTAD estimates show significant growth in e-commerce during the coronavirus disease (COVID-19) pandemic, particularly in online retail sales. The share of information and communications technology (ICT) goods in merchandise imports surged from around 13 per cent in 2019 to nearly 16 per cent in 2020, the largest annual increase since UNCTAD records began in 2000.<sup>4</sup> In 2019, 53 per cent of Internet users shopped online, and this proportion increased to 60 per cent after the start of the pandemic, according to statistics across 66 countries.<sup>5</sup>

4. UNCTAD had already highlighted, in the *Digital Economy Report 2019*, that digital data and “platformization” were the two main drivers of value creation in the digital era.<sup>6</sup> As indicated in the report, the combined value of platform companies with a market capitalization of more than \$100 million was estimated at more than \$7 trillion in 2017.<sup>7</sup> At the end of 2022, the combined value of the seven leading platforms surpassed

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<sup>1</sup> International Telecommunication Union, 2022, *Measuring Digital Development: Facts and Figures 2022*; see <https://www.itu.int/itu-d/reports/statistics/2022/11/24/ff22-internet-use>.

<sup>2</sup> Centre for International Governance Innovation–Ipsos, 2017, Global survey on Internet security and trust, available at <https://www.cigionline.org/cigi-ipsos-global-survey-internet-security-and-trust>. See also <https://unctad.org/press-material/global-survey-reveals-impact-declining-trust-internet-e-commerce>.

<sup>3</sup> *Ibid.*, 2019, Global survey on Internet security and trust. See also <https://unctad.org/press-material/jointly-released-cigi-ipsos-internet-society-and-unctad>.

<sup>4</sup> UNCTAD, 2021, Impacts of the COVID-19 pandemic on trade in the digital economy, Technical note.

<sup>5</sup> UNCTAD, 2022, COVID-19 boost to e-commerce sustained into 2021, new UNCTAD figures show, 25 April.

<sup>6</sup> UNCTAD, 2019, *Digital Economy Report 2019: Value Creation and Capture – Implications for Developing Countries* (United Nations publication, Sales No. E.19.II.D.17, Geneva).

<sup>7</sup> *Ibid.*

\$11 trillion.<sup>8</sup> These platforms have achieved strong market positions in certain areas. For example, Google had over 90 per cent of the global market for Internet searches in 2022.<sup>9</sup> Facebook accounted for almost 70 per cent of the global social media market.<sup>10</sup> Taobao and Tmall (both owned by Alibaba) were the biggest online marketplaces based on gross merchandise volume in 2021, and, by market capitalization, Amazon remained the leading e-commerce platform.<sup>11</sup>

5. The advertiser-funded business model of digital platforms relies on data value chain and consumer data monetization and is a key competitive factor. Massive levels of data collection, storage, processing and use, and data-driven network effects, coupled with consumer inertia and switching costs, enable the platforms to capture a significant amount of data, creating a feedback loop that helps them improve their services and attract more users and advertisers. Global digital platforms have continued consolidating their dominant position in the advertising market. By 2022, digital advertising spending was expected to reach 60 per cent of total media advertising spending, which is about double the share of 2013.<sup>12</sup> The share of top five digital platforms (Alibaba, Amazon, Facebook, Google and Tencent) in terms of total digital advertising spending is expected to exceed 70 per cent, up from 50 per cent in seven years.<sup>13</sup>

6. Another characteristic of platform markets is their natural cross-border dimension. Even though national laws apply within jurisdictions, digital platforms tend to have a global reach as they transcend countries' borders. Online platforms do not necessarily need to be physically present in a territory to serve consumers there because of their data-centric business models. Again, the dominance of very few large digital platforms and their control over data confer significant economic power.<sup>14</sup> The cross-border nature of e-commerce and digital platforms gives rise to new regulatory and enforcement challenges.

7. Despite the fact that the General Assembly considered "that Member States, businesses, consumers and their representatives should devote special attention to the development of effective consumer protection in electronic commerce and that certain consumer protection issues, such as applicable law and jurisdiction, may be addressed most effectively through international consultation and cooperation",<sup>15</sup> fragmented or incompatible regulations across jurisdictions and cross-border enforcement are still prominent challenges that hamper consumer trust in the digital economy and particularly in online platforms.

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<sup>8</sup> Tencent, Apple, Alibaba, Microsoft, Alphabet, Amazon and Meta. Market capitalization estimates were calculated by multiplying share number and price (as at 30 December 2022) listed on Yahoo Finance (<https://finance.yahoo.com/>).

<sup>9</sup> See <https://gs.statcounter.com/search-engine-market-share>.

<sup>10</sup> See <https://gs.statcounter.com/social-media-stats/all/worldwide/2022>.

<sup>11</sup> See [https://www.statista.com/topics/4827/online-marketplaces/#topicHeader\\_\\_wrapper](https://www.statista.com/topics/4827/online-marketplaces/#topicHeader__wrapper).

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> European Commission, Expert Group for the Observatory on the Online Platform Economy, 2021, [Final report: Uncovering blindspots in the policy debate on platform power](#).

<sup>15</sup> A/RES/70/186, fourteenth preambular paragraph.

8. In this context, the Intergovernmental Group of Experts on Consumer Protection Law and Policy, at its sixth session, requested that the UNCTAD secretariat prepare reports and studies for the seventh session on building trust in digital markets through enhanced consumer protection on online platforms (TD/B/C.I/CPLP/32, chap. 1). In this regard, the secretariat circulated a questionnaire and received inputs from 36 member States, two international organizations, four non-governmental organizations and four independent experts.<sup>16</sup> An informal UNCTAD working group on consumer protection in e-commerce provided insights on misleading and unfair practices, consumer education and business guidance, and cross-border enforcement cooperation.<sup>17</sup>

9. An overview is provided in this note of emerging consumer protection issues in the context of online platforms, as a means of building trust in digital markets, namely in relation to information and advertising, education, product safety, data protection, dispute resolution, responsibility and liability and enforcement. Member State initiatives are described, and reference is made to the role that member States have identified for UNCTAD in this field. A brief conclusion follows, with policy recommendations for policymakers and proposed questions for discussion. The aim is to build on and try to avoid repetition of previous UNCTAD notes, namely on consumer protection in electronic commerce,<sup>18</sup> consumer product safety,<sup>19</sup> dispute resolution and redress,<sup>20</sup> the contribution of consumer protection to sustainable consumption,<sup>21</sup> strengthening consumer protection and competition in the digital economy,<sup>22</sup> and financial consumer protection, including financial education and literacy.<sup>23</sup>

## II. Consumer protection in platform markets

10. As recommended by the United Nations guidelines for consumer protection, Member States should, where appropriate, review existing consumer protection policies to accommodate the special features of electronic commerce and ensure that consumers and businesses are informed and aware of their rights and obligations in the digital marketplace.<sup>24</sup>

11. The twenty-first century has witnessed a global trend of platformization, which can be defined as “the penetration of the infrastructures, economic processes and governmental frameworks of platforms in different economic sectors and spheres of life”.<sup>25</sup> From retail and media, to transport and hospitality, digital platforms are playing an increasingly important role in online consumption. This may require Governments to review their policies to address consumer protection concerns in online platform markets.

