

African Dialogue

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

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E-commerce – what is it

- ❑ Purchase of goods and services conducted over computer networks by methods specifically designed for the purpose of receiving or making orders – UNCTAD
- ❑ It includes transactions undertaken on internet enabled devices such as mobile phones
- ❑ It can occur between B2C, or B2B or C2C
- ❑ There are benefits and also challenges

E-commerce and COVID-19

- Shift more trade from traditional physical trade to online purchases
- Consumers buying from retailers outside their home countries
- Payment for electricity, water, digital television, groceries, food, restaurants, taxi increased
- In Africa e-commerce sales had reached 16 billion dollars in 2017 and expected to reach \$22 billion in 2022

How e-commerce works (Africa)

- (Consumers know no boundaries)
- Many players in the system – seller, consumer, agents and intermediaries
- Introduction of intermediaries – such as internet platforms, banks, mobile network operators, payment systems companies such as Pay Pal, VISA Master Card
- Introduction of agents – courier companies, warehouses (usually acting on behalf of the consumer)
- All these players operate in some kind of legal system

International dimension of consumer law

- Reduction of trade barriers and emergence of new technologies have facilitated the purchase of goods abroad
- Consumers, have more choice between products and services that they can easily compare online
- International organizations have become more active in consumer protection
 - International Organization for Standardization (ISO) cover for example, product safety, customer satisfaction, and the rights to redress and information
 - International Financial Consumer Protection Organisation (FinCoNet) responsible for financial consumer protection across Europe, **Africa**, Asia, and South America
 - G20/OECD High-Level Principles on Financial Consumer Protection and the World Bank's Good Practices for Financial Consumer Protection (Guideline 68) to strengthen financial consumer protection

Cross border cooperation

- This is cooperation between agencies of different countries
- The cooperation can be binding or non-binding
- The cooperation – share confidential information or not
- Can be between two or more agencies
- Can lead to harmonization of laws or systems
- Can lead to investigations of similar or same cases
- Similar priorities
- Can lead to synchronization of remedies

Cross border cooperation

- Binding
 - COMESA competition Regulations and Rules are binding on member states (similar to the EC)
 - East Africa Community
 - *Africa Continental Free Trade Area (Under discussions)*
 - *Tripartite Negotiations –SADC, COMESA and EAC (Under Discussions)*
- Non Binding
 - SADC Declaration of cooperation
 - *UN Guidelines for Consumer Protection (if not domesticated)*
 - African Dialogue –Livingstone principles
 - MoUs with Malawi, NCC of South Africa
 - ICPEN

What can go wrong in cross border e-commerce

- Misrepresentation – goods or service quality, appearance and function
- Non delivery of goods or services duly paid for
- Redress – which legal system to use
- Data protection and privacy – personal data shared with third parties
- Identity theft
- Scams – COVID-19 scams (Govt funds)
- Legal systems

Challenges faced by authorities

- Limited resource envelope – financial and human resources
- Legal issues
 - Jurisdiction matters
 - Different legal systems
 - Privacy and data protections laws – fall under other authorities
 - Confidential information
- Language

Remedies/redress

- Need for providing consumers with access to fair, timely and inexpensive means for redress
- Encourage the development of effective alternative dispute resolution (ADR) mechanism
- Need for cooperation among agencies (MOU, Networks etc)
 - Leading to harmonization of laws
 - Similar priorities
 - sharing and exchange of non-confidential information
 - Establishing informal channels
 - Investigative techniques
- Need to review and revise legislation
- Coordination among national consumer protection authorities