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**Implementation of the United Nations guidelines for consumer protection
and the Set of Multilaterally Agreed Equitable Principles and Rules for
the Control of Restrictive Business Practices**

Implementation of the United Nations guidelines for consumer protection

Note by the UNCTAD secretariat

Summary

This note reviews the implementation of the United Nations guidelines for consumer protection by member States and relevant organizations since the last revision of the guidelines in 2015. It contextualizes the guidelines as they stand at present and explores emerging issues in consumer protection. In particular, the note reviews the national, regional and international implementation of the guidelines in selected areas, highlighting issues that were added during the revision in 2015, namely, principles for good business practices, education and information programmes, electronic commerce (e-commerce), financial services and measures related to specific areas (water and energy). The note reports on the implementation of the work programme of the Intergovernmental Group of Experts on Consumer Protection Law and Policy in 2016–2020 and concludes by proposing areas for future work and questions for discussion.



I. Introduction

1. In its resolution on consumer protection adopted on 22 December 2015, the General Assembly reaffirmed the United Nations guidelines for consumer protection as “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”.¹ Since their initial adoption in 1985, the guidelines have remained the only internationally agreed global-level instrument on consumer protection. They have been widely implemented by UNCTAD member States.²

2. In its resolution, the General Assembly adopted the revised guidelines and requested the UNCTAD secretariat to exchange information on progress and experiences regarding the implementation of the resolution, review the information and report to the General Assembly on the occasion of 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, to be held in July 2020. In this regard, the fourth session of the Intergovernmental Group of Experts on Consumer Protection Law and Policy requested the UNCTAD secretariat to report on the implementation of the guidelines, in particular on the legal and institutional framework for consumer protection and work programme of the Intergovernmental Group of Experts in 2016–2020.³

3. This note presents an assessment of the implementation of the guidelines since their last revision in 2015 and the work of the Intergovernmental Group of Experts since its establishment through the adoption of resolution 70/186, drawing on the note by secretariat in 2013,⁴ information from the UNCTAD World Consumer Protection Map,⁵ research undertaken by other international organizations and scholars in this area and responses to a questionnaire implemented by UNCTAD.⁶ Chapter II explores the evolution of the guidelines from their initial adoption in 1985, as a benchmark for Governments and other stakeholders in dealing with consumer protection matters, to the first revision in 1999, introducing the issue of sustainable consumption and the last revision in 2015. Chapter III takes stock of the implementation of the guidelines. Chapter IV focuses on some selected emerging issues covered by the guidelines, namely, principles for good business practices, education and information programmes, e-commerce, financial services and measures related to specific areas (water and energy). Chapter V details the implementation of the work programme of the Intergovernmental Group of Experts since its first session in 2016. Chapter VI concludes with a proposal for new areas of work for the Intergovernmental Group of Experts until the Ninth United Nations Conference to Review All Aspects of the Set, to be held in 2025, and suggests some questions for discussion.

II. Evolution of the United Nations guidelines for consumer protection

4. The General Assembly first adopted the United Nations guidelines for consumer protection on 16 April 1985 as a non-binding set of recommendations for Member States covering the most important features of consumer protection policies, which at the time

¹ A/RES/70/186.

² TD/B/C.I/CLP/23.

³ TD/B/C.I/CPLP/20.

⁴ TD/B/C.I/CLP/23.

⁵ See <https://unctadwcpm.org/map.html> and <https://unctadwcpm.org/answers.html>.
Note: All websites referred to in footnotes were accessed in April 2020.

⁶ Respondents included Argentina, Brazil, Bulgaria, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Germany, Guatemala, Honduras, Japan, Latvia, Mexico, Nicaragua, Oman, Peru, the Republic of Korea, Spain, Switzerland, Uruguay and Macao (China).

already included physical safety, the promotion and protection of the economic interests of consumers, standards for the safety and quality of consumer goods and services, redress, consumer education and information and measures related to food, water and pharmaceuticals.⁷ The revised guidelines, adopted on 26 July 1999, included a new section on sustainable consumption.⁸ In 2013, UNCTAD noted that the guidelines had been widely implemented by member States since their adoption in 1985 and that all areas remained valid and useful.⁹ However, UNCTAD also identified some emerging issues, among others, in the use of e-commerce and financial services.

5. Following consultations at three ad hoc expert group meetings in 2012, 2013 and 2015, the Seventh United Nations Conference to Review All Aspects of the Set and, on 22 December 2015, the General Assembly adopted the revised guidelines for consumer protection. Further to provisions related to e-commerce and financial services, this revision incorporated recommendations on new issues relevant to consumer protection policy, including access to essential goods and services, the protection of vulnerable and disadvantaged consumers, data protection, principles for good business practices, national policies for consumer protection, dispute resolution, public services, energy, tourism and international cooperation.

6. The General Assembly also decided to establish an intergovernmental group of experts on consumer protection law and policy within the framework of an existing commission of the Trade and Development Board of UNCTAD. The Intergovernmental Group of Experts provides the institutional machinery and an annual forum for multilateral consultations, discussions and exchanges of views between member States on matters related to the guidelines; undertakes studies and research; conducts voluntary peer reviews of the national consumer protection policies of member States; collects and disseminates information on matters related to the overall achievement of the goals of the guidelines; provides capacity-building and technical assistance to developing countries and countries with economies in transition in formulating and enforcing consumer protection laws and policies; considers relevant studies, documentation and reports from relevant organizations; makes appropriate reports and recommendations on the consumer protection policies of member States; operates between and reports to the United Nations Conference to Review All Aspects of the Set; and conducts a periodic review of the guidelines when mandated to do so by the Conference.¹⁰ The Eighth United Nations Conference to Review All Aspects of the Set to be held in July 2020 will consider the work of this Intergovernmental Group of Experts for the first time.