<sup>16</sup> Argentina, Armenia, Australia, Azerbaijan, Bahrain, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Hong Kong (China), Colombia, El Salvador, Eswatini, Georgia, Japan, Kenya, Latvia, Mauritius, Mexico, Morocco, Myanmar, Nigeria, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Spain, South Africa, Switzerland, Tunisia, Türkiye, United States of America, Uzbekistan and Zambia; the West Africa Economic and Monetary Union and the East African Community Competition Authority; the non-governmental organizations, Consumer Unity and Trust Society, International Network for Corporate Social Responsibility (Nigeria), Mumbai Grahak Panchayat–India and Noble Institution for Environmental Peace; and independent experts from Algeria, Argentina, Peru and the United Kingdom of Great Britain and Northern Ireland.

<sup>17</sup> The UNCTAD secretariat convened the working group on consumer protection in e-commerce after member States agreed, at the second session of the Intergovernmental Group of Experts on Consumer Protection and Law and Policy in 2017, to highlight best practices, facilitate information exchange and carry forward relevant work led and comprised of member States on a voluntary basis. For mandates, see [TD/B/C.I/CPLP/9](#) and [TD/B/C.I/CPLP/32](#).

<sup>18</sup> [TD/B/C.I/CPLP/7](#).

<sup>19</sup> [TD/B/C.I/CPLP/12](#).

<sup>20</sup> [TD/B/C.I/CPLP/11](#).

<sup>21</sup> [TD/B/C.I/CPLP/17](#)

<sup>22</sup> [TD/RBP/CONF.9/4](#).

<sup>23</sup> [TD/B/C.I/CPLP/29](#).

<sup>24</sup> A/RES/70/186, annex, para. 64.

<sup>25</sup> Poell T, Nieborg D and Van Dijck J, 2019, Platformisation. *Internet Policy Review*, 8(4):1–13.

12. The regulation of the digital economy is a common challenge among member States. This relates to the high level of innovation by platforms, resulting in rapidly changing business models, as well as the increasing overlap with other policy areas, such as competition, data protection and privacy. Ensuring a level of protection for consumers using e-commerce that is not less than that afforded in other forms of commerce is a legitimate need of consumers, recognized in the United Nations guidelines, which requires continual attention from policymakers and enforcers.

13. Despite the centrality that platforms play in consumers lives, there is scarce intelligence relating directly to them. A survey by the Organisation for Economic Co-operation and Development (OECD) finds that complaints data in many countries lack detailed breakdown to allow identification of consumer protection issues specifically related to online marketplaces.<sup>26</sup> Other than complaints data, respondents to the UNCTAD questionnaire used consumer surveys,<sup>27</sup> market studies and investigations<sup>28</sup> and online sweeps<sup>29</sup> to better understand current issues in digital markets, although only Australia reported market surveillance initiatives directly related to platforms.<sup>30</sup>

14. UNCTAD questionnaire respondents reported several major consumer protection issues related to digital platforms (see figure). Top ranking issues include false or incomplete information about products or vendors, e-commerce, regulatory constraints (inadequate or fragmented regulations), inadequate dispute resolution and redress, data protection, product safety, unfair terms and conditions, and online fraud and scams. Consumers face growing issues related to social commerce.<sup>31</sup>

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<sup>26</sup> Organisation for Economic Co-operation and Development, 2022a, [The role of online marketplaces in protecting and empowering consumers: Country and business survey findings](#), *OECD Digital Economy Papers*, No. 329, OECD Publishing, Paris.

<sup>27</sup> Hong Kong (China), Mexico and Peru.

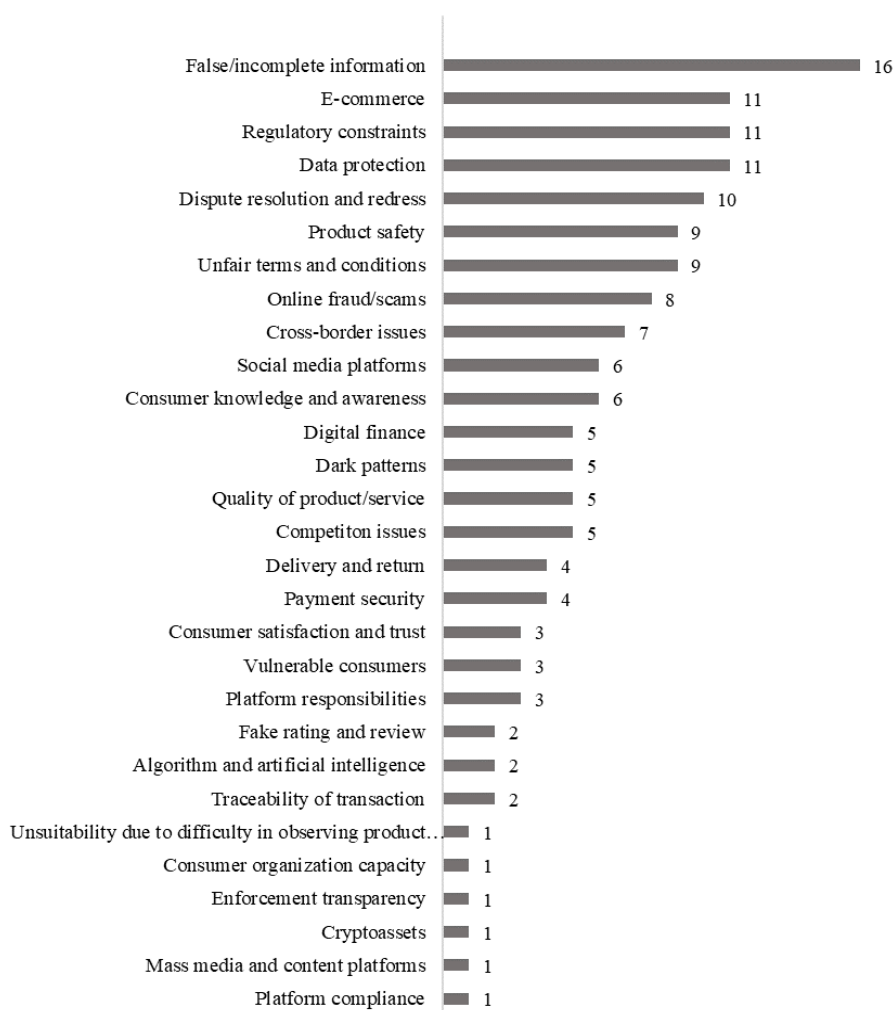
<sup>28</sup> Australia, India, Mexico and Switzerland.

