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The Legal Regime on the Protection of Consumer Rights in a Cross-Border Business-to-Consumer Electronic Transaction

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Submitted to Dr. Jetu Edossa (PHD)

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ADDIS ABABA UNIVERSITY

COLLEGE OF LAW AND GOVERNANCE STUDIES

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The Legal Regime on the Protection of Consumer Rights in a Cross-Border Business to Consumer Electronic Transaction

A Thesis Submitted to the School of Law, Addis Ababa University, in Partial Fulfillment of the Requirements for the Degree of Master of Laws (LLM in Public International Law)

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Approval Sheet

The legal regime on the protection of consumer rights in a cross-border business to consumer electronic transaction

By Mulutsega Bekele

Approved by Examining Bord

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Declaration

I, **Mulutsega Bekele,** hereby decare that this research paper is original and has never been submitted in any other institution. To the best of my knowledge and belief, I also declare that any information used herein has been duly acknowledged.

Name: Mulutsega Bekele

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Abstract

*The rapid growth of cross-border business-to-consumer (B2C) electronic transaction has transformed global trade, offering access to goods and services while presenting significant challenges for consumer protection. The legal regime governing consumer rights in cross-border business to consumer electronic transactions require international frameworks, regional regulations, and countries internal rules. The key global legal framework, such as the UNCITRAL Model Law on Electronic Commerce (1996)**,** OECD Guidelines for Consumer Protection in E-Commerce (2016)**,** and United Nations Guidelines for Consumer Protection (2016)**,** establish the important principles for transparency, security, and dispute resolution mechanisms. These guidelines provide a valuable input for government of different countries to consider while they are drafting their internal policy and regulatory framework. The national regulations of USA, EU, African Union and Ethiopia have shown that there is a continuing pragmatic change in the evolution of online shopping and the required regulatory ways. This change of development will promote harmonization of e-commerce regulations to enhance consumer trust. However, challenges such as jurisdictional conflicts, data privacy concerns, and weak enforcement mechanisms, lack of consumer awareness, weak internet interconnectivity, limited cybersecurity infrastructure hinder effective consumer protection. Online dispute resolution (ODR) mechanisms as a major way redressal for business operated electronically and offer potential resolution to consumer dispute for online business transaction. However, there are drawbacks like due process of law, enforcement problem, … are still the ongoing challenge attached to it. This research paper ties to underscores the need for designing a relevant policy on the integration of economic reform and information communication technology, the regulatory and legal reforms on consumer protection, consumer education and regional cooperation to strengthen consumer rights in cross-border B2C e-commerce, ensuring equitable and secure e-commerce.*

Abbreviations and Acronyms

ADR - Alternative Dispute Resolution

AfCFTA - African Continental Free Trade Area

AU - African Union

B2B - Business-to-Business

B2C - Business-to-Consumer

B2G - Business-to-Government

C2B - Consumer-to-Business

C2C - Consumer-to-Consumer

EFT - Electronic Funds Transfer

EFTA - Electronic Funds Transfer Act

EU - European Union

G2C - Government-to-Consumer

HTTPS - Hyper Text Transfer Protocol Secure

ICT - Information Communication Technology

ODR - Online Dispute Resolution

OECD - Organisation for Economic Co-operation and Development

SSL - Secure Socket Layer

UNCITRAL - United Nations Commission on International Trade Law

UNGCP - United Nations Guidelines for Consumer Protection

US - United States

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Chapter one
Introduction

1.1. Background

The traditional way of business has been done by the physical appearance of both buyers and sellers in one specific marketplace. It is dependent on the geographical location of the market and the consumers that require them to go far distances to buy goods and service where the market is situated. This way of transaction entails higher overhead costs due to expenses related to physical infrastructure, maintenance, rent, utilities, and staffing for physical locations. However, the emergence of new technology will help people to get new information about the lifestyle of other people. This diverges the understanding of the world to the new electronic way of transaction. In a worldwide connectivity by internet within few years reach 50 million people than TV and Radio reached for10 and 38 years of time respectively to this number of people.[1]

Today's development in information communications technology has significantly changed the lives of people and provided new opportunities for consumers and businesses in electronic transaction.[2] The way of business making through electronic means has brought more intense competitive business world, emerging of new marketplace, very quick transactions and fast advancement in technologies but the demand and supply chain remains the same which is driven by price and quality[3]. It facilitates business transactions with cost and time in effective way. However, the consumer cannot examine the product physically prior to purchase and cannot have access to know the seller. Access to internet and making of electronic transaction provides simpler and quicker availability of products and services with certain obstacles faced by consumers. The growth of electronic commerce has increased cross-border business-to-consumer transactions with great marketplace opportunity.

As internet connection is a medium for any communication it is indispensable in conducting electronic transactions. Electronic transactions are now dramatically increasing and become a common way of doing business through easy and virtual means and it changes the method of

[1] Dr. Shashi Nath Mandal, 'Protection of E-consumers' right in electronic transaction,' April 7, 2011, p. 2 hard copy available on http://ssrn.com/abstract=188059

[2] United Nations Conference on Trade and Development, 'Consumer Protection in Electronic Commerce' (Second Session of the Intergovernmental Group of Experts on Consumer Protection Law and Policy, Geneva, 3–4 July 2017), p.2

[3] Dr. Shashi Nath Manda, supra note1

business to the traditional one.[4] E-commerce was introduced with a secure connection using digital data transfer, online marketing, and electronic payment systems.[5] It is not only an exchange of information for the transaction of goods or services but giving information to the consumer is for support service. Today more consumers prefer this way of making transactions because they use internet than any other means of communication and it is more convenient and faster that skips many steps of traditional way of business. The protection of consumer rights is to avoid challenges against good practice of commerce towards consumers. The significance of consumer protection in electronic transactions is to increase reliability of online business without physical appearance to the market. The protection of vulnerable and disadvantaged consumers from risks to their well-being and security, protection of their economic interest, availability of effective consumer dispute resolution, access to consumers to provide their views in decision making process that affects their interest, ascertain consumer privacy and seamless global exchange of information are main concerns of consumer protection in electronic transactions across the globe.[6]

The protection of consumer rights in an electronic transaction must have a balance between the need to have efficient business practice and the act of safeguarding consumers from various risk of fraud, deceptive practice, unfair contract terms, lack of transparency and protection of consumer privacy. The mutual trust between consumer and business operator in electronic market will secure the proper operation of the business. The existence of fragmented legal regime for safeguarding consumers' rights and interests in cross-border electronic transactions has created a complex and challenging environment for consumers. These fragmented and inadequate laws and regulations have the deficiency to provide adequate protection for consumers and make them vulnerable to exploitation and abuse.

The emerging of network technologies with computers, mobile phones and connective devices facilitates the economic development and growth of electronic transactions. The mobile phone business has become more important to consumers across the world and gives the chances it should offer, and it is easy to use without limitation of place and time. It facilitates the buying

[4] Hulman Panjaitan and Nindyo Pramono, 'Legal Protection of Consumer in Digital Transactions' (2023), Vol. 11, Russian Law Journal, p. 1431,

[5] United Nations Conference on Trade and Development, supra note 2

[6] United Nations, 'United Nation Guideline for consumer protection,' New York and Geneva, 2016, p. 8. It sets out the principle of effective consumer protection characteristic to the making of legislation enforcement institution and regulation in consumer protection.

and selling of goods with time in cost effective way with the same requirement of demand and supply chain as traditional consumer.[7]

1.2. Statement of the Problem

The existing laws and regulations fail to offer sufficient protection for consumers' rights, and lack of a unified legal framework, execution policy and regulatory mechanism leads to lose confidence in consumers and uncertainty in the electronic market. This has resulted in consumers being vulnerable to exploitation and abuse. The rapped development of communication technology and the development of consumers' interest in transacting through electronic media requires having a reliable consumer protection law, but these changes are not still addressed by international consumer protection law and that cannot create a business trust worthiness between the buyer and the seller.