7. The guidelines for consumer protection aim to assist States in achieving or maintaining adequate protection for their populations as consumers. They recognize that consumers often face imbalances in economic terms, education levels and bargaining power and recognize the right of consumers to access non-hazardous products. The guidelines also promote just, equitable and sustainable economic and social development and environmental protection. The guidelines allow States to set their own priorities for the protection of consumers in accordance with national economic, social and environmental circumstances and the needs of the population.

III. Taking stock of the implementation of the guidelines

8. The eight objectives of the guidelines are to assist countries in achieving or maintaining adequate protection for their populations as consumers; facilitate production and distribution patterns responsive to the needs and desires of consumers; encourage high levels of ethical conduct for those engaged in the production and distribution of goods and services to consumers; assist countries in curbing abusive business practices by all enterprises at the national and international levels which adversely affect consumers; facilitate the development of independent consumer groups; further international

⁷ A/RES/39/248.

⁸ E/1999/INF/2/Add.2.

⁹ TD/B/C.I/CLP/23.

¹⁰ A/RES/70/186.

cooperation in the field of consumer protection; encourage the development of market conditions which provide consumers with greater choice at lower prices; and promote sustainable consumption.¹¹

9. According to the World Consumer Protection Map and responses to the UNCTAD questionnaire, the majority of the member States that responded have adopted the core objectives of the guidelines. Some States have enshrined consumer protection in their constitutions, such as Argentina, Colombia, Costa Rica, El Salvador, Guatemala, Mexico, Nicaragua, Peru, Serbia, South Africa, Spain and Switzerland. In Kenya, for example, article 46 of the constitution of 2010 addresses the right of consumers to goods and services of reasonable quality, to the information necessary for them to gain full benefit from goods and services and to the protection of their health, safety and economic interests.¹²

10. The World Consumer Protection Map shows that all 63 member States that responded to the UNCTAD questionnaire have a legal framework aimed at addressing consumer protection issues.¹³ The goal of curbing abusive practices that adversely affect consumers is unanimously recognized. However, different States focus on different sets of objectives. The right of access to non-hazardous products and the right to just, equitable and sustainable economic and social development and environmental protection are contained either in consumer protection laws or other national sectoral norms, such as competition or environmental protection laws. According to responses to the UNCTAD questionnaire, many member States have a consumer protection law that recognizes consumer rights, including Argentina, Australia, Austria, Bangladesh, Brazil, Cameroon, Chad, Chile, Colombia, the Democratic Republic of the Congo, France, Gabon, Germany, Guyana, Indonesia, Italy, Japan, Kenya, the Lao People's Democratic Republic, Lithuania, Madagascar, Mauritania, Mexico, New Zealand, Peru, the Republic of Korea, Saudi Arabia, Senegal, South Africa, Spain, Sweden, Thailand, Tunisia, Turkey, Ukraine, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

11. With regard to sustainable consumption, UNCTAD has noted that although sustainable consumption was added to the guidelines in 1999, the issue of sustainability has not been fully adopted as a legal provision in the consumer protection laws of many States.¹⁴ To mitigate this situation, consumer protection agencies have increasingly been applying existing provisions in their respective laws in areas of consumer education and providing guidance to businesses on sustainable consumption. The Intergovernmental Group of Experts recognized "the contribution of consumer protection policies to promoting sustainable consumption" and encouraged "consumer protection authorities to promote consumer education and to provide business guidance in accordance with the shared responsibility for sustainable consumption and the recommended partnerships between member States, businesses, consumer and environmental organizations and other groups concerned as acknowledged by guidelines 50 to 52".¹⁵ This is all the more relevant in the wider context of the achievement of the 2030 Agenda for Sustainable Development and the Sustainable Development Goals.

12. Some regional organizations have also embraced the objectives of the guidelines and developed instruments and programmes to help their members achieve them. For example, the Committee on Consumer Protection of the Association of Southeast Asian Nations, since its establishment in 2007, has focused on ensuring that consumer protection legislation is in place in all member States of the Association, that consumer access to information is enhanced and that mechanisms for consumer redress and recalls are in place. The Committee has recognized eight consumer rights and five consumer responsibilities based on the guidelines and has emphasized that businesses also have an important role with regard to consumer protection, adopting good business practices as a core principle in

¹¹ Ibid.

¹² See <http://kenyalaw.org/kl/index.php?id=398>.

¹³ UNCTAD asked member States, international organizations and other relevant stakeholders to participate in the process of developing the guidelines and what the legislative processes of member States were in this field; 58 responses were received in 2013.

¹⁴ TD/B/C.I/CPLP/17.

¹⁵ TD/B/C.I/CPLP/20.

the consumer protection system.¹⁶ In 2019, the Central African Economic and Monetary Community adopted regional guidelines on consumer protection based on the United Nations guidelines for consumer protection, which is expected to increase the adoption of national policies on consumer protection.¹⁷ The competition rules and regulations of the Common Market for Eastern and Southern Africa have provisions to protect consumers against the false or misleading presentation of goods and services, unconscionable conduct, poor safety standards and unsafe goods and also prohibit misleading and deceptive conduct, in particular in advertising and selling.¹⁸ The Eurasian Economic Union, a regional economic union between Armenia, Belarus, Kazakhstan, Kyrgyzstan and the Russian Federation, has joined efforts with the Commonwealth of Independent States on consumer protection.¹⁹ Finally, member States of the Organization of American States have recognized some consumer protection principles in the Charter (article 39 (b)) and in resolutions of the General Assembly of the Organization.²⁰

13. In providing key principles and high-level recommendations covering a wide range of consumer issues, the guidelines for consumer protection have become a useful tool for policymakers worldwide in improving consumer protection laws and policies. A thorough assessment of national-level implementation exceeds the scope of this note. Chapter IV elaborates on some emerging issues since the last revision of the guidelines.