<sup>29</sup> Australia, Peru, European Union and OECD.

<sup>30</sup> Australia launched market inquiries into digital platforms, including the 2019 edition of its digital platforms inquiry, the 2020–2021 digital advertising services inquiry and the ongoing digital platforms services inquiry.

<sup>31</sup> OECD, 2022a.

## Major consumer protection issues related to digital platforms



*Source:* UNCTAD questionnaire, relevant responses.

*Note:* Survey answers are grouped into themes and summarized at the country level. Figure reflects number of respondents identifying the issue listed, in response to the question, “What are major consumer protection issues related to digital platforms in your jurisdiction?”

15. This chapter focuses on some of the emerging issues that UNCTAD member States identified in relation to platforms markets, specifically, information and advertising, education, product safety, data protection, dispute resolution, responsibility and liability of platforms and enforcement.

### A. Information and advertising

16. Consumers should access adequate information to enable them to make informed choices according to individual wishes and needs,<sup>32</sup> which should be understood as having information available and being able to fully comprehend it. The information should be clear and timely to enable consumers to contact businesses easily and to enable regulatory and law enforcement authorities to identify and locate them. The information may comprise the business’ identity, legal name, and the name under which it trades, principal geographic address, telephone number, website and e-mail address, or other means of contact, and government registration and licence numbers.<sup>33</sup>

<sup>32</sup> A/RES/70/186, annex, para. 5 (f).

<sup>33</sup> A/RES/70/186, annex, para. 14 (b).

17. Consumers should also be able to access clear and timely information regarding the goods and services offered by businesses and the terms and conditions of the relevant transaction.<sup>34</sup> Clear, concise and easy to understand contract terms that are not unfair should be encouraged.<sup>35</sup>

18. Consumers right to information in online platforms should be considered in the context of the digital divide, in terms of those who have access and are literate, and those with heightened consumer vulnerability in the digital environment. UNCTAD estimated that one in five people in the least developed countries use the Internet and, in most developing countries, less than 5 per cent of the population currently buys goods or services online.<sup>36</sup> Other challenges to consumers include accessing information in mobile devices, particularly on contract terms.<sup>37</sup> To address this, many countries enacted or amended consumer protection or e-commerce laws. According to the UNCTAD world consumer protection map,<sup>38</sup> 92 per cent of 106 respondents have a consumer protection law, of which 60 per cent expressly address e-commerce. Consumer protection laws usually prohibit unfair practices related to consumer access to information, but regulatory challenges exist to keeping up with the fast-evolving platform economy, particularly for developing countries.<sup>39</sup>

19. Consumers rely heavily on ratings and consumer reviews to make decisions in platform markets.<sup>40</sup> A consumer survey by OECD found that consumers on peer-platform markets<sup>41</sup> tend to trust the platform more than they trust the third-party providers operating in the platform.<sup>42</sup> In 2016, the International Consumer Protection and Enforcement Network issued three pieces of industry guidance on online reviews and endorsements, namely for review administrators, traders and marketers and digital influencers.<sup>43</sup> In 2018, the International Organization for Standardization issued a standard titled “Online consumer reviews – Principles and requirements for their collection, moderation and publication” (ISO 20488:2018). However, according to one 2021 estimate,<sup>44</sup> in 2020, almost 31 per cent of reviews found on platforms were suspected to be fake. In article L111-7-2 of the Consumer Code of France, liability for the authenticity of reviews is attributed to platforms. In 2022, France conducted an inquiry finding serious transparency issues including deletion or delay of negative reviews and tolerance of fake reviews.<sup>45</sup> In India, a voluntary standard requires platforms to set up review administrators to moderate reviews, filter out biases and restrict fraudulent reviews.<sup>46</sup> While a rating system is a key trust-building mechanism in online platforms, consumer ratings may not well reflect certain aspects of a good or service when consumers cannot observe or do not have the expertise to assess them, such as safety

<sup>34</sup> A/RES/70/186, annex, para. 14 (c).

<sup>35</sup> A/RES/70/186, annex, para. 14 (d).

<sup>36</sup> UNCTAD, 2020, The COVID-19 crisis: Accentuating the need to bridge digital divides.

<sup>37</sup> The European Consumer Organisation, 2018, [Ensuring consumer protection in the platform economy, Position paper](#).

<sup>38</sup> See <https://unctad.org/topic/competition-and-consumer-protection/consumer-protection-map>.

<sup>39</sup> As reported by Argentina, India, Mauritius, Türkiye and Zambia.

<sup>40</sup> OECD, 2017, [Trust in peer platform markets: Consumer survey findings](#), OECD Digital Economy Papers No. 263, pp. 38–43.

<sup>41</sup> “Peer platforms are an example of two-sided or even multi-sided markets that serve both peer providers that offer skills or assets, and peer consumers that demand them,” OECD, 2016, [Protecting consumers in peer platform markets: Exploring the issues](#), OECD Digital Economy Papers No. 253, p. 10.

<sup>42</sup> OECD, 2016.

<sup>43</sup> See, respectively, <https://icpen.org/sites/default/files/2017-06/ICPEN-ORE-Guidelines%20for%20Review%20Administrators-JUN2016.pdf>, <https://icpen.org/sites/default/files/2017-06/ICPEN-ORE-Guidelines%20for%20Traders%20and%20Marketers-JUN2016.pdf> and <https://icpen.org/sites/default/files/2017-06/ICPEN-ORE-Guidelines%20for%20Digital%20Influencers-JUN2016.pdf>.

<sup>44</sup> See <https://www.fakespot.com/2021holidayreport>.

<sup>45</sup> See France, General Directorate for Competition Policy, Consumer Affairs and Fraud Control, 2022, [Avis en ligne : Attention aux faux commentaires !](#)

<sup>46</sup> See India, 2022, [Online consumer reviews principles and requirements for their collection moderation and publication \(IS 19000:2022\)](#).

requirements, warranting effective regulation and oversight.<sup>47</sup> To address this, the Consumer Ombudsman of El Salvador awards a quality seal for business selling in online platforms, aiming at improving business practices of microenterprises and small enterprises operating in online platforms.