In a cross-border electronic transaction, the seller cannot be known properly and the place where he is found, and there is a grate possibility of giving deceitful information about the product and his identity too.

1.3. General Research Question

Even if the available international legal regime is not uniform for international electronic market platforms, the general research question is about identifying the current status of the legal framework on the protection of consumer rights in cross-border business-to-consumer electronic transactions, and to identify the available challenges.

1.4. Specific Research Question

1. To analyze the international legal regime such as UN, UNICTRAL and OECD legal regime on safeguarding of consumer rights in electronic transactions.
2. To identify challenges in the protection of consumer rights in electronic transactions
3. Discuss dispute resolution mechanism available for consumer dispute in cross-border electronic transaction?

1.5. Methodology

This study will employ qualitative doctoral research methods in analyzing the existing international legal regime on consumer protection and a comprehensive examining of the current

[7] Dr. Shashi Nath Mandal Supra note 1, p.3

literature on consumer protection in cross-border business to electronic transactions. It will be done by analyzing the primary data such as international legal framework rules, conventions and protocols and secondary data literature, books and so on. Further, gives analysis on the available legal regime in relation to consumer protection in international electronic transactions.

1.6. Research Objectives

The thesis tries to identify the current state of the legal framework on protection of consumer rights in cross-border business-to-consumer electronic transactions, and to analyze the challenges and opportunities in relation to electronic transactions and to provide recommendations for improving the capability on the protection of consumer rights in cross-border business-to-consumer electronic transactions.

1.7. Scope of the Study

The study will focus on the analysis of UN, UNCITRAL and OECD legal regime on the protection of consumer rights in international business-to-consumer digital transactions and available redressal mechanism. EU, US, AU model law and the Ethiopian legal framework are not the area of the study but, have tried to give a high light review to the applicability of laws in their respective location in the context of consumer protection in cross-border electronic transaction. The study does not include Regional and Sub-Regional legal frameworks and bilateral and multilateral agreements.

1.8. Significance of Study

This study will give a background understanding of the international legal region on consumer protection in cross-border business to consumer electronic transactions and contribute to the development of a comprehensive and effective legal framework for the protection of consumer rights. The comprehensive legal regime will necessitate in the prevention of unfair trade practice such as protecting deceptive advertisement and misrepresentation, promotion of transparency and accountability, protection of data, increase consumer confidence by knowing their right and promote fair completion. It will also provide valuable insight for policymakers, businesses personnel, and consumers on the current stage of legal regime and show challenges and opportunities in such kind of electronic transaction.

1.9. Limitations of the Study

As mentioned in the research objective the study will try to focus on the scope of the research question and objectives. The research clearly deals with the available legal regime that protects consumer rights in cross border electronic transactions. However, as is envisaged in different literatures the international legal rules are fragmented and non-binding guidelines.

Moreover, even though the international market is developed based on globalization and increased interconnectivity, there is still a gap in the protection of consumer rights, and the unwillingness of countries to digitalize their market. Among many factors, data protection, digital payment, digital taxation, unknown sellers and their location and so on are the gap areas in the making of digital market. Having noted all these shortages, the research will try to address the legal framework that tries to protect consumer rights and the available remedies. It will rely on international legal instruments, international guiding principles, journals articles and books are also deeply investigated to address the research questions. The study will not cover all aspects of consumer protection in cross-border transactions but highly emphasis on safeguarding consumer rights in cross-border businesses-to-consumer electronic transactions.

1.10. Content of the chapter

This research paper is structured into four chapters, each focusing on distinct aspects of the research topic and contributing to the overall understanding and analysis of consumer protection in a cross-border business to consumer digital trade. Chapter one: This introductory chapter gives a highlight of the research topic, outlining the background, significance, objectives, scope, and limitations of the study. It sets the stage for the subsequent chapters by framing the research questions and objectives within the context of safeguarding the consumer rights in cross-border electronic transactions. Chapter two: This chapter gives conceptual clarifications, theoretical frameworks, and a comprehensive review of existing literature related to consumer protection in e-commerce. It synthesizes key insights from the literature point of view to inform the analysis and discussion in subsequent chapters. Chapter three: This chapter identified and examined the international legal regime on safeguarding consumer rights in electronic transactions. It also explores the legal challenges in the protection of consumer rights. The last chapter, i.e. Chapter Four, addresses the dispute resolution mechanism available for consumer disputes in electronic transactions. Finally, a conclusion on the conceptual and legal framework on consumer protection

in electronic transactions and offers recommendations for policymakers, regulatory authorities, businesses, and consumers on the prospects and opportunities for enhancing electronic transactions and protection of consumer right in a global electronic marketplace.

Chapter Two

Theoretical aspect of electronic transaction in a cross-border business

2.1. Electronic transaction in general

The development of internet and accessibility is a base for the coming of new way of commerce. The globalization of economic development and information technology is the main cause of emergence of digital marketing.[8] The dynamicity of technology development through years has changed the business transaction landscape and brought significant benefit to consumer and business in international marketplace.

An electronic transaction is a way of business transaction by using internet without physical contact of the buyer and seller.[9] It is a process of exchange of electronic data within computer mediated network by digitally electric records.[10] This way of transactions enables companies extending their business operation beyond the boundaries of states by attracting new consumers, establish new connections at international level, increase sales and maximize profit.[11] Many companies are become using web to expand their business directly operate in international market in a global environment. Along with the development and implementation of website it creates online identity and new way of communication.[12]

Electronic transaction gives convenience, liberty and autonomy to sellers to perform their online business based on their own interest. It is characterized by the availability of business everywhere at any time, crossing culture and national boundaries, it reaches globally based on universal standards, it permits personalisation and customization, cost effective in the process of transaction and it enable new marketing channels through social medial platform.[13]

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8 Xuemei Qu, 'Research on the Development of Cross-Border E-commerce in the Context of Digital Trade' (2022) Vol.215 Advances in Economics, Business and Management Research, p.380

9 https://www.contractscounsel.com/t/us/electronic-transaction

10 https://www.globalsign.com/en/blog/sg/electronic-transactions-security-within-online

11 Zalatan Meskic, Mohamad Albakjaji, Enis Omerovic, Hussein Alhussein, 'Transnational Consumer Protection in E-Commerce: Lesson learned from the European Union and the United States', (2022), Vol..13, International Journal of Service, Management, Engineering and Technology, p.2

12 id

13 Paul R. Baker, 'E-Commerce and Digital Trade: A Policy Guide for Least-Developed Countries, Small States and Sub-Saharan Africa,' 2017, p.6

Electronic transaction using internet for commercial purpose along with the development of mobile and social media commerce has helped companies to expand their business across the world especially in countries with large population.[14] It is for the coordination and management of global supply chain, including buying of goods and services from online suppliers of different countries through online market, e-commerce platforms and social media.