IV. Selected emerging issues

14. This chapter addresses the following issues, most of which were added to the guidelines or revised in 2015: principles for good business practices; education and information programmes; e-commerce; financial services; and measures related to specific areas (water and energy). It is important to note that the revised guidelines introduced a new legitimate need that buttresses and informs the rest of the recommendations, namely, the protection of vulnerable and disadvantaged consumers. The working group on vulnerable and disadvantaged consumers noted that the concept of the vulnerability of consumers was context-specific and that definitions varied between countries.²¹ However, consumer protection authorities have traditionally concentrated efforts towards children, the elderly, rural and illiterate consumers and consumers with disabilities. Addressing the special needs of vulnerable and disadvantaged consumers is increasingly regarded as a significant contribution to the achievement of the 2030 Agenda and the Sustainable Development Goals and is thus at the centre of development strategies and requires the attention of UNCTAD.²² All of the issues detailed in this chapter should therefore also encompass the goal of better protecting vulnerable and disadvantaged consumers.

A. Principles for good business practices

15. The objectives of the guidelines include encouraging high levels of ethical conduct among those engaged in the production and distribution of goods and services to consumers. The revision in 2015 introduced a set of principles for good business practices to ensure that businesses deal fairly and honestly with consumers at all stages of the relationship and that consumer protection becomes an integral part of the business culture (guideline 11). This reflected the development of social responsibility guidelines in the previous decade, namely, the guidance on social responsibility launched by the

¹⁶ See https://asean.org/?static_post=handbook-asean-consumer-protection-laws-regulations.

¹⁷ See <https://unctad.org/en/pages/MeetingDetails.aspx?meetingid=2133>.

¹⁸ See https://www.comesacompetition.org/?page_id=294.

¹⁹ See www.eurasiancommission.org/en/act/txnreg/depsanmer/consumer_rights/Pages/default.aspx.

²⁰ AG/RES.2065, thirty-fifth regular session; AG/RES.2494, thirty-ninth regular session; AG/RES.2549, fortieth regular session; AG/RES.2682, forty-first regular session; and AG/RES.2712, forty-second regular session. See www.oas.org/consejo/GENERAL%20ASSEMBLY/Resoluciones-Declaraciones.asp.

²¹ See <https://unctad.org/en/pages/MeetingDetails.aspx?meetingid=1674>.

²² UNCTAD, 2018, *Achieving the Sustainable Development Goals Through Consumer Protection* (United Nations publication, New York and Geneva).

International Organization for Standardization in 2010, which sought to contribute to global sustainable development by encouraging businesses and other organizations to practice social responsibility.²³ The *Guidelines for Multinational Enterprises* of the Organization for Economic Cooperation and Development were updated in 2011 to include the consideration of consumer interests in responsible business conduct in a global context, consistent with applicable laws and internationally recognized standards.²⁴ The principles, found across the United Nations guidelines for consumer protection, are benchmarks for good practices that apply to all forms of commerce, including e-commerce. The guidelines also recommend that Member States establish consumer protection policies that encourage good business practices (guideline 14 (a)).

16. Recognizing that consumer protection benefits from strong engagement by businesses, the guidelines encourage self-regulation such as through codes of marketing, voluntary agreements and other business practices, to ensure adequate consumer protection. The Organization for Economic Cooperation and Development notes that self-regulation by businesses can have an important role in addressing consumer issues, in particular if businesses have codes of conduct and standards.²⁵ The World Consumer Protection Map shows that in 20 of the 63 member States that responded to the UNCTAD questionnaire voluntary codes for businesses are mentioned in consumer laws. However, in practice, 28 member States have advised of business self-regulation initiatives and 19 member States, of co-regulation initiatives associating businesses and public entities. In the field of advertising, for example, several initiatives have been implemented, such as under the International Chamber of Commerce and, nationally, by the Council for Self-regulation and Advertising Ethics in Mexico, the Advertising Standards Authority in New Zealand and the National Advertising Division in the United States.

17. At its first session, the Intergovernmental Group of Experts emphasized the need to engage stakeholders in the implementation of the 2030 Agenda, in particular with regard to inclusive consumer protection policies, and welcomed the participation of consumer associations, civil society, business representatives and academia at its deliberations.²⁶ During UNCTAD eCommerce Week in 2018, the role of engagement by businesses in the protection of online consumers was discussed, highlighting that consumer protection in the digital economy is a shared responsibility among all stakeholders, including businesses.²⁷ In addition, UNCTAD has noted that, as far as possible, small businesses and State-owned enterprises should be included in such discussions.²⁸

18. In Bulgaria, the Ministry of Economy supports a self-regulatory approach to consumer protection and codes of conduct or codes of ethics are considered an alternative to legislation. Commercial banks are guided by the Code of Ethics of the Association of Commercial Banks, whose principles are to ensure fairness and good faith in relationships between commercial banks, relationships with clients and relationships with the public.²⁹

19. In Brazil, the first self-regulatory initiative, Do Not Call, was launched in 2019 with the participation of major telecommunications companies, and the second initiative, Do Not Call for Credit Offers, was launched by the financial sector in 2020. Both initiatives are overseen by the National Consumer Secretariat.³⁰

20. In El Salvador, the consumer protection law states that the consumer protection agency should encourage businesses to adopt norms and policies aimed at better consumer

²³ See <https://www.iso.org/publication/PUB100258.html>.