20. Social commerce, understood to be the use of social media platforms to promote and sell products and services to consumers, is raising misleading advertising concerns in many countries.<sup>48</sup> Australia observed that reported consumer losses from scams through social networking and mobile applications almost doubled between 2020 and 2021.<sup>49</sup> Consumers can be misled by the endorsement of social media influencers. For example, in 2022, 50 Mexican consumers sued social media influencers for concealing their business relationship with a travel company, which ultimately cancelled trips.<sup>50</sup> The guidelines for digital influencers<sup>51</sup> of the International Consumer Protection and Enforcement Network recommend that they disclose clearly and prominently whether content has been paid for; be open about other commercial relationships that might be relevant to the content; and give genuine views on markets, businesses, goods and services. Colombia,<sup>52</sup> Peru,<sup>53</sup> Poland<sup>54</sup> and the United States of America<sup>55</sup> issued advice reminding that it is the responsibility of influencers to make appropriate disclosures so that the information is obvious for consumers. Latvia also reported consumers receiving unwanted advertising and social media spam. In addition, there are growing concerns about misinformation on social media and other communication platforms, raising a wider issue of the power of platforms over society.<sup>56</sup>

## B. Education

21. Member States should ensure that consumers and businesses are duly aware of their rights and obligations in the digital marketplace.<sup>57</sup> Respondents to the UNCTAD questionnaire reported a myriad of different initiatives to educate consumers and guide businesses and platforms. The Philippines provides a variety of consumer education programmes, with some focusing on the elderly and people with disabilities when targeting online education campaigns.<sup>58</sup> The Hong Kong Consumer Council (China) developed a

<sup>47</sup> UNCTAD, 2021, *Competition and Consumer Protection Policies for Inclusive Development in the Digital Era* (United Nations publication, Geneva).

<sup>48</sup> Australia, El Salvador, Latvia, Mauritius and Mexico.

<sup>49</sup> See Australia, Australian Competition and Consumer Commission, 2022, [ACCC calls for new competition and consumer laws for digital platforms](#), 11 November.

<sup>50</sup> See *El Ceo*, 2022, Consumers go against travel agency and influencers, file complaint with Federal Consumer Protection Agency for 1.8 Mex\$, available at <https://elceo.com/negocios/consumidores-van-vs-agencia-de-viajes-e-influencers-meten-queja-ante-profeco-por-1-8-mdp/>.

<sup>51</sup> International Consumer Protection and Enforcement Network, 2016, [Online reviews and endorsements: IPCEN guidelines for digital influencers](#).

<sup>52</sup> See Colombia, Superintendency of Industry and Trade, 2020, *Guide to Good Practice in Advertising through Influencers*.

<sup>53</sup> Peru, National Consumer Protection Authority, 2019, *Guide to Advertising for Influencers*.

<sup>54</sup> As reported by Poland, Office of Competition and Consumer Protection.

<sup>55</sup> United States of America, Federal Trade Commission, 2019, [Disclosures 101 for social media influencers](#).

<sup>56</sup> For example, a 2021 report by the Federal Office of Communications of Switzerland analyses the impact of platforms in shaping public opinion, including issues of hate speech, misinformation, quasi-censorship and transparency. See <https://www.bakom.admin.ch/bakom/en/homepage/digital-switzerland-and-internet/digital-communication/social-media.html>.

<sup>57</sup> A/RES/70/186, annex, para. 64.

<sup>58</sup> Reported by the Philippines. Philippine authorities issued Joint Memorandum Circular No. 01, s. 2022 (“Guidelines on the Provision of the Mandatory Statutory Benefits and Privileges of the Senior Citizens and Persons with Disabilities on their Purchases through Online (E-commerce) and Phone Call/SMS”) in 2022. The Department of Trade and Industry organized a series of consumer education webinars related to the digital economy, such as one on benefits and discounts for persons with disabilities to educate vulnerable populations about their benefits.



virtual reality programme to train people with disabilities,<sup>59</sup> while Mexico organized workshops for young and adolescent consumers.<sup>60</sup> Poland created a dedicated website<sup>61</sup> to showcase the types of scams that consumers may come across on the Internet, showing what kind of offers they may receive. In Morocco, consumer protection associations conduct awareness-raising campaigns on the risks of buying on online platforms. The European Consumer Centres Network developed teaching materials targeting young consumers, covering topics such as online shopping and digital rights on social platforms.<sup>62</sup>

22. The Consumer Affairs Agency of Japan regularly engages with online platforms to fulfil legal requirements and hosts a public-private council to discuss consumer protection measures on digital platforms. Canada issued an information document for online marketplaces and online sellers regarding selling consumer products and cosmetics online. Azerbaijan and Zambia regularly engage business entities to promote awareness of regulations and their compliance.

23. In response to an OECD survey, online platforms education initiatives were reported through help, frequently asked questions and other dedicated consumer pages on their websites.<sup>63</sup> However, given the concern raised by member States on the lack of consumer awareness of rights and obligations in online marketplaces, there is still room for improvement in the involvement of platforms in educating consumers, particularly vulnerable ones.

24. The United Nations guidelines ask businesses to develop programmes and mechanisms to assist consumers to develop the knowledge and skills necessary to understand risks, including financial risks, to take informed decisions and to access competent and professional advice and assistance, preferably from an independent third party, when needed.<sup>64</sup> While developing education and information programmes, the guidelines recommend that special attention be given to the needs of vulnerable and disadvantaged consumers, in both rural and urban areas, including low-income consumers and those with low or non-existent literacy levels.<sup>65</sup>

25. Consumer vulnerability in the context of digital platforms also relates to an educational divide, which is more dramatic for elderly consumers, immigrants and consumers living in remote areas. In contrast with high connectivity in many countries, ICT skills among Internet users remain at relatively low levels,<sup>66</sup> which underlines the importance of equipping consumers with digital literacy so that they can enjoy the benefits while minimizing the risks in digital markets. Consumer vulnerability in online platforms also takes the form of disengagement, whereby consumers continue to engage without assessing privacy and data handling notices, accept personalized pricing and do not read terms and conditions.<sup>67</sup> Some academics argue that such apathy is not for want of information but rather lack of consumer choice.<sup>68</sup>

<sup>59</sup> Reported by Hong Kong, China. The Consumer Council has recently leveraged virtual reality technology to educate people with intellectual disabilities to avoid unscrupulous sales tactics through experiencing real-life scenarios, enabling them to build reciprocal communication and social skills.

<sup>60</sup> Reported by Mexico. In 2020, the Federal Telecommunications Institute launched “The power of audiences”, a contest on audiovisual works by young students to raise awareness about audience rights and promote media and information literacy.

<sup>61</sup> See <https://konsument.edu.pl>.

<sup>62</sup> See <https://www.eccnet.eu/news/ecc-net-provides-teaching-materials-young-consumers>.

<sup>63</sup> OECD 2022a, p.30.

<sup>64</sup> A/RES/70/186, annex, para. 11 (d).

<sup>65</sup> A/RES/70/186, annex, para. 42.

<sup>66</sup> International Telecommunication Union, 2022; see <https://www.itu.int/itu-d/reports/statistics/2022/11/24/ff22-ict-skills/>.