Electronic transaction involves in both domestic and cross-border transaction model. The domestic electronic transaction may not only be done on the delivery of domestic goods and services from domestic market but the cross-border online trade involves in the delivery of goods and services.[15] The domestic electronic commerce may involve in the purchase of products from domestic online retailer or foreign retailer which have a physical or online shop in a consumer home country but the goods may deliver from another country.[16] In this case the domestic electronic-transaction is not only limited for domestic market but for foreign cross-border transaction. Likewise, transaction from international electronic transaction without local online shop may involves in domestic delivery of goods from the warehouse found in consumer's home country.[17] The other category of electronic transaction is involved in a domestic online market that may import goods from foreign market and simply distribute to domestic consumer.[18]

In relation to domestic and cross-border electronic transaction it can be categorised into several ways of business depending on the nature of trade, delivery and the location of the buyer and seller. This shows that electronic transaction is more flexible and complex. In domestic electronic transaction with domestic delivery of goods both the sold and delivery of goods is done within the same country, but in case of domestic e-transaction with cross-border delivery the seller of one country shipping goods internationally to the buyer.[19] Whereas in cross border electronic transaction with domestic delivery a foreign seller uses a local warehouse to ship goods within the buyer's country, and in a cross-border e-transaction with cross-border delivery the transaction of goods is sold and shipped form seller country to buyer abroad.[20] But in domestic e-commerce

[14] Zalatan Meskic Supra note 11
[15] Professor Ashok R. Patil and Pratima Naraya, 'Protection of Consumers in cross-border electronic commerce,' 2014, International Journal on Consumer law and practice, p.61
[16] id
[17] id
[18] id
[19] id, p.62
[20] id

selling imported goods involves selling of imported goods to a local retailer in a domestic market.[21]

2.2. Classification of Electronic Transaction

Electronic transactions can be categorized into different categories based on flexibility and suitability in a digital economy. Those classifications are the participant base classification, the payment method and the nature of transaction base classification.

2.2.1. Participant base classification

Participant base electronic transaction is the involvement of different participants who have separate roles in operating digital transaction. Based on the nature of their role the participants are classified into many categories by considering the relationship between the parties involved in the business, the flow of goods, services and information. Participant-based classification of electronic transactions focusses on the various relationships of the parties in digital commerce that address different economic and social needs, shaping the development of electronic transaction at international level.

Business-to-Business (B2B)

B2B transactions involve a commercial transaction between two or more businesses, such as between manufacturers, wholesalers, and retailers[22]. It is a way of transaction that happens in the supply chain that one company purchases raw materials from another for the manufacturing process and the other may buy the product and sell the retailers.[23] These transactions mostly involve a large-scale transaction, supply chain management, and company-level services. B2B electronic transaction in a cross-border electronic business is efficient in procurement of bulk materials and logistics process between manufacturers, wholesalers and retailers.

Business-to-Consumer (B2C)

B2C in electronic transactions are the transaction involved between selling of products or services directly to end users such as e-consumers through electronic means.[24] This is the most prevalent

[21] id
[22] Dr Vinod Kumar and Gagandeep Raheja, 'Business to Business (B2B) and Business to Consumer (B2C) management,' 2012, Vol.3, No.3, International Journal of Computers and Technology, p.447
[23] https://www.investopedia.com/terms/b/btob.
[24] Swapan Kumar Saha and Ashraful Aman, 'A comparative study on B2B Vs. B2C based on Asia Pacific Region,' 2014, Vol.3, International Journal of Scientific & Technology Research, p.294

type of e-commerce, when manufacturers or retailers offer their goods to customers through electronical means using internet.[25] This way of business has developed rapidly due to the introduction of websites, and there are many online malls and virtual stores already available for all types of customers to purchase and sell goods and services.[26] The consumer typically has access to more information on websites that offered by affordable prices without affecting the same level of individualized customer service and expedited order processing and delivery than purchasing and selling of goods in traditional commerce.[27]

Consumer to Consumer (C2C)

Consumer to Consumer model of transaction is defined as consumer selling of goods to other consumers which are often facilitated by a third party as an intermediatory for bringing the parties together.[28] This type of transaction is done between peer-to- peer sales. C2C e-commerce will enhance consumer involvement and increase market competition.[29] The purpose of business by electronic transaction is to enable the parties to sell their goods and services directly to prospective customers without having to invest a significant sum of money in creating and running an online store. This enables sellers to retain higher profits by avoiding the costs of building infrastructure typical of traditional businesses, while buyers may benefit from more competitive prices when sellers operate on the same C2C platform.[30]

The remarkable benefits of C2C are providing goods by C2C online platform to buy and sell, the business will gain trust and they likely to recommend the platform as a marketplace to other customer that will create huge profits, increase more saving, the likelihood of attracting consumer visit will grow, transactions will increase and it provides convenience to both by removing obstacles that hinder individuals from engaging in online business.[31]

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[25] id, p. 295
[26] https://bloomidea.com/en/blog/types-e-commerce
[27] id
[28] https://www.clarity-ventures.com/ecommerce/what-is-consumer-to-consumer-
[29] Chih-Hung Yuan, Chia-Huei Wu, Dajiang Wang, Shiyun Yao, Yingying Feng, 'Review of Consumer -to consumer E-commerce research collaboration', Journal of Organization and End User Computing, 2021, Vol.33, P.168
[30] https://www.clarity-ventures.com/ecommerce/what-is-consumer-to-consumer-ecommerce
[31] https://www.techosquare.com/blog/c2c-ecommerce-definition-examples

Consumer -to- Business (C2B)

This model of transaction is a total shift of traditional way of exchange of goods and services. It is an individual consumer offers goods or services or data to the businesses.[32] This empowers the consumer as service provider, content creator and so on, to gives a proactive role in a business relationship. A consumer-to-business model sometimes accommodates self-employed individuals and freelancers who perform business, and they deal with businesses and arrange agreements based on their own conditions by using C2B electronic transaction websites.[33]

The benefit of Consumer to Business platform is flexible, higher earning potential, wider reach, a chance to get an important work experience across various companies and consumers that can provide their products or services to a business.[34]

Business to Government (B2G)

Business to Government transactions is supplying of goods or services by private supplier to government agencies by means of public procurement, tenders through government contracts.[35] This model is important for public infrastructure, defense, healthcare, education, transportation and technology which are largely done by public funds where governments are acting as a major client.[36] The advantage of this model is governments are a significant buyer creating a large market for sellers that can lead to increase their revenue and growth opportunities for companies when they successfully use B2G landscape.[37] Engaging in B2G can help sellers to establish long-term partnership with government entities creating reliable stream of revenue as well as enhance company reputation and credibility in the market.[38] The government also has got a reliable, stable and trustworthy clients with prompt delivery and defined quality of goods and services.