²⁴ See www.oecd.org/daf/inv/mne/oecdguidelinesformultinationalenterprises.htm.

²⁵ Organization for Economic Cooperation and Development, 2015, *Industry self-regulation: Role and use in supporting consumer interests*, Digital economy papers No. 247.

²⁶ TD/B/C.I/CPLP/4.

²⁷ See <https://unctad.org/en/conferences/e-week/Pages/MeetingDetails.aspx?meetingid=1653>.

²⁸ UNCTAD, 2017, *Middle East and North Africa Programme: Guidelines on Consumer Protection – Business Engagement* (United Nations publication, New York and Geneva).

²⁹ Response to UNCTAD questionnaire from Bulgaria.

³⁰ Response to UNCTAD questionnaire from Brazil.

services. In line with the law, good business practice programmes have been implemented in different places such as shopping centres, hotels and restaurants.³¹

21. Latvia has organized business education through the Consumer Rights Protection Centre.³²

22. In the Philippines, the Department of Trade and Industry has implemented the Bagwis Awards, which are given to establishments that uphold the rights of consumers and practice responsible business, whereby consumers obtain the best value for money.³³

23. In the Republic of Korea, the Consumer Agency operates a consumer-centred management certification programme to encourage businesses to voluntarily create a consumer-friendly market environment. The programme evaluates whether businesses conduct their activities from the perspective of consumers, plan their activities to be consumer-centred and make improvements to the activities on a continuing basis. Around 180 businesses have been certified to date.³⁴

24. The United States has well-established self-regulation codes in diverse industries such as advertising, funeral services and electronic games. For example, in response to public concerns about violent content and suitability for children, the motion picture, music recording and electronic game industries have each implemented a self-regulatory system that rates or labels products, governs the placement of advertising and requires the disclosure of rating and labelling information in advertising and on product packaging.³⁵

25. In Macao (China), the Consumer Council has created a certification programme in the field of e-commerce, whereby shops entitled to display the online certified shop emblem must abide by a set of regulations set up by the Consumer Council, which includes the provision of clear and detailed transaction terms and conditions on websites and the offering of timely services to consumers.³⁶

B. Education and information programmes

26. Consumer education is at the core of consumer protection policies and is one of the main tasks of consumer protection agencies. Consumers operate in increasingly complex markets, challenged by growing amounts of information and an expanding choice of complex products and services. Making good choices and protecting their interests require a wider range of skills and knowledge, for which consumer education is critical.

27. In the revised guidelines, consumer education and information programmes are not only addressed in a dedicated section (section G) but mentioned at several other points, namely, under guideline 5 on legitimate needs, guideline 11 on principles for good business practices, guideline 14 on national consumer protection policies, guideline 66 on financial services and guideline 69 on measures related to specific areas. The World Consumer Protection Map shows that in 50 of the 63 member States that responded to the UNCTAD questionnaire consumer education is covered in consumer laws. The remaining 10 member States also carry out consumer education initiatives at some level.

28. There are many important initiatives implemented by member States, comprising workshops and seminars in Bulgaria, public information campaigns in Bulgaria, Colombia and Latvia, brochures in Germany, dedicated curricula in Guatemala, Japan, Nicaragua and the Republic of Korea and mobile awareness exhibitions in Oman. Argentina has established a school of consumer education within the scope of the National Directorate of Consumer Defence, whose main objective is the dissemination of consumer rights. In Bulgaria, the Commission for Consumer Protection has undertaken the training of judges and lawyers in consumer law. In the United States, the Federal Trade Commission has

³¹ Response to UNCTAD questionnaire from El Salvador.

³² Response to UNCTAD questionnaire from Latvia.

³³ See <https://www.dti.gov.ph/konsyumer/bagwis-awards/>.

³⁴ See <https://www.kca.go.kr/eng/main.do>.

³⁵ Response to UNCTAD questionnaire from the United States.

³⁶ Response to UNCTAD questionnaire from Macao (China).

focused on consumer education related to e-commerce, such as on avoiding and recovering from identity theft, on avoiding misleading claims about nutritional supplements and on fraudulent practices related to jobs and wiring money. In Macao (China), in the 2015–2016 school year, the Consumer Council launched a consumer study award for local secondary students; participating students inspect, experience, think about, analyse, discover and review consumer behaviours affecting society.

29. In many member States, consumer organizations also have a prominent role in educating consumers. The World Consumer Protection Map shows that in 41 of the 63 member States that responded to the UNCTAD questionnaire consumer organizations provide consumer education initiatives, for example in Argentina, Bangladesh, Chile, Colombia, Costa Rica, Croatia, France, Indonesia, Peru, Serbia, Turkey, the United Kingdom and the United States.

30. As 71 per cent of youth worldwide are online, it is important for member States to focus consumer education efforts on the online environment.³⁷ The World Consumer Protection Map shows that Albania, Argentina, Australia, Bangladesh, Bulgaria, Japan, Mexico, the Republic of Korea, South Africa and the United States have already moved in this direction, but it may be a new frontier for consumer education efforts in most States.