<sup>67</sup> Riefa C, 2020, The protection of vulnerable consumers in the digital age, presented at the eleventh meeting of the UNCTAD Research Partnership Platform, 18 November, available at [https://unctad.org/system/files/non-official-document/ccpb\\_RPP\\_2020\\_05\\_Present\\_Christina\\_Riefa.pdf](https://unctad.org/system/files/non-official-document/ccpb_RPP_2020_05_Present_Christina_Riefa.pdf).

<sup>68</sup> Siciliani P, Riefa C and Gamper H, 2019, *Consumer Theories of Harm: An Economic Approach to Consumer Law Enforcement and Policymaking*, Bloomsbury Publishing, Oxford.

## C. Product safety

26. Consumers' right to non-hazardous products also applies online. The recommendation adopted by the Eighth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices on preventing the cross-border distribution of known unsafe consumer products<sup>69</sup> aims at improving the safety of consumer goods in international trade, for which international information sharing among member States and adequate legal powers to cooperate are paramount.<sup>70</sup> Cross-border challenges and consumer safety product concerns for developing countries in online markets, which are extensive in relation to online platform markets, include the inadequacy of legal and institutional frameworks, lack of effective product recall mechanisms and deficient labelling and safety warnings.<sup>71</sup>

27. A 2021 OECD sweep<sup>72</sup> covering 21 countries found that a range of unsafe products, which had been prohibited from sale or recalled from the market, or presented inadequate product labelling and safety warnings, remained available for sale online. The United States set up an e-commerce, surveillance, analysis, field and enforcement team<sup>73</sup> that identifies regulatory violations in products being sold on websites and conducts investigations to identify the responsible firm, and possible manufacturer or importer of the product. The team conducts Internet recall surveillance checks to determine recall effectiveness and to evaluate manufacturer, distributor and retailer compliance with recalls, and notifies e-commerce platforms when recalled products are being offered for sale on the site and advises them that the products should be removed from sale. The online safety alerts and recall portals for dangerous consumer products of the Association of Southeast Asian Nations,<sup>74</sup> the European Union,<sup>75</sup> the Organisation for Economic Co-operation and Development<sup>76</sup> and the Organization of American States<sup>77</sup> also address online platforms.

28. Platforms with transnational reach are in an ideal situation to partner with consumer product safety authorities to ensure products sold through platforms are safe for consumers. However, Consumers International found that, in 40 per cent of countries, there is no product safety agreement between national authorities and online marketplaces and that less than 10 per cent of countries have statutory or voluntary agreements to ensure online platforms will remove unsafe products if notified.<sup>78</sup>

29. Australia,<sup>79</sup> the European Commission<sup>80</sup> and the Republic of Korea<sup>81</sup> have encouraged platforms to sign to product safety pledges. By doing so, platforms commit to take down dangerous products, prevent relisting of such products, cooperate with government authorities and report on the outcomes. The OECD developed policy guidance on such pledges,<sup>82</sup> aiming at enhancing consistency across pledges to encourage a minimum baseline of protections across countries and assist online marketplaces, and their third-party sellers, operating across multiple jurisdictions.

<sup>69</sup> TD/RBP/CONF.9/9.

<sup>70</sup> TD/B/C.I/CPLP/28.

<sup>71</sup> TD/B/C.I/CPLP/12.

<sup>72</sup> See <https://www.oecd.org/digital/consumer/put-product-safety-first/>.

<sup>73</sup> United States Consumer Product Safety Commission questionnaire response.

<sup>74</sup> See <https://aseanconsumer.org/product-alert>.

<sup>75</sup> See <https://ec.europa.eu/safety-gate-alerts/screen/webReport>.

<sup>76</sup> See <https://globalrecalls.oecd.org/>.

<sup>77</sup> See <https://www.oas.org/en/sedi/ddse/pages/index-6.asp>.

<sup>78</sup> Consumers International, 2021, [Guidelines for online product safety](#).

<sup>79</sup> Australia, Australian Competition and Consumer Commission, 2021, [Australian product safety pledge](#).

<sup>80</sup> European Commission, 2021, [Product safety pledge](#).

<sup>81</sup> Republic of Korea, Korea Consumer Agency, 2021, [Product safety pledge](#). See also OECD, 2021, [Communiqué on product safety pledges](#).

<sup>82</sup> OECD, 2022b, [Policy guidance on consumer product safety pledges](#), OECD Digital Economy Papers No. 325.

30. Consumers International’s guidelines for online product safety<sup>83</sup> contain recommendations for Governments and online marketplaces to build a safer digital environment. A common issue raised by online platforms is that product safety reports from government authorities sometimes lack critical information, inhibiting them from quickly removing relevant listings.<sup>84</sup>

## D. Data protection

31. Consumer data play a central role in how digital platforms operate and create values. Platforms rely on data to provide and improve their services. They can derive digital intelligence to develop new products and services or simply sell data to others. As mentioned in the introduction, digital platforms often offer consumers their services at a low price or even no cost, while gaining revenues from advertising and other business lines, which is referred to as cross-subsidization. This also links to the data-driven business model, as digital platforms collect a great amounts of consumer data and monetize them in forms such as targeted advertising. When platforms provide “free” services to consumers, this can create some ambiguity in how traditional consumer protection principles apply.<sup>85</sup> In fact, although it seems that consumers enjoy “free” services offered by platforms, they “pay” by handing over their data.

32. The United Nations guidelines call for businesses to protect consumers’ privacy through a combination of appropriate control, security, transparency and consent mechanisms relating to the collection and use of their personal data. However, Australia recently reviewed privacy policies of online private messaging services and found many platforms collected personal data beyond what was necessary, and consumers might not understand what they consented to.<sup>86</sup>

33. Many consumers are unaware of and have limited control over how platforms collect, use and share their data, which violates their right to information and privacy. The 2019 global survey by the Centre for International Governance Innovation–Ipsos found that 78 per cent of respondents were concerned about their online privacy; digital platforms, particularly for social media, search engines, e-commerce and online banking were among the leading reasons for distrust on the Internet.<sup>87</sup> The Competition and Markets Authority of the United Kingdom found that digital platforms tend to use the choice architecture of online environments to limit consumers’ engagement with, and control over, privacy settings.<sup>88</sup> Audit studies have revealed the problematic behaviour of several algorithmic systems used by digital platforms.<sup>89</sup>

34. Social media platforms use personalized recommendation algorithms and variable rewards to exploit users’ attention, possibly resulting in harmful addiction and negative effects on mental health,<sup>90</sup> which has also raised concerns about platform liability. A recent report<sup>91</sup> of the Hong Kong Consumers Council (China) found that 74 per cent of survey

<sup>83</sup> Consumers International, 2021.

<sup>84</sup> OECD, 2022a.

<sup>85</sup> OECD, 2019, *An Introduction to Online Platforms and Their Role in the Digital Transformation*, OECD Publishing, Paris.