Government-to- Consumer (G2C)

This model of transaction is about the provision of government services to customers electronically such as tax filing, license renewals, or social welfare disbursements via portals. The

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[32] https://www.indeed.com/career-advice/career-development/consumer-to-busine
[33] id
[34] id
[35] Stefan Morcov, 'The B2G Manifesto: Structured approach to Business-to-Government marketing and public sector market segmentation,' 2022, p.1
[36] Ana-Maria Puiu and Stefan Morcov, 'Implementation of a Business-to-Government (B2G) Sales Analytics Tool – Hermix,' 2023, Vol..2, No. 4, p.63
[37] https://www.breakcold.com/explain/b2g-business-to-govern
[38] id

government service for public electronically is the provision of information to the society to be aware of their social activities, business and so on.[39] The citizens will get a greater benefit by assessing all services online and electronic services from the government that helps the government to provide more important and customized services to the citizen.[40]

2.2.2. Payment method base classification

An electronic payment system is a technology-based platform that facilitates secure and convenient online fund transfers for individuals and businesses.[41] It employs multiple digital channels, such as credit/debit cards, mobile wallets, internet banking, electronic funds transfers (EFTs), and cryptocurrency and so on.[42] These kinds of payment methods determine how funds are transferred between the seller and the buyer smoothly through electronic means.

2.2.3. Nature of Transaction base classification

Transaction base classification of E-commerce can be based on the amount of money exchanged, participant relationship and digital infrastructure requirements. This classification categorized as Commercial transaction, financial transaction, service base transaction and non-commercial transaction. These classification helps the individual, businesses and financial institutions manage their finance.[43]

Commercial Transaction

A Commercial transaction refers to a buying, selling, transferring or, exchanging of goods, services or information by using computer network and internet.[44] This category is directly done for the commercial transaction between business to consumer in a retail electronic transaction, business to business way of transaction and consumer to consumer marketplace transaction.

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[39] Nurcahyani Dewi Retnowati and Dwi Nugraheny, 'Government to Citizen Digital Interaction and Citizen to Government on the Jogja Smart Service Application', Sainstek: Jurnal Sains dan Teknologi 2021, p.90

[40] Hashman Al Sghier, 'Improving Government to Customer (G2C) Governance Model in Kingdom of Saudi Arabia: A Web Usage Mining Based Approach',2016, Asian Journal of Information Technology, p.13

[41] Shayam Gowtham, 'Electronic Payment (E-Payment): What is it, Types & How does it Works?' August 2023, available on https://happay.com/blog/electronic-payment/

[42] id

[43] https://www.papayaglobal.com/glossary/transaction-classification/

[44] Marjan Muhammad, Muhd Rosydi Muhammad and Khalil Mohammed Khalil, 'Towards Shari'ah Compliant E-Commerce Transactions: A Review of Amazon.com,' 2013, International Journal of Islamic Finance, p.1229

Because of the development of electronic transaction, it has got a significant volume of transaction which costs billions of dollars in a global sale.

Financial Transaction

A financial transaction is the transfer of money or funds through online by e-banking, digital payment, cryptocurrency and mobile money transfer between two parties using computer network and internet. In this transaction money is transferred completely digitally without any physical cash, cheque or financial personals involvement. However, there are financial technology companies participating in various ways for the purpose of providing secured technology platform.[45]

Service base Transaction

Electronic service transaction involves in the provision of software service platform through internet.[46] The foundation of the concept of digital service consist of four nature such as intangibility that is the service are not physically evidenced to identify; digital service standardize by quality and content; high technology nature and scalability that is economies of digital service are highly different from the traditional service as increasing of supply related demand.[47] Intangible services are transport service, freight forwarding, insurance repair consulting, computer software investment, health care and education.[48]

Non-commercial Transaction

It is an electronic exchange of information made by online that does not involve Purchasing and trading products and services for financial gain. But it is a digital interaction which has no commercial purpose like personal communication, information sharing and so on.

2.3. Data Transfer

The transfer of data across boundaries of states within digital environment is essential for enhancing services delivery and promoting international cooperation that significantly contributes to the progress of digital transaction in cross-border business.[49] However, it has legal, security

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[45] https://www.investopedia.com/terms/d/digital-transaction.asp

[46] Joni Salminen, 'Digital service: How are the different?' 2020

[47] id

[48] Theodore Levitt, 'Marketing Intangible products and product intangibles,' May1981, available on https://hbr.org/1981/05/marketing-intangible-products-and-product-intangibles

[49] Gulbakyt Bolatbekkyzy, 'Legal Issues of Cross-Border Data Transfer in the Era of Digital Government,' 2022,

and sovereignty issues that needs resolution through international means to robust the protection of data and building trust between parties who engage in electronic transaction.[50]

Data transfer generally in e-transaction involves the transmission of information between the parties such as personal details, payment credentials, transaction records and so on. Even though it is important to execute business in an easy way, it can expose the business to high risks, such as data breaches, unauthorized access, and cyberattacks. Cross-border electronic transactions have exposed to high risk since data often crosses multiple networks and jurisdictions with different regulatory frameworks. The security of data is important because any breach can cause financial losses, theft, and destruction of consumer trust.

2.4. Digital Payment

The concept of digital payments begun after the emergence of internet and electronic banking system. It is the process of transferring funds from one account to another using digital devices like smartphone, computer or point of sale (POS), where customers gained option to shop online directly from the business owner using the platform.[51] It has established a new way of payment to the business that offers a convenience, speedy, and security compared to traditional cash-based system.

Over times the emergence of smart phones and the development of secure protocol enable the growth of payment methods like mobile wallets, peer to peer payment platform, online banking, transfer funds, pay of utility bills, manage accounts using banking website or mobile app[52], cryptocurrencies like Bitcoin and contactless payments[53]. Mobile payments are increasingly become more known for online transaction which relatively high security as well as physical shopping.[54] Digital payments enable transactions for online merchants, exchange of domestic remittances, collecting payments for agricultural goods, or receiving wages and public pension or government fund transfer.[55]

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p.288

[50] id

[51] https://www.icterra.com/the-history-and-future-of-payment-trends

[52] Asli Demirgüç-Kunt, Leora Klapper, Dorothe Singer and Saniya Ansar, The Global Findex Database 2021, Financial Inclusion, Digital Payments and Resilience in the Age of COVID-19(world Bank) P. 59

[53] https://www.fintraksoftware.com/the-different-types-of-online-payments

[54] Khando Khando, M. Sirajul Islam and Shang Gao, 'The Emerging Technologies of Digital Payments and Associated Challenges: A Systematic Literature Review,' 2023, p. 10

[55] Professor Ashok R. Patil Supra note, 15

It avoids a physical cash base transaction by transfer of fund in real time with convenient and cost-effective way compared to traditional methods especially for cross-border transaction. However, cybersecurity threats such as phishing, malware, and data breaches are the possible challenges in connection with digital payments. Moreover, regulatory compliance also a challenge as digital payment providers must adhere to the available laws and standards across the world.

2.5. Digital Taxation

The emergence of cross-border electronic-transaction has challenged the traditional tax system which was designed for buying and selling of goods and service. Digital Taxation aims to ensure that profits are taxed from any economic activities, even if, there is no physical presence is required in a certain jurisdiction. This leads to the emergence of new tax system ensuring e-commerce contribution to a fair share to the public service.