31. Another priority should be consumer education that targets vulnerable and disadvantaged consumers, including rural and illiterate consumers (guideline 47). The World Consumer Protection Map shows that 25 of the 63 member States that responded to the UNCTAD questionnaire organize specific education-related initiatives for vulnerable and disadvantaged consumers. Among those who do so, populations given priority are, for example, indigenous and minority populations, in Australia; consumers with disabilities, in Australia, Colombia and the Republic of Korea; children, in Colombia and Germany; the elderly, in Czechia, Germany and the Republic of Korea; immigrants and refugees, in Germany and the Republic of Korea; rural populations, in South Africa; and those who are overindebted, in Sweden.

C. Electronic commerce

32. In 2017, an estimated 1.3 billion people, or one quarter of the global population aged 15 years and older, shopped online. Developing countries account for 90 per cent of the global growth in Internet use, with the highest growth rate in the least developed countries. In 2018, 51.2 per cent of the global population used the Internet, with 3.9 billion consumers online.³⁸

33. The General Assembly, in its resolution 70/186, considered that e-commerce had become increasingly relevant to consumers worldwide and that the opportunities it offered should be harnessed to help facilitate economic development and growth. Mindful of the growing importance of e-commerce for consumers, a new section on this issue was introduced in the guidelines (section I); the other provisions are equally applicable to e-commerce. One of the legitimate needs in the guidelines is to ensure a level of protection for consumers that use e-commerce that is not less than that afforded in other forms of commerce.

34. The Organization for Economic Cooperation and Development, in its recommendation on consumer protection in e-commerce, revised in 2016, recognizes the need to address a number of consumer challenges related to information disclosure, misleading or unfair commercial practices, confirmation and payment, fraud and identity theft and dispute resolution and redress.³⁹ The revision added new issues such as non-

³⁷ United Nations Children's Fund, 2017, *The State of the World's Children 2017: Children in a Digital World* (New York).

³⁸ UNCTAD, 2019a, *Digital Economy Report 2019: Value Creation and Capture – Implications for Developing Countries* (United Nations publication, sales No. E.19.II.D.17, Geneva); UNCTAD, 2019b, *Business-to-consumer e-commerce index 2019, Technical notes on information and communications technology for development No. 14*.

³⁹ See www.oecd.org/sti/consumer/consumersinthedigitaleconomy.htm.

monetary transactions, digital content products, mobile devices, privacy and security risks, payment protection and product safety, and the scope of the recommendation was extended to commercial practices through which businesses enable and facilitate consumer-to-consumer transactions. In addition, guidance and examples related to e-commerce are provided in the *Toolkit for Protecting Digital Consumers* of the Organization for Economic Cooperation and Development and Group of 20, as well as in the UNCTAD *Manual on Consumer Protection*.

35. In 2017, UNCTAD identified the challenges that consumers face in developing countries when engaging in e-commerce, related to information on goods, services and traders, product returns and refunds, data privacy and security, payments, misleading and unfair business practices and dispute resolution and redress.⁴⁰ Due to the global and cross-border nature of e-commerce, since 2015, there has been growing interest at the international level in addressing questions related to e-commerce, for example in several international forums, including at sessions of the Intergovernmental Group of Experts and during UNCTAD eCommerce Week, including Africa eCommerce Week, and at meetings of the African Consumer Protection Dialogue, the Association of Southeast Asian Nations, the International Consumer Protection Enforcement Network and the Organization for Economic Cooperation and Development, as well as at the Consumer Summits of the Group of 20, the Ibero-American Forum of Consumer Protection Agencies and the International Consumer Protection Forum of UNCTAD and the Competition and Consumer Protection for Latin America.

36. This trend can also be observed at the national level. In the United States, for example, in 2019, in response to false endorsements and reviews, the Federal Trade Commission published new rules for when and how online influencers must disclose sponsorships to followers.⁴¹ Similar guides have been published in Peru and the United Kingdom.⁴² With regard to consumer data protection, in 2019, the Federal Trade Commission imposed a financial penalty of \$5 billion for the misuse by a social media platform of the personal information of users⁴³. In the European Union, the general data protection regulation came into force in May 2018, enabling consumers to have more control over their personal data.⁴⁴ In Germany, restrictions were imposed on a social media platform for combining user data from separate social media applications without voluntary user consent, in breach of the European Union regulation.⁴⁵

37. Despite increasing efforts, consumer trust in digital markets remains low. According to surveys, lack of trust is the main shortcoming for 49 per cent of consumers who do not shop online and 78 per cent of those surveyed are concerned about online privacy, with over half (53 per cent) more concerned than one year previously.⁴⁶ This is more evident in cross-border business-to-consumer e-commerce. UNCTAD estimates that business-to-consumer sales by value of merchandise exports amounted to \$412 billion in 2017, corresponding to almost 11 per cent of total business-to-consumer sales, up from 7 per cent in 2015.⁴⁷ To improve consumer trust in e-commerce, there is a need for improved online consumer protection policies at the national, regional and international levels. As recommended in the guidelines, Member States should review existing consumer protection policies to accommodate the special features of e-commerce and ensure that

⁴⁰ TD/B/C.I/CPLP/7.

⁴¹ See <https://www.ftc.gov/news-events/press-releases/2019/11/ftc-releases-advertising-disclosures-guidance-online-influencers>.

⁴² See <https://www.indecopi.gob.pe/documents/20182/3979412/Publicidad+Digital.pdf/186e5bc2-42c6-9a30-1d5c-dff598e82358> and <https://www.asa.org.uk/resource/influencers-guide.html>.

⁴³ Response to UNCTAD questionnaire from the United States.

⁴⁴ See <https://eur-lex.europa.eu/eli/reg/2016/679/oj>.