<sup>86</sup> Australian Competition and Consumer Commission, 2020, Digital Platform Services Inquiry, Interim report, p.5 and Office of the Australian Information Commissioner, 2020, Australian Community Attitudes to Privacy Survey, p. 6.

<sup>87</sup> See Centre for International Governance Innovation–Ipsos, 2019.

<sup>88</sup> United Kingdom, Competition and Market Authority, 2020, Online platforms and digital advertising market study. Final report and ancillary materials available at <https://www.gov.uk/cma-cases/online-platforms-and-digital-advertising-market-study#final-report>.

<sup>89</sup> Bandy J, 2021, Problematic machine behaviour: A systematic literature review of algorithm audits. *Proceedings of the ACM on Human–Computer Interaction*, 5(CSCW1):1–34.

<sup>90</sup> Rosenquist JN, Morton FMS and Weinstein SN, 2021, Addictive technology and its implications for antitrust enforcement, *North Carolina Law Review*, vol. 100, 431.

<sup>91</sup> China, Hong Kong Consumer Council, 2022, *Fostering Consumer Trust – Ethical Artificial Intelligence in E-commerce*, available at [https://www.consumer.org.hk/en/advocacy/study-report/ai\\_in\\_ecommerce](https://www.consumer.org.hk/en/advocacy/study-report/ai_in_ecommerce).

respondents were worried about the excessive data collection by online stores, while 72 per cent were worried that, if artificial intelligence algorithms went wrong, no one is responsible for the problems caused.

35. The UNCTAD global cyberlaw tracker shows that 71 per cent of countries have data protection and privacy legislation in place, and 80 per cent have enacted cybercrime legislations.<sup>92</sup>

36. For example, the General Data Protection Regulation (Regulation (EU) 2016/679) of the European Union is one of the most comprehensive and influential personal data privacy and security legislations. It entered into effect in May 2018 and covers all residents in the European Union.

37. While national data protection laws vary in what rights they grant to individuals, they usually include the right to access, correct and delete personal data and the right to opt in or opt out of specific data processing; some laws also include the right to data portability and the right not to be subject to fully automated decisions.<sup>93</sup> They typically require users' informed consent for collecting and using personal data, but research has shown that it is challenging for digital consumers to make "genuinely informed and meaningful choice" regarding their data, which would require better privacy by design and complementary regulatory measures in the future.<sup>94</sup> As the massive amount of data collection confers significant market power to digital platforms, competition authorities are actively involved in market study, regulation and enforcement related to data collection and use.

## **E. Dispute resolution**

38. Online platforms allow consumers to buy products and services relatively seamlessly. However, when something in a transaction goes wrong, the process to return, replace and obtain redress can be cumbersome. One obvious starting point is that, if the transaction is online, dispute resolution and redress mechanisms should also be made available online. The situation is made more difficult when providers do not have a legal presence in the country of residence of the consumer, revealing the challenges of cross-border transactions. UNCTAD research<sup>95</sup> shows that effective online dispute resolution processes can increase trust along with consumer loyalty and repurchasing intentions, as well as prevent customer churn and dissatisfaction.

39. Businesses are expected to make available complaints-handling mechanisms that provide consumers with expeditious, fair, transparent, inexpensive, accessible, speedy and effective dispute resolution without unnecessary cost or burden. Businesses should consider subscribing to domestic and international standards pertaining to internal complaints handling, alternative dispute resolution services and customer satisfaction codes.<sup>96</sup>

40. Platforms increasingly provide complaints handling and internal dispute resolution services between consumers and third-party providers for transactions occurred in therein. All large online e-platforms, such as Amazon, Alibaba and Shopify, offer their own dispute resolution systems. Such services are an important added value for platforms, and consumers can prefer to transact with them rather than directly with individual businesses precisely because of efficacy of the dispute resolution services offered.

41. However effective these private services may be in obtaining consumer satisfaction, an increasing number of member States are establishing public online dispute resolution mechanisms, for various reasons. First, Governments are eager to ensure access to justice for consumers in the online context, whether they consume in online platform markets or outside them. Second, Governments wish to level the playing field between online

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<sup>92</sup> See <https://unctad.org/page/data-protection-and-privacy-legislation-worldwide>.

<sup>93</sup> See [https://iapp.org/media/pdf/resource\\_center/global\\_comprehensive\\_privacy\\_law\\_mapping.pdf](https://iapp.org/media/pdf/resource_center/global_comprehensive_privacy_law_mapping.pdf).

<sup>94</sup> Keller P, 2022, After third party tracking: Regulating the harms of behavioural advertising through consumer data protection, Project report, King's College, London. Available at <https://ssrn.com/abstract=4115750>.

<sup>95</sup> See UNCTAD/SER.RP/2021/15.

<sup>96</sup> A/RES/70/186, annex, para. 11 (f).

platforms and other online businesses, so that online dispute resolution is not an advantage of platforms to the detriment of other retailers. Third, internal services for online dispute resolution of platforms do not necessarily comply with public policy quality criteria, as recommended in the United Nations guidelines<sup>97</sup> and further detailed by UNCTAD,<sup>98</sup> and may thus require a public fallback option to ensure that consumer rights are upheld.

42. Brazil, Colombia, Mexico and the European Union have many years of experience in providing public online dispute resolution mechanisms for consumers. For example, through its Conciliation Services for Foreign Residents programme,<sup>99</sup> Mexico provides specific dispute resolution to foreign consumers against national retailers. An ongoing UNCTAD technical cooperation project<sup>100</sup> aims at enhancing consumer trust and protection in digital markets by assisting Indonesia and Thailand in implementing online dispute resolution systems for consumers. The Association of Southeast Asian Nations recently launched guidelines on online dispute resolution<sup>101</sup> as a building block towards realizing the longer-term commitment of a regional network for online dispute resolution.

## F. Responsibility and liability of platforms

43. As platforms gain centrality in online consumer relations, so are calls to clarify their responsibility and liability regimes. For example, in competition analysis, platforms that provide “core platform services” and have significant market power can be considered “essential facilities” or “gatekeepers” for businesses and consumers to participate in digital markets. Consumers are disadvantaged in their bargaining power and have no choice but to accept terms and conditions imposed by platforms that may be unfair, which is what the Digital Markets Act of the European Union (Regulation (EU) 2022/1925) aims at preventing.