The two basic traditional principles of taxation are the source base rule or territorial jurisdiction and the permanent-establishment rule, but the most dominant in the international taxation is the source base rule, in which the host country has the main authority to tax a business in the country where it generates its revenue.[56] The permanent establishment or residence of an enterprise is, its country of residence that has the primary tax jurisdiction over the income generated.[57] However, those rules of principle are existed to determine the tax jurisdiction in a tradition tax system but, electronic transaction challenges these tax principles as it is inherently a non-territorial nature of business making.[58] The territorial connections that forms the basic premise of the rules, but they lose their relevance for digital taxation in e- transaction. The OECD tax principle in challenging traditional taxation by establishing the guiding broad taxation principles and rules governing the tax treatment on international electronic transaction as a conventional tax principle, such as neutrality, efficiency, certainty and simplicity, effectiveness and fairness, and flexibility.[59]

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[56] Peter Misiani Mwencha, 'Taxation on Electronic Commerce-A Commentary,' 2019, p. 73

[57] id

[58] id, p.74

[59] Organization for Economic Co-operation and Development, Taxation and Electronic Commerce: Implementing the Ottawa Taxation Framework Conditions (OECD 2001), P. 50, (OECD) Will encourage policies aimed at achieving maximum sustainable economic growth, increased employment, and improved living standards in Member countries, while ensuring financial stability, thereby supporting the development of the global economy; to contribute to sound economic expansion in Member as well as non-member countries in the process of economic development; and to contribute to the expansion of world trade on a multilateral, non-discriminatory basis in accordance with international obligations.

However, the digital transaction has a tremendous advantage in simplifying the process of purchasing and trading of products and services such as e-payment, in door delivery, e-taxation and so on between customers and businesses who are in different locations, it has various challenges in relation to the existing tax system at international level.[60] These challenges are due to the inherent non-territorial nature of digital transaction.[61] The main notable challenges are difficulty to identify the taxpayer which leads loss of taxation, difficulty in tax administration and tax declaration.[62] Record keeping also another challenge in digital market that lacks appropriate records during e-commerce transactions.[63] The way of tax collection is another difficulty in digital marketing.

2.6. Security in Electronic Transaction

Today internet plays a very important role for business transactions and entrepreneurs and there is huge number of monetary transactions through digital platform that has become mandatory to secure online transactions as the cyber-crimes increasing highly.[64] The security system in online transaction is an important issue to ensure safe transaction between business and consumer that increases consumer confidence by protecting the consumer from different threats.[65] The security of electronic transactions relies on an organization's capacity to guarantee privacy, authenticity, integrity, availability, and protection against unauthorized access.[66] The electronic transaction security is as one part of information security framework it is directly applied to digital trading including computer security, data security and other forms of information security.[67] The purpose of security in online transaction is to hide the information of the customer and the data transferred through online without any third-party intervention.[68]

The known security threats in electronic transaction are malicious code such as viruses which has the ability to duplicate and create other files, worms can spread from one computer to another and

[60] id, p.75
[61] id, p.77
[62] id
[63] id
[64] Sumit Badotra and Amit Sundas, 'A Systematic review on security of E-commerce system,'2021, Vol.18(2) International Journal of Applied Science and Engineering, p.3
[65] Randy C. Marchany and Joseph G. Tront, 'E-Commerce Security Issues,' 2002, p. 2
[66] id
[67] Niranjanamurthy M and DR. Dharmendra Chahar, 'The Study of E-commerce Security Issues and Solutions,' 2013, Vol.2, International Journal of Advanced Research in Computer and Communication Engineering, p.1
[68] Smita kakade and Jyoti charade, 'Security in electronic transaction,' 2017, Vol.04, International Research Journal of Engineering and Technology, p.2908

Trojan horse, hacking i.e. attempted to accessed other computer data by other person, credit card fraud, spoofing to get unauthorized access to the computer data by pretending as authorized one and DOS which is legitimate users are prevented from accessing to use the data by hackers.[69]

These security threat primarily affects payment processing in which electronic transaction heavily relay on electronic payment system, data protection that contains large and confidential business and personal data of seller and customers and all over system integrity that affects the network infrastructure. There are different categories of digital payment methods based on online payment system, authentication way and authentication types.[70] The main types of electronic payment systems include electronic cash systems, electronic cheque systems, smart card-based systems, and online credit card payment systems.[71] All these payment systems have their own way of security methods to protect from the exposure of threat.

In any respect electronic transaction security involves safeguarding transactions from unauthorized access, use, alteration or destruction of data and system integration.[72] The security tool that is available in electronic transaction encompasses protection against unauthorized data alteration (Integrity), prevention against any party falling to uphold the agreement i.e. it doesn't deny sale or purchase (No repudiation), verification of data source (Authenticity), protection of unauthorized data disclosure (Confidentiality), access to data control and disclosure (privacy), prevention against data delays or delete (Availability) and ensure the storage of records and only allowed people can access the account (Auditing).[73]

2.6.1. Common security solutions for electronic transactions

Hyper Text Transfer Protocol Secure (HTTPS) and Secure Socket Layer (SSL)

HTTPS is a protocol used for protection sensitive information while transferring between web browser and website by encrypting all communication.[74] Secure Socket Layer certificate is a digital certification that confirms website's identity and enable an encrypted connection of data

[69] id, p.2907
[70] Princewill Aigbe and Jackson Akpojaro, 'Analysis of Security Issues in electronic Payment System,' 2014, Vol.108, International Journal of Computer applications, p.13
[71] id, p.10
[72] Sibo Prasad Patro, Dr. Neelamadhab Padhy and Rasmita Panigrahi, 'Security Issues over E-Commerce and Their Solutions,' 2016, Vol.5, Iss.12, p. 83
[73] Resty Kurnia Jamra, Bayu Anggorojati, Kautsarina, Dana Indra Sensuse, and Ryan Randy Suryono 'Systematic Review of Issues and Solutions for Security in E-commerce,' 2020, International Conference on Electrical Engineering and Information (ICELTICs)
[74] Jinson Varghese, 10 E-commerce Security Threats That Are Getting Stronger by The Day, 2025, https://www.getastra.com/blog/knowledge-base/ecommerce-security-threats/

sent to server.[75] These security methods apply on online banking e-mail and electronic transaction.[76] The security service optimizes confidentiality, message integrity and site authentication to develop trust decisions.[77]

Antimalware and Anti-virus software

Antimalware is a software program that identifies, eliminates and prevents harmful software from affecting the computer and information communication system, whereas Anti-virus is a software that protects the data from attack by the virus.[78]

Securing the Admin Panel and server

Continuously use complex password that are impossible to figure out easily and can't be used by anyone. It is the best easy way of periodical practice over electronic transaction and creating new accounts for all forms of e-commerce sites.[79] And make the system to send notification whenever an unknown IP tries to enter the system.

Avoid public Computers and use of public wi-fi

The consumer as well as the seller shall avoid use of public computers for any financial transaction. Using of public computers expose all business information and data mainly the electronic payment information to fraud and security threats. The transaction always done using a secured wi-fi connections which has a protected password in case of using public computers and public wi-fi connections. [80]

Educating the staffs and customers

Educating the employees of the seller and customers has a valid importance in the protection of e-commerce. There may be a third party who may send a false promotion and embezzle the consumer or the seller data from such communication. This requires frequent updates of information of the employee and the consumer itself. Regular scanning of website, use online malware detection, maintain frequent backups of data and use multi-layer security data protection

[75] https://www.kaspersky.com/resource-center/definitions/what-is-a-ssl-certificate
[76] Zakir Durumeric, James Kasten, Michael Bailey and J. Alex Halderman, 'Analysis of the HTTPS Certificate Ecosystem,'2013, conference paper, p. 291
[77] Jeremy Clark and Paul C. van Oorschot, 'SoK: SSL and HTTPS: Revisiting past challenges and evaluating certificate trust model enhancements,' 2013, p. 511
[78] supra note, 74 https://www.getastra.com/blog/knowledge-base/ecommerce-security-threats/
[79] Sibo Prasad Patro Supra note 72, p.84
[80] Smita Kakade Supra note 68, p.2909

to enhance electronic transaction platform security. Moreover, keep all the system and software update and use effective e-commerce security means to safeguard the transaction and data from frequent cyber-attack and adhere the security police and direction of the system.