⁴⁵ See

https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2019/07_02_2019_Facebook.html.

⁴⁶ See <https://www.cigionline.org/internet-survey-2017> and <https://www.cigionline.org/internet-survey-2019>.

⁴⁷ UNCTAD, 2019a.

consumers and businesses are informed and aware of their rights and obligations in the digital marketplace.

38. In 2018, the International Consumer Protection and Enforcement Network developed guidance for businesses on standard terms and conditions for consumers in the digital economy.⁴⁸ In 2019, consumer authorities from 27 jurisdictions such as Malawi, the Netherlands, Norway and Poland, sent a joint open letter to application platforms to suggest changes to the layouts of application stores and improve information provided on the use of consumer data.⁴⁹

39. There is also a need for strengthened cross-border cooperation among consumer protection agencies. In 2018, over 29,000 international complaints were reported to a website dedicated to collecting cross-border complaints, maintained by the International Consumer Protection and Enforcement Network.⁵⁰ The Organization for Economic Cooperation and Development has identified several factors that undermined international cooperation on consumer protection, namely, insufficient resources, lack of legal power, private data protection and confidentiality and language barriers.⁵¹ The working group on consumer protection in e-commerce of the Intergovernmental Group of Experts aims to provide recommendations, in particular for developing countries, on improving cross-border enforcement cooperation in the digital era, taking into account ongoing discussions at the Organization for Economic Cooperation and Development and the International Consumer Protection and Enforcement Network.

D. Financial services

40. The General Assembly, in its resolution on consumer protection, recognized “that consumer confidence and trust in a well-functioning market for financial services promotes financial stability, growth, efficiency and innovation over the long term and that the recent financial crisis places a renewed focus on consumer protection, calling for effective regulatory, supervisory and enforcement frameworks in the financial sector to contribute to the welfare of consumers”.⁵² The revised guidelines include a new section on financial services (section J), building on international best practices such as those developed by the World Bank and, in the aftermath of the global financial crisis of 2008/09, by the Organization for Economic Cooperation and Development and the Group of 20.⁵³ Section J refers to inclusion, remittances, responsible business practices, data protection and consumer education. Member States should establish or encourage enforcement and oversight bodies, consumer education and literacy, disclosure, responsible business conduct and data protection and should adopt measures to reinforce and integrate consumer protection policies concerning financial inclusion.

41. The World Consumer Protection Map shows that in 32 of the 63 member States that responded to the UNCTAD questionnaire financial services are covered in consumer laws.

⁴⁸ Organization for Economic Cooperation and Development, 2019, Challenges to consumer policy in the digital age: Background report – Group of 20 international conference on consumer policy. The toolkit comprises six high-level general principles, aimed at protecting digital consumers and enhancing trust in e-commerce, with regard to fair business and advertising practices, appropriate disclosure, safe transaction confirmation and payment, privacy and security risks, product safety and effective dispute resolution mechanisms.

⁴⁹ Ibid.

⁵⁰ See <https://www.econsumer.gov/en/FileAComplaint#crnt>.

⁵¹ Organization for Economic Cooperation and Development, 2018, Consumer protection enforcement in a global digital marketplace, Digital economy papers No. 266.

⁵² A/RES/70/186.

⁵³ The Group of 20 high-level principles on financial consumer protection comprise legal regulatory and supervisory frameworks, the role of oversight bodies, the equitable and fair treatment of consumers, disclosure and transparency, financial education and awareness, responsible business conduct by financial services providers and authorized agents, the protection of consumer assets against fraud and misuse, the protection of consumer data and privacy, complaints handling and redress and competition issues. See <https://www.oecd.org/g20/topics/financial-sector-reform/g20-oecd-task-force-financial-consumer-protection.htm>.

States with consumer laws that do not cover financial services have dedicated laws or regulations for the financial sector. Among others, Austria, the Bahamas, Colombia, Guatemala, Indonesia, Japan, Kenya, Panama, Serbia, Tunisia and Turkey have laws or regulations that govern the financial sector.

42. One of the priorities for member States has been to ensure that oversight bodies have the necessary authority and resources to carry out their missions. For example, Peru entrusts its consumer protection agency, the National Institute for the Defence of Competition and Protection of Intellectual Property, with responsibility over consumer complaints and individual consumer protection breaches, while allowing the financial sector regulator to oversee the soundness of the activities of providers with regard to customers. The United Kingdom established the Financial Conduct Authority in 2013, to secure an appropriate degree of protection for consumers, and the United States established the Consumer Financial Protection Bureau in 2011, to prioritize consumer interests and empower consumers to make better informed financial decisions.⁵⁴ In many cases, however, consumer protection agencies do not have policymaking or enforcement powers in the financial sector, which are reserved for the sector regulator, for example, as shown in the World Consumer Protection Map, in Argentina, Australia, Brazil, Germany and the Lao People's Democratic Republic. Coordination between consumer agencies and sector regulators is key in reinforcing and integrating consumer protection policies on financial inclusion, financial education and the protection of consumers in accessing and using financial services.