44. Online platforms entail an additional complexity for consumers, as providers may be professional businesses or peer individuals. As consumer law applies in business to consumer relations, its protections would be excluded in the latter case, even if the consumer is unaware of it. This may lead to a situation of heightened consumer vulnerability. The Court of Justice of the European Union ruled that “in circumstances such as those at issue in the main proceedings, in which the consumer can easily be misled in the light of the conditions in which the sale is carried out, it is necessary to afford the latter enhanced protection. Therefore, the seller’s liability... must be capable of being imposed on an intermediary who, by addressing the consumer, creates a likelihood of confusion in the mind of the latter, leading him to believe in its capacity as owner of the goods sold”.<sup>102</sup>

45. Argentina and Brazil generally consider platforms to be intermediaries and are thus liable for any consumer protection obligation between providers and consumers.<sup>103</sup> This

<sup>97</sup> A/RES/70/186, annex, paras. 37–41.

<sup>98</sup> Specifically, accessibility, awareness, expertise, independence and impartiality of neutral third parties, transparency, effectiveness expeditiousness and enforceability, fairness, voluntariness, legality, coverage, special consideration for the needs of vulnerable and disadvantaged consumers, and accountability (TD/B/C.I/CPLP/11).

<sup>99</sup> Mexico, Federal Consumer Protection Agency, 2016, Conciliation from abroad, available at <https://www.gob.mx/profeco/documentos/conciliation-from-abroad?state=published>.

<sup>100</sup> See <https://unctad.org/project/delivering-digital-trading-infrastructure-and-online-dispute-resolution-consumers-means>.

<sup>101</sup> Association of Southeast Asian Nations, 2022, *ASEAN Guidelines on Online Dispute Resolution*.

<sup>102</sup> Court of Justice of the European Union, *Sabrina Wathelet v. Garage Bietheres et Fils*, Case No. C-149/15, judgement, 9 November 2016, para. 41.

<sup>103</sup> Cámara de Apelaciones en lo Contencioso Administrativo y Tributario de la Ciudad Autónoma de Buenos Aires, *Mercado Libre v. Dirección General de Defensa y Protección del Consumidor*, Case No. EXP J-01- 00002957-9/2017-0, judgement, June 2018, available at <https://ijudicial.gob.ar/wp-content/uploads/2018/06/Mercado-LibreSRL-c-Direcci%C3%B3n-General-de-Defensa-y-Protecci%C3%B3n-al-Consumidor-s-RecursoDirecto-sobre-Resoluciones-de-Defensa-al-Consumidor.pdf>; Court of Justice of the State of Sao Paulo, *Mercado Libre v. Ministério Público do Estado de São Paulo*, Case No. 2014.0000254029, judgement, 29 April 2014, available at <https://www.migalhas.com.br/arquivos/2014/5/art20140508-06.pdf>.

can extend to all aspect of consumer relations, including information, advertising, product safety, data protection and dispute resolution.

46. As recommended by UNCTAD, it is important that consumer protection laws and policies take into account the different levels of platform involvement and attribute consumer protection obligations accordingly, in order to protect the economic interests of consumers while safeguarding legal certainty for businesses.<sup>104</sup> Online platforms participating in an OECD survey<sup>105</sup> were generally not opposed to some amendment to consumer protection regulation to reflect changes brought about by growth in e-commerce. However, they opposed regulation that does not consider different types of online marketplaces and their differing levels of involvement in transactions between third-party sellers and consumers.

47. Information about the responsibility regime is essential for consumers to make informed choices. Governments and online platforms should make sure consumers and providers are informed of their rights and obligations. Online platforms, especially those that exert effective control over the business-consumer relationship, should have due regard for the interests of consumers and responsibility for upholding consumer protection as an objective.<sup>106</sup> The European Commission calls for shifting the focus towards positive duties and accountability of online platforms that show compliance with consumer protection laws and policies.<sup>107</sup> The guidelines on the protection of the online consumer<sup>108</sup> of the Kingdom of the Netherlands ask traders to ensure that online architecture is fair and default settings are favourable to the consumer. The United Kingdom recommended imposing a duty of “fairness by design” on platforms with strategic market status regarding data protection, which could be extrapolated to responsibility regimes.<sup>109</sup>

48. Furthermore, in 2022, interesting initiatives took place in Australia, Colombia and Japan. The interim report on the digital platform services inquiry of the Australian Competition and Consumer Commission recommended a “service-by-service code approach” to develop codes of conducts for digital platforms.<sup>110</sup> The Superintendency of Industry and Trade of Colombia imposed specific regulations to digital platforms of tourism services.<sup>111</sup> Japan saw the entry into effect of its Act on the Protection of Consumers Who Use Digital Platforms, stipulating digital platforms’ responsibilities regarding communication, complaints, information disclosure and unsafe products.<sup>112</sup>

## G. Enforcement

49. The regulatory enforcement of consumer protection laws in platform markets implies market monitoring and foresees administrative actions, such as fines or warning letters, and commitments from businesses to resolve concerns, also encompassing court rulings following legal proceedings.<sup>113</sup> The OECD identified the key topics of enforcement relating to online platforms as misleading claims, unfair terms and conditions, fake ratings

<sup>104</sup> [TD/RBP/CONF.9/4](#).

<sup>105</sup> OECD, 2022a.

<sup>106</sup> A/RES/70/186, annex, para. 11 (b).

<sup>107</sup> European Commission, Expert Group for the Observatory on the Online Platform Economy, 2021, p.17.

<sup>108</sup> Kingdom of the Netherlands, Authority for Consumers and Markets, 2020, *Guidelines. Protection of the Online Consumer: Boundaries of Online Persuasion*, The Hague.

<sup>109</sup> United Kingdom, Competition and Markets Authority, 2020, *Online Platforms and Digital Advertising: Market Study Final Report*, pp. 352–353.

<sup>110</sup> See <https://www.accc.gov.au/focus-areas/inquiries-ongoing/digital-platform-services-inquiry-2020-25>.

<sup>111</sup> Reported by Colombia, Superintendency of Industry and Trade. The Law 2068 of 2020, Whereby the General Law on Tourism is modified and other stipulations are made, sets out special obligations for digital platforms of tourism services provided in Colombia, regardless of the location of the platforms.

<sup>112</sup> Reported by Japan (Consumer Affairs Agency). The Act came into effect on 1 May 2022.