2.7. Benefit of Electronic Transactions

Electronic transaction offers several benefits to the economy including increase speed and convenience, accessibility form anywhere with cost efficiency, digital recording that simplify financial tracking, increase the ability to send and receive money internationally, wider customer reach and offers divers electronic payment option and in door delivery of goods and so on[81]. Electronic transactions avoid having physical cash in hand and allow to purchase anywhere at any time without worrying to carry large amounts of money. The increase in internet and mobile banking has been driven by the development of online business and introduction of cash less payment.[82]

It has the ability to reach at all global market without requiring large financial investment at a defined geographical location. The consumer can get global choice, obtain important information and evaluate offers of every possible provider, no matter where they are located. After the Covid-19 pandemic digitalization was become speed up in many field of interconnection especially business, where people's mobility was limited. A remarkable consequence of the pandemic has been the rapid adoption and implementation of digital technologies.[83]

2.8. Challenge in Electronic Transaction

The advancement of the internet and technology has enabled online companies to gather large amounts of data, including consumer information.[84] However, the potential impediments in connection to consumer protection in e- transactions are increasing of online fraud and existence of non-payment, higher cost of cross- border delivery, dispute redresses and enforcement are few.

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[81] Smita Kakade Supra note 68, p.2908

[82] Rusydi Mohamad Kamal, Noor Afzaliza Nazira Ibrahim, Debbra Toria Nipo and Rusydi Mohamad Kamal, 'Society Growing preference for Cashless transaction over cash,' International Journal of Acadamic Research in Business and Social Sciences, 2024, p.2358

[83] Adelheid Holl, Ruth Rama and Hannah Hammond, 'Covid-19 and Business Digitalization: Unveiling the Effects of Concurrent Strategies,' 2024, Journal of the knowledge economy, p.2 available on https://link.springer.com/article

[84] Hamza Gharsellaui, Syrine Sahmin, Sadok Bouamama, 'A Comprehensive Survey on Privacy and Security Issues in Cloud Computing, Internet of Things and Cloud of Things,' (2019), International Journal of Service Science, Management, Engineering and Technology, p.33

Moreover, the strong dependency of information and communication technology[85], lack of legislation adequately regulates e-transaction nationally and internationally, the consumer cannot have the right to check and test the product prior to payment or delivery, insecurity in the conduct of online business in respect of data protection.

2.9. Risk of fraud and non-payment

The possibility of fraud and non-payment in cross-border electronic transactions is significantly higher compared to domestic transactions due to the increased complexity of the payment pathways, involving multiple intermediaries across different jurisdictions.[86] Fraud can be made in a financial institution through credit cards, e-banking, airline ticketing and online banking.[87]

Non-payment in electronic transaction is a failure of complete payment by buyers due to different reasons for goods or services purchased from online. Some of the reasons are technical problem such as payment access failure or bank processing errors, fraudulent transaction by unauthorized user, incompatibility of ordered goods and defective or delay delivery, intentional refusal by the buyer, and when the customer has a transaction problem with his bank due different reasons.[88] A risk of non-payment happens from customers' side after receiving of services or goods may be because of insufficient funds or expired cards, or unwillingness to pay the price.[89]

Non-payment causes financial loss of the business, increase operational cost, increase the cash flow problem, cause customer frustration and dissatisfaction, affect future trade and profitability that affect the reputation of the business when such thing happens frequently.[90] Moreover, non-payment risks also happen by currency fluctuations, which affect transaction values become unpredictable and varying regulatory compliance requirements across countries. The primary impact of currency fluctuation is exchanging rate risk which causes uncertainty of values of transaction involved in a cross-border transaction.[91] Because of the limited legal recourse to

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85 Dr. Mrs. Vaibhava Desai, 'Digital Marketing: A Review,' ,2019 International Journal of Trend in Scientific Research and Development (IJTSRD), p.199 available on https://www.ijtsrd.com

86 https://www.google.com/search?q=Risk+of+fraud+and+non-payment

87 Paolo Vanini, Sebastiano Rossi, Ermin Zvizdic and Thomas Domenig, 'Online payment fraud: from anomaly detection to risk management,' 2022, p.2

88 Andy Tweddle, 'A guide to payment failure in ecommerce,' 2023, available on https://truelayer.com/blog/ecommerce/a-guide-to-payment-failure-in-ecommerce/

89 id

90 https://razorpay.com/blog/online-payments-failure-reasons/#Impact_of_Payment_Failure

91 Abidemi, 'How currency Fluctuations Impact Cross-Border Payment Transactions,',2025 available on https://yogupay.com/currency-fluctuations-impact-cross-border-payments/

recover the money due to non-payment, affects the trustworthiness and profitability of international electronic transaction in any respect.

2.10. Cost in cross-border delivery

Cross-border shipping is the entire process of delivery of products across international border form seller's location to the buyer's address in another country.[92] While cross-border delivery has many benefits for electronic transaction but, it has several challenges. International shipping is expensive in terms of cost for cross-border delivery due to weight of cargo, customs duties, taxes, longer shipping distance and complex logistics shipping process.[93] The cross-border delivery mainly requires additional documentation that compliance with international and domestic trade regulations and delay at custom checkpoint will contribute higher cost of delivery of goods. Moreover, infrastructure facilities, transportation networks and crossing countries can increase the cost of delivery that is sometimes reflected in higher shipping fee and longer delivery time for consumer.

The escalated cost of delivery can reduce the profit margin of small and medium size business that may discourage the business to participate at international market and limit their growth and competitiveness. High delivery cost also affects consumers on higher price of goods that influence cross-border purchase and become less attractive than domestic market.

2.11. Delay and Defective delivery

Delivery of goods refers to the act of transferring ownership of goods form a seller to a buyer in line with the condition of contract of sale. In relation to delay delivery of goods by the seller, the seller is responsible for such reason that once the corresponding duty of the buyer to effect payment has been made with guaranty and ready to accept the goods.[94] For the protection of consumer in electronic transaction the seller has the obligation to give certain information including the estimated delivery of time of goods or services to the buyer and this will mitigate the potential

[92] https://onpoint.in/news/a-guide-to-cross-border-shipping-and-ecommerce/
[93] id
[94] Roshazlizawati Mohd Nor and Naemah Amin, 'E-Consumer Protection in Delivery of Goods: A Malaysian Perspective', Journal of Education and social Science, 2016, Vol.3, p.39

damage happen against the buyer.[95] Because of the impact on cost, loss of trust, reliability, and transaction time, it has an important factor for online business and become a trade barrier.[96]

For the protection of consumer, the supplier has the duty to provide the proper goods which corresponds to the description advertised in the website and the specification of the buyer. Delivery of less quality or quantity of products, different size or colour of product, or delivery of other products which had different specifications than the advertised in web can be treated as defective delivery and that can be a breach of duty to deliver goods by a seller. [97]