43. With the unprecedented pace of technical change and the proliferation of financial services worldwide, financial education is globally recognized as crucial for the financial empowerment of individuals and the overall stability of the financial system. In 2002, recognition of the importance of financial literacy through education led the Organization for Economic Cooperation and Development to create the International Network on Financial Education, which now has members from over 125 countries, to design policy instruments, promote the implementation of financial literacy through education and share experiences and best practices, supported by research and comparable data to measure impacts.⁵⁵ In 2019, the consumer protection agency of Peru undertook a study on information disparity between businesses and consumers of the financial system, which identified opportunities for improvement for businesses in the financial market, to optimize consumer information and reinforce consumer education.⁵⁶

44. Responsible business conduct by financial services providers and authorized agents, including responsible lending and the sale of products suitable for consumer needs and means (guideline 66 (f)), is a crucial factor in the healthy development of the financial sector, financial inclusion and broader economic growth. Some member States encourage self-regulation initiatives in the financial sector, such as Bulgaria, New Zealand, Peru, Sweden, South Africa and Trinidad and Tobago, which need to be coupled with adequate regulatory and enforcement policies on financial consumer protection.

E. Measures related to specific areas: Water and energy

45. Conventionally public utilities, namely, water, energy, sanitation and communications services, present special challenges in consumer protection. Not only do they provide basic and essential services, but they also have economic characteristics that often make it difficult to open up the services for competition. Most utility providers rely on a network to deliver services. The economics of such fixed networks mean that it is cheaper for a single firm to supply an entire market than for several firms to do so and a natural monopoly arises when, from an overall economic perspective, it is most efficient for one single operator to provide the infrastructure service in question. Such a natural monopoly leaves consumers tied into companies. Once major investments in a network

⁵⁴ See www.legislation.gov.uk/ukpga/2012/21/contents/enacted and <https://www.cftc.gov/LawRegulation/DoddFrankAct/index.htm>.

⁵⁵ See <https://www.oecd.org/financial/education/oecd-international-network-on-financial-education.htm>.

⁵⁶ Response to UNCTAD questionnaire from Peru.

have been made, the cost to duplicate the network is too high for new entrants.⁵⁷ However, this assumption is less valid at present. Many aspects of natural monopolies have been changing and, since the move to individualized mobile services, telecommunications has become a competitive service with fewer network effects, as its relatively inexpensive capital assets can overlap in the same territory. However, water and electricity remain mainly in the public domain.⁵⁸

46. The revision of the guidelines in 2015 represented a breakthrough in this area as it introduced new legitimate needs on access by consumers to essential goods and services and on the protection of vulnerable and disadvantaged consumers. The World Consumer Protection Map shows that in 41 of the 63 member States that responded to the UNCTAD questionnaire access by consumers to essential goods and services is covered in consumer laws.

47. Several of the Sustainable Development Goals and targets relate to services, including water and sanitation (Goal 6) and energy (Goal 7). Access to safe water and sanitation and the sound management of freshwater ecosystems are not only essential to human health and environmental sustainability, but also to economic prosperity, and Goal 6 therefore aims to ensure the availability and sustainable management of water and sanitation for all, including through the achievement of targets on universal and equitable access to safe and affordable drinking water. Global population growth, economic growth and urbanization are behind the increasing demand for energy. The reliable supply of energy and energy services at affordable prices has a significant bearing on poverty reduction and economic growth. Energy production through coal and oil produces carbon dioxide emissions and, therefore, a pressing issue in many countries is to increase efficiency in the use of coal, oil and gas, along with the need to increase the use of renewable energy, such as through hydropower, biomass, solar, wind, geothermal and wave and tidal sources.⁵⁹

48. The World Consumer Protection Map shows that in 26 of the 63 member States that responded to the UNCTAD questionnaire water and energy are covered in consumer laws. States with consumer laws that do not cover either energy or water have dedicated laws or regulations for these sectors, for example, Chile, Colombia, Indonesia, Jordan, Panama, South Africa, Thailand and Ukraine.

49. The guidelines, as revised in 2015, aim to ensure that consumers, including those in rural areas, are adequately protected when using essential goods and services such as water and energy. Guideline 76 advocates the promotion of universal access to clean energy and states that Member States should formulate, maintain or strengthen national policies to improve the supply, distribution and quality of affordable energy to consumers according to their economic circumstances. In this regard, the International Organization for Standardization has adopted standards in many areas with the main objective of helping to improve consumer protection. A standard related to energy services was adopted in 2016, including guidelines for the assessment and improvement of the provision of energy services to users, which had been proposed by Consumers International. The standard aims to ensure universal and fair access to energy by consumers and provides guidelines on satisfying consumer needs and expectations, assessment criteria for the provision of energy services to consumers and educating or training consumers to understand the energy services supplied by a provider.

50. Guideline 72 states that Member States should formulate, maintain or strengthen national policies to improve the supply, distribution and quality of water for drinking. The International Organization for Standardization has also adopted many water-related standards, in particular with regard to drinking water and sanitation services. The standards provide guidelines for the assessment, improvement and management of activities related to

⁵⁷ TD/B/C.I/CLP/L.7.

⁵⁸ UNCTAD, 2017, *Manual on Consumer Protection* (Geneva).

⁵⁹ TD/B/C.I/MEM.4/17.

drinking water and sanitation system services and help authorities and operators meet the expectations of consumers and the principles of sustainable development.⁶⁰

51. The guidelines are a useful tool for member States in designing consumer protection policies and remain relevant. Areas such as public utilities require further research. Guideline 97 states that the Intergovernmental Group of Experts shall consider relevant studies, documentation and reports from relevant organizations of the United Nations system and other international organizations and networks, to exchange information on work programmes and topics for consultations and to identify work-sharing projects and cooperation in the provision of technical assistance. In addition, UNCTAD disseminates the work outcomes (studies, reports, guidelines) of other organizations at sessions of the Intergovernmental Group of Experts.