<sup>113</sup> OECD, 2022a.

and reviews and unsafe products.<sup>114</sup> Australia recently launched a sweep to identify misleading testimonials and endorsements by social media influencers in Facebook, Instagram, Snapchat, Tiktok, Twitch and Youtube.<sup>115</sup> Bahrain is disaggregating complaint data on platforms to inform enforcement action.<sup>116</sup> Brazil notified 20 online marketplaces on their obligation to conspicuously display essential information prior to a purchase or a contract.<sup>117</sup> The preventive surveillance model of Colombia, called Prevensic, aimed at the telecommunications sector, closed television and virtual postcards for breaches of consumer law.<sup>118</sup> Japan uncovered misleading advertising on health foods offered in online platforms and monitored platforms compliance on safety standards for electrical appliances.<sup>119</sup> The West African Economic and Monetary Union intends to sign agreements with large digital platforms to facilitate enforcement action.<sup>120</sup>

50. “Dark commercial patterns” are an emerging set of unfair commercial patterns that are particularly relevant in online platforms. A comprehensive report by the OECD defines them as business practices employing elements of digital choice architecture, in particular in online user interfaces, that subvert or impair consumer autonomy, decision-making and choice. They often deceive, coerce or manipulate consumers and are likely to cause direct or indirect consumer detriment in various ways, though it may be difficult or impossible to measure such detriment in many instances.<sup>121</sup>

51. In the framework of the informal UNCTAD working group on consumer protection in e-commerce, Argentina and Kenya identified various dark commercial patterns: default settings that are used to unwittingly track and monitor a user’s activity; “confirmshaming” that tries to guild consumers into opting into something; unfounded urgency and scarcity cues that hasten consumption decisions; “roaching” that traps consumers into situations that are hard to escape; and hidden costs and new products that are added right before the purchase. Argentina and Germany instituted a mandatory “cancellation button” which must be always easily accessible to consumers.<sup>122</sup> The working group called for enhancing cooperation among consumer protection authorities and improving business guidance with self-assessment tools whose compliance can be enforced.

52. The United States instituted a crawling software to improve surveillance of product safety regulations. Australia, Eswatini, Myanmar and South Africa report engaging with other national government authorities to maximize synergies in enforcement. One academic<sup>123</sup> highlighted the need to embed technology in consumer law enforcement in the digital age, or “enforcement technology”, to be able to effectively monitor online platform practices.

### III. The role of UNCTAD

53. Member States have highlighted the role of UNCTAD in disseminating information, exchanging experiences and enhancing peer learning at the global level in the field of consumer protection, namely through UNCTAD intergovernmental meetings and the informal working group on consumer protection in e-commerce. Most developing countries called for further discussion and consultations on applicable law, harmonization of

<sup>114</sup> Ibid.

<sup>115</sup> Reported by Australia. For more information, see <https://www.accc.gov.au/media-release/accc-social-media-sweep-targets-influencers>.

<sup>116</sup> Reported by Bahrain, Ministry of Industry and Commerce.

<sup>117</sup> Reported by Brazil. The National Consumer Secretariat notified those platforms in 2021, making it easier to identify unsafe products.

<sup>118</sup> Reported by Colombia. In 2022, more than 1,200 cases were sent for direct settlement between users and operators, 69 per cent of which have been resolved in favour of the user. For more information, see <https://www.sic.gov.co/sites/default/files/publicaciones/082021/MemoPrevenSI.pdf>.

<sup>119</sup> Reported by Japan (Consumer Affairs Agency).

<sup>120</sup> Reported by the West African Economic and Monetary Union.

<sup>121</sup> OECD, 2022c, *Dark commercial patterns*, OECD Digital Economy Papers No. 336.

<sup>122</sup> See [https://unctad.org/system/files/information-document/ccpb\\_WG\\_EC\\_Report\\_Dark\\_commercial\\_patterns\\_en.pdf](https://unctad.org/system/files/information-document/ccpb_WG_EC_Report_Dark_commercial_patterns_en.pdf).

<sup>123</sup> TD/B/C.I/CPLP/32.

regulation and cross-border enforcement. Some developing countries<sup>124</sup> requested advisory services to improve national policies and procedures, while others focused on the need for capacity building and awareness raising.<sup>125</sup> Other countries highlighted the potential for UNCTAD to support cross-border cooperation agreements among member States and regional organizations.

#### **IV. Conclusions and questions for discussion**

54. Consumers' online activities are increasingly taking place in the framework of digital platforms. This impacts a wide range of policy areas, which require coordination among government agencies in charge of competition, consumer protection, data protection, e-commerce, environmental protection, financial services and human rights, among other areas, with a mandate to promote consumer rights. Consumer protection authorities should use interinstitutional coordination mechanisms to share the challenges faced in platform markets and identify synergies. Governments should collect specific intelligence on platforms to inform regulatory matters and policymaking. Information and advertising, education, product safety, data protection, dispute resolution and responsibility and liability regimes have been identified as priority policy reform areas.<sup>126</sup>

55. Enforcement authorities should invest in technological tools to keep up with emerging dark commercial patterns. Cross-border information sharing and enforcement cooperation should be prioritized. Platforms should be encouraged to agree to voluntary commitments that can facilitate the enforcement of consumer protection laws, such as product safety pledges. They should also engage more decisively in consumer education and awareness raising of providers operating in them.

56. Based on UNCTAD analysis and the inputs provided by member States and relevant stakeholders, a set of policy recommendations for policymakers to build trust in digital markets through enhanced consumer protection on online platforms is proposed, as follows:

- (a) Collect specific intelligence through public consultations, markets studies, complaint data, investigations and surveillance to better understand current and emerging challenges to consumers in online platforms;
- (b) Ensure that information made available to consumers on the provider, the online platform, the products and services, and the terms and conditions is adequate, clear and timely; also ensure that consumer reviews are truthful and that social media influencers respect advertising and endorsement rules;
- (c) Deepen consumer education and business guidance on rights and obligations in online platforms, with special consideration of the needs of vulnerable and disadvantaged consumers;
- (d) Prioritize consumer product safety in online platforms through voluntary commitments, and strengthen surveillance and enforcement;
- (e) Prioritize data protection in online platforms, in particular on data collection, correction, treatment and use, and encourage data protection by design;
- (f) Promote online platform initiatives to solve disputes between third-party sellers and consumers while ensuring consumers' access to justice and public online dispute resolution; require periodic and public reporting by online dispute resolution providers to ensure evidence-based policymaking and adequate market surveillance;
- (g) Assess whether the responsibility and liability regimes for online platforms is in line with consumers' interests and platforms' level of involvement in the consumer

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<sup>124</sup> Azerbaijan, Bosnia and Herzegovina, El Salvador, Eswatini, Mauritius, Peru, South Africa, Uzbekistan and the West Africa Monetary and Economic Union.

<sup>125</sup> Argentina, Bulgaria, El Salvador, Georgia, Mauritius, Morocco, Myanmar, Nigeria, Panama, Philippines, Tunisia, Zambia, the East African Community Competition Authority and West Africa Monetary and Economic Union.

<sup>126</sup> OECD, 2022a.



transaction; ensure that consumers and third-party sellers are aware of the responsibility regime that is applicable to their transaction in the online platform;

(h) Prioritize enforcement against dark commercial patterns in online platforms, including through cross-border, regional and international cooperation.

57. The following issues may be considered for discussion:

(a) What are the most effective ways to enhance consumer trust in digital markets through enhanced consumer protection on online platforms?

(b) What is needed for more effective regulation and enforcement of consumer protection in the platform economy?

(c) How can international cooperation contribute to enhanced consumer protection on online platforms?

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