[95] id

[96] Hildegunn Kyvik Nordås, Enrico Pinali and Massimo Geloso Grosso, 'Logistics and Time as a Trade Barrier,' (OECD Trade Policy Papers No.35, 30 May,2006), p.43

[97] Roshazlizawati Mohd Nor and Naemah Amin, supra note 94, p.40

Chapter Three

Consumer Rights and legal Framework on Protection Consumer in cross-border business-to-consumer electronic transactions

3.1. Introduction

Consumer protection in electronic transactions contains a set of laws and regulations to safeguard consumers engaging in online business by ensuring transparency, accurate information, secure payment methods, and effective dispute resolution mechanisms, having clear contract terms, data privacy, protection from fraudulent practices, and access to remedies.[98] It provides consumers with the ability to make knowledge based choices that mitigates the possible risks connected to digital commerce. The legal protection for consumers aims to ensure certainty, fairness and balanced relationship between consumers and traders.[99] Essentially it serves as to minimize the potential risk and vulnerabilities of consumers for the abuse of their rights in the increasing complex global electronic transaction ecosystem.[100]

The core objectives of international consumer protection law are to recognize, protect and enforce consumers' rights particularly in cross-border transactions. This involves creating standards for the safe and fair treatment of consumers, ensuring their right to redress, and harmonizing laws across different jurisdictions to provide consistent protection. Consumer protection law in cross border business has developed significantly to address the challenges of globalization, technological development of electronic commerce and the increasing international trade. The international legal framework should consider the lack of global technical standards, security and fraud treats, and lack of uniform legal ground in a cross-border electronic transaction.[101] Because of the development of global cross-border e-commerce, international harmonization of legal rules is become more important and facilitated by legal acceptance of electronic certification and signature.[102] While there are many instruments for protecting consumers' rights, there is still a need for further harmonization of laws and enhanced cooperation among countries to address the complexities of digital economy. The protection of consumers in cross-border transactions is

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98 https://www.google.com/Consumer+ProtectionOverview+of+the+Legal+Framework+in+electronic

99 Barnard Nainggolan, Hendra Susanto, Heni Yuniantin, Suwarno Suwarno, 'Guarantee of Legal Protection in cross-border electronic transaction,' 2023, Journal of Law and Sustanable Development, p. 3

100 id

101 Faye Fangfei Wang, 'Law of Electronic Commercial Transactions, Contemporary issues in the EU, US, China, (2nd Ed, Routledge 2014) p.101

102 id

essential for adopting trust in the global marketplace and promoting fair trade practice around the world.

The very purpose of online consumer protection law regulates almost all aspects of business - consumer relationship stages such as pre-purchased, purchase and post purchased stage.[103] In the pre-purchase stage the regulatory aspect is on advertising, information dissemination and unfair trade practice etc., during the purchase stage the regulatory matters are on unfair contract terms, payment security, delivery etc.… and on post purchase stage dispute settlement, redress matters and so on.[104] The legislation can also impose obligations on pre-contractual, contractual and post-contractual stage on the parties especially on suppliers where to remedy unequal balance of bargaining power of the seller and consumer.[105]

3.2. Consumer Rights

In daily life there are always rights and duties in a certain transaction that the parties have. The relationship of these rights and duties is established when the parties are involved in juridical relations. In a business transaction, the trader has always had the power to pursue his own best interest by limiting the interest of consumer and the consumer recognized as less knowledgeable, less informed and treated economically week and inferior than trader.[106] This creates inequality between the consumer and the trader and that seems to give the opportunity to the trader to violate the consumer right.

The notion of legitimate consumer rights in business transactions has a wider scope beyond the simple buying and selling of commodities. The consumer protection principle encompasses a comprehensive consumer right across business to consumer transactions. The primary rights of consumers are access to vital commodities, protection against health and safety hazards, defending their economic interests, and access to accurate and necessary information.[107] The

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[103] Ioannis Lianos, Despoina Mantzari, Gracia Marín Durán, Amber Darr and Azza Raslan, 'The Global Governance of Online Consumer Protection and E-commerce Building Trust,' (Centre for Law Economics and Society, UCL 2019), p.8

[104] id

[105] id

[106] Jivan Mkrtchian, 'Consumer Right concept and historical review,' International Journal of law: "LAW AND WORLD" 2023, vol. 9, available on https://lawandworld.ge/index.php/law/article/view/390/348

[107] United Nation Conference on Trade and Development 'Guidelines on Consumer protection: Agency Structure and Effectiveness,' (UNCTAD MENA Program, 2017), p.6 available on https://unctad.org/system/files/official-document/ditccplp2017d4_en.pdf

information shall include the quality, quantity, accuracy, clear price of products to make the proper informed choice before buying of any goods or services.[108] Access to efficient redress and resolution of consumer disputes mechanism, freedom to establish consumer group or organization, consumer education, promotion of sustainable consumption patterns, equal protection of consumers, international free flow of information and consumer privacy are also another important consumer rights.[109]

Misconduct of traders jeopardizes consumers' rights and affects the smooth operation of transaction. This behavior of trade is managed by means of redressal mechanism established at all levels. The right to redress, although it is an important element for the protection of consumers' right but because of lack of awareness and information of this right consumers are always exposed to cheating and exploitation.[110] When consumers are not educated and not develop their awareness about their rights and the approaches of business, they don't be aware their right and the available legal rules and remedial mechanism to mitigate and avoid continual deceitful practice against their interest.[111]

Along with the rights of consumers there are also a responsibility attached to them to the interest of good business practice. When consumers are provided only with right, but no responsibility attached therewith will create societal disorder conditions. Before purchasing and trading of goods or service, consumers have the duty to evaluate the objective, accuracy and relevance of the information attached to the products and to know all the necessary standards of the product decides to buy.[112] Based on their need exercise their right to make an independent choice and decision to purchase, they should become more knowledgeable about marketplace, know their role, and make reasonable, environmental friendly consumption choice.[113]

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[108] , RIGHTS AND RESPONSIBILITIES OF CONSUMERS, Business Studies, p.260

[109] United Nation Conference on Trade and Development, Guidelines on Consumer protection, supra note 107

[110] Sahil Liaqat and Amir Jindal, Consumer Right and Responsibility, 2018, Vol.1, International Journal of Law Management & Humanities, p.6

[111] id

[112] id, p.7

[113] B. Suresh Lal, 'Introduction to Consumer Rights and Responsibilities,'2017, P.329

3.3. The Legal Framework for the Protection of Consumer Right

3.3.1. United Nation Guidelines for Consumer Protection (UNGCP)

In 1985, the United Nations General Assembly issued the first comprehensive set of principles to protect consumers' rights globally.[114] It is the milestone in the development of consumer law establishing set of international principles of consumer law. It recognizes that access to consumers to adequate information is a valid requirement to consumer protection.