V. Work programme of the Intergovernmental Group of Experts, 2016–2020

52. The guidelines state the functions of the Intergovernmental Group of Experts. At its first session, the Intergovernmental Group of Experts adopted its procedures and method of work.⁶¹ The Eighth United Nations Conference to Review All Aspects of the Set will decide on the work programme of the Intergovernmental Group of Experts in 2020–2025.

53. Participation at sessions of the Intergovernmental Group of Experts has increased over the years and participants include national and regional consumer protection agencies, intergovernmental authorities and representatives from permanent missions in Geneva, as well as other relevant stakeholders from international organizations, academia, consumer associations and the private sector.⁶² Each session adopted agreed conclusions, illustrating international consensus on various consumer protection matters and establishing the intersessional work programme. In accordance with the guidelines, the Intergovernmental Group of Experts does not pass judgement on the activities or conduct of member States or of individual enterprises in connection with a particular business transaction (guideline 98). A mandate was not received to review the guidelines prior to the Eighth United Nations Conference to Review All Aspects of the Set.

54. The Intergovernmental Group of Experts has held high-level sessions each year on the implementation of the guidelines, has considered various studies and research prepared by the UNCTAD secretariat and has held discussions on consumer protection in e-commerce, dispute resolution and redress, consumer product safety and the contribution of consumer protection to sustainable consumption.⁶³ In addition, the Intergovernmental Group of Experts has held round-table discussions on challenges in and perspectives on the collaborative economy, the engagement of stakeholders in the achievement of the Sustainable Development Goals, consumer protection in financial services and the protection of vulnerable and disadvantaged consumers, as well as on annual reports of capacity-building in and technical assistance on consumer protection law and policy. To date, Indonesia and Morocco have undertaken voluntary peer reviews of consumer protection law and policy, and the voluntary peer review of consumer protection law and policy in Peru was held in 2020.⁶⁴ The Intergovernmental Group of Experts also launched two key tools for the sharing of best practices, namely, the World Consumer Protection Map and the virtual catalogue of international best practices on consumer protection and competition; the latter was launched in cooperation with and following a voluntary

⁶⁰ See <https://www.iso.org/publication/PUB100293.html>.

⁶¹ TD/B/C.I/CPLP/4.

⁶² International and regional organizations with a consumer protection mandate that have participated in the sessions include the Association of Southeast Asian Nations, the Central African Economic and Monetary Community, the Common Market for Eastern and Southern Africa, the Eurasian Economic Commission, the European Commission, the Organization of American States and the Economic Commission for Europe. See TD/B/C.I/CPLP/4, TD/B/C.I/CPLP/9, TD/B/C.I/CPLP/15 and TD/B/C.I/CPLP/20.

⁶³ TD/B/C.I/CPLP/7; TD/B/C.I/CPLP/11; TD/B/C.I/CPLP/12; TD/B/C.I/CPLP/17.

⁶⁴ TD/B/C.I/CPLP/6; TD/B/C.I/CPLP/13; TD/B/C.I/CPLP/18; TD/RBP/CONF.9/7.

contribution from Peru. Finally, various side events were organized on the margins of each session.

55. To continue the work of its annual sessions throughout the year, to highlight best practices and to facilitate information exchanges and consultations, the Intergovernmental Group of Experts has requested UNCTAD to establish various working groups led and integrated by member States on a voluntary basis, without financial implications for the regular budget of the United Nations. A working group on vulnerable and disadvantaged consumers in 2017–2018 collected best practices concerning the issue, recognizing that there was no single definition of consumer vulnerability and that national policies responded to the particular social and economic needs of consumers in each country. The working group on consumer protection in e-commerce was established in 2017 and currently focuses on misleading and unfair business practices, consumer education and business guidance and cross-border enforcement cooperation. The working group on consumer product safety was established in 2018 and aims to strengthen consumer product safety frameworks at the national, regional and international levels to protect consumers from hazards to health and safety.

56. The Intergovernmental Group of Experts has thus been successful in fulfilling its mandate. Among other functions, it has provided a forum for multilateral consultations, discussions and exchanges of views between member States on matters related to the guidelines and has collected and disseminated information, undertaken studies and research, conducted peer reviews in and provided capacity-building and technical assistance to developing countries and countries with economies in transition and made appropriate reports and recommendations on consumer protection policies.

VI. Future work and questions for discussion

57. Resolution 70/186 of the General Assembly takes note of the mandate entrusted to UNCTAD to conduct analysis and research and help all Member States to formulate and implement consumer protection policies, promote the sharing of best practices and carry out peer reviews with regard to the implementation of such policies. The sessions of the Intergovernmental Group of Experts are the only annual meetings on consumer protection with a near-universal governmental membership. The Eighth United Nations Conference to Review All Aspects of the Set will decide on the areas of work of UNCTAD in 2020–2025 related to consumer protection. The UNCTAD secretariat proposes focusing on emerging issues, as detailed in this note, in particular the following:

- (a) Emerging challenges in consumer protection, such as digital economy developments, product safety and access by consumers to essential goods and services, financial services and dispute resolution and redress;
- (b) International cooperation on consumer protection;
- (c) The special needs and challenges of vulnerable and disadvantaged consumers;
- (d) Participation by stakeholders in consumer protection, namely, government authorities, consumer groups and businesses.

58. The Eighth United Nations Conference to Review All Aspects of the Set may wish to consider the following questions for discussion:

- (a) What are the emerging trends and challenges in consumer protection?
- (b) What areas of the guidelines for consumer protection need further discussion and implementation?
- (c) How can extrabudgetary resources be mobilized to support the implementation of the guidelines for consumer protection and the mandate of UNCTAD on consumer protection?