

COMESA COMPETITION COMMISSION

Consumer Remedies and Redress: E- Commerce and Cross Border Cooperation

INTRODUCTION

- Advancements in technology, growth of the digital markets have enhanced e-commerce across the world
- Covid-19 has further contributed to the growth of e-commerce
- Consumers have benefited from this as they now have access to more products and services not limited to those supplied in brick and mortar stores
- They are able to compare prices of products from different suppliers at a lower cost
- However, the number of complaints resulting from e-commerce transactions have also increased

INTRODUCTION

- Consumer complaints involving e-commerce transactions tend to cut across borders.
- With consumers in different jurisdictions affected by the same e-commerce issues
- This therefore calls for more coordinated remedies and redress among consumer agencies in handling consumer complaints arising from e-commerce transactions.
- Cross border co-operation among consumer agencies in handling e-commerce cases and developing remedies is key in enhancing the welfare of consumers.

Cross Border Cooperation in E-Commerce Transactions

- CCC thrives on the principles of co-operation with the Members States of COMESA in enforcing the Regulations.
- Co-operation with member states is among the functions of the CCC (Article 7 of the Regulations).
- Recognises that some Member States have consumer protection laws and institution enforcing the laws.
- CCC is only concerned with consumer issues that have an appreciable effect within the Common Market (Article 3 of the Regulations).
- CCC intervenes in matters that affect more than one Member State
- CCC co-operation with the Member States on consumer issues includes;
 - Sharing the complaints received or consumer issues identified which affect consumers in the Member State concerned
 - Requesting for information relevant to the investigation
 - Requesting consumer agencies for their views to the investigation

Cross Border Cooperation in E-Commerce Transactions

- CCC co-operation with the Member States includes;
 - Case referrals which are outside the jurisdiction of CCC and vice versa
 - Coordination on the implementation of the decisions
 - Capacity building among the Members of Staff
- Member States are required to take appropriate measures, to ensure that they fulfill obligations arising out of the Regulations or those resulting from actions of the Commission under the Regulations
- Use of MOUs with Member States to facilitate Co-operation
- Formation of networks among the agencies responsible for consumer protection

Cross Border Cooperation in E-commerce

- E-commerce cases sometimes involve companies outside the Common Market
- CCC has powers to investigate such companies if their conduct has an effect in the Common Market (Article 3 of the Regulations)
- Use of informal and formal networks by engaging with agencies outside the Common Market as well as those in the Common Market

Common Issues of Concern from E-Commerce Transactions

- Misleading information on the products supplied e.g
 - products not meeting advertised specifications such as model, technical details, functionality, size and presumed differences in quality
- Lack/inadequate disclosure of the terms and conditions of the transactions e.g
 - what happens in case the delivered product is defective? How does a consumer return the product?

Case one:

- A cross-border e-commerce site dealing in the sale of vehicles and vehicles parts, also has local officer offices in at least 9 COMESA Countries.

Common Issues of Concern from E-Commerce Transactions

- The e-commerce site advertises that consumers can buy vehicles to be delivered in their country of residence and consumers pay for the product to the e-commerce site but does not disclose that there are third parties involved.
- Unclear return and exchange policies for consumers
- **Case two;**
- The Commission reviewed the return and exchange policies of e-commerce sites whose trade has an effect on consumers in the Common Market.
- One of the e-commerce site's terms indicated that consumers were not allowed to return products marked 'shipped from overseas'
- If they were found to be defective or a wrong product is delivered to the consumer different from what is advertised on their site.

Common Issues of Concern from E-Commerce Transactions

- Delays in delivering products to customers
 - Prevalent just after COVID-19 was declared a pandemic in March
 - Products that could be delivered within 30 days were taking more than 90 days to be delivered
- Failure to deliver products, Some online traders fail to deliver products
- Delays in issuing refunds or replacements
- No internal complaint resolution system

Consumer Remedies and Redress in E-Commerce Transactions

- Businesses can be fined up to 10% of turnover generated in the Common Market in the preceding business year if found in contravention of the law.
- Businesses can be required to compensate consumers for loss or damage caused due to supplying defective goods
- Due to the multi-jurisdiction nature of CCC, close collaborations with Member States are key in ensuring the effective implementation of the remedies

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