The guideline sets its principles based on the objective of assisting countries to achieve adequate protection of their consumer to promote high level of ethical conduct in the manufacturing and distribution of goods or services to customers, to help in controlling unethical business conduct at national and international level that impact consumers, to enable independent consumer group, to strengthen global co-operation in the area of consumer protection and develop market condition that gives consumers with better choice at low price.[115] It emphasize the need for consumer protection in the areas of education, access to appropriate information, availability of effective remedy, protection from health and safety risks, protection of economic interest, and access to goods or services .[116] It recommends the protection of online consumer and improve transparency in online transactions by cooperating countries regarding information exchange and enforcement mechanisms.[117] Governments require to have adequate infrastructure to promote and implement the consumer protection regulations. Business companies must abide by the appropriate rules of law and principles of consumer protection of countries in which they operate their commercial activity.

Because of the development of digital environment and significant change of transformation in commerce and international trade consumers have been facing a great challenge. The condition requires a solution and raises an issue to revise the existing guidelines in 1999 and then 2015.[118]

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[114] Elena Anatoyevna kirillova, Elana Anatolyevna Shergunova, Elena Stepanovna Ustinovich, Nicolay Nickolaevich Nadezhin, Lyubov Borisovan, Sitdikova, 'The principle of the Consumer Right Protection in Electronic Trade: A Comparative Law Analysis,' 2016, International Journal of Economics and Financial Issues, p. 119 available on https://econjournals.com

[115] United Nations General Assembly, 'Guidelines for Consumer Protection' (UNGA Res No.39/248, April 1985), p.179

[116] id, p.180

[117] Lillyana Daza Jaller, Simon Gaillard and Martín Molinuevo, 'The Regulation of Digital Trade Key Policies and International Trends' (World Bank Group 2022), p.12 available on https://documents1.worldbank.org/

[118] I. Benohr, 'The United Nations Guidelines for Consumer Protection: Legal Implications and New Frontiers,' 2020, Journal of consumer policy, p.106

The advancement of electronic transactions and online marketing with the increasing size of market share in the economy would require the world to have a consumer protection law and policy. The guideline outlines the function and responsibilities of governments and traders in encouraging consumer welfare and countries can adopt such guiding principles in their national law. They are a non-binding instruments but have been influential in shaping international and regional legal and policy framework and help as a ground for governments to elaborate their internal policy and legislation in the protection of consumer right.[119] But it gives a recommendation for the action of governments of individual countries for implementing consumer protection based on their own needs.[120] In many of its provision the matter of safeguarding consumer is not the only task of governments and shows there are conditions that mandatory government intervention in marketplace.[121] Because of the non-binding nature, it does not provide an enforcement mechanism on countries or traders however, countries can develop their own enforcement mechanism in the implementation of the guidelines. And also, the guidelines do not apply on countries that have not been adopted and do not give jurisdiction over non-compliance.

The key principles of the guideline are the right to get correct and appropriate data about the product or services. In order to empower consumers to make knowledge base decision transparency, accuracy and wholeness information is requiring at all stage of transaction.[122] However, in electronic transaction consumers are exposed to large volume of similar information that have little opportunity to inspect or test the products or service before purchasing.[123] Since the electronic transaction is made using the information published by electronic means the consumer is highly affected by wrong information about the product and there is misrepresentation of the seller. To overcome this challenge UN guidelines set some principles on unfair business practices, false advertising and misrepresentation. One of the important key principles of the guidelines is the right to redress and get compensation in case of dispute or problem in relation to the transaction in general and the product and services in particular.

[119] David Harland, 'Implementing the Principles of the United Nations Guidelines for Consumer Protection,' 1991, Vol. 33, No. 2 Journal of the Indian Law Institute, p. 196,
[120] id
[121] id
[122] Association of Southeast Asian Nation, Asian Guidelines on Consumer protection in E-Commerce p.7
[123] id

However, it is far from practical to apply because there are fragmented legal rules on electronic transaction regulation and there is no developed way of forum for entertaining such claim.

The non-binding nature of countries, lack of enforcement mechanism and inapplicability of the guidelines on countries that have not adopted them can be cited as the limitation of guidelines, difficult to ensure compliance and it can create a challenge of consumer protection law and regulations. However, it promotes countries to develop and implement consumer protection policy and laws, encourages international cooperation and enables the sharing of best practice among countries and promotes consumer education and awareness about consumer rights and responsibilities.

3.3.2. Organization for Economic Co-operation and development guidelines in the context Of Electronic Transaction (OECD)

Organization for Economic Co-operation and Development guidelines (OECD) is another cornerstone on the international consumer protection framework which focuses on fair and transparent market access to consumers by encouraging governments to adopt laws that protect consumers from all misconduct of business transactions. OECD was first adopted by many European countries to strength their economy and achieve prosperity for increasing their well-being and development.[124] The aim of the convention is to achieve continuing economic growth and employment for the increasing of living standard of member state, to contribute substantial growth in the economy of member state and non- member countries, contributes to the multilateral and non-discriminatory growth of global trade in accordance with international regulations .[125]

The OECD council recommendation on consumer protection in electronic transactions and the guidelines of 1999 are the relevant framework. The main guidelines provided in OECD council recommendation on consumer protection for fair business practices and consumer rights in online transaction are stipulated in different paragraphs of the document. There must be transparent and effective consumer protection in electronic transactions that ensures consumers' rights and fair business practices for vulnerable consumers by the collaboration of governments

[124] Organization for Economic Co-operation and Development, 'Convention on Organization for Economic Co-operation and Development, (OECD 14December 1960) available on https://www.cvce.eu/en/obj/convention_on_the_organisation_for_economic_co_operation_and_development paris_14_december_1960

[125] id, article 1

and stakeholders.[126] Businesses should be performed with fair business practice, advertising, and non-deceptive information and based on the principle of good faith to avoid misleading, fraudulent, and unfair practices, including ambiguous and vague terms of contract.[127]

The general principles for consumer protection in electronic transactions are ethical business practice, advertising and marketing practice, clear and accurate information to the consumer.[128] Consumer protection laws and government policies and practices limit the deceitful act, deceptive commercial practice that ascertain consumer self-reliance and create a balance between sellers and consumers.

The organization for Economic co-operation and Development (OECD) committee on consumer protection has developed guiding principles that gives recommendation to governments, corporations, consumers and their representative for protection of consumers in the electronic transaction without creating obstacles to trade.[129] It puts the general guiding principles to the member countries but, it should not prevent any party form going beyond these guidelines nor prevent retaining or making more stringent provisions to protect consumer right in the electronic transaction.[130] The framework and the guiding principle assists governments should review, adopt, and enforce robust consumer protection laws and policies, business associations, consumer groups, and self-regulatory bodies must also implement and uphold self-regulatory mechanisms to promote fair practices in e-commerce. Individual businesses and consumers should engage in transparent and ethical transactions, supported by clear information and guidance to foster trust and fairness in digital marketplaces.[131]

The digital network and computer technology for international marketplace requires a global consumer protection approach in a clear and applicable legal and self-regulatory framework.[132]

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[126] Organisation for Economic Co-operation and Development, 'Recommendation of the Council on Consumer protection in Ecommerce,' 2016 p.10

[127] id

[128] Ioannis Lianos Supra note 103, p.15

[129] Organization for Economic Co-operation and Development, Guidelines for Consumer Protection in the Context of Electronic Commerce, (OECD,1999) p.10, it aims to promote sustainable economic growth, employment, and financial stability in Member countries, while supporting economic expansion and multilateral trade. It is also to ensure consumer protection when shopping online, ensuring they are protected from discrimination and promoting economic growth.

[130] id

[131] id

[132] id, p.9

The international network challenges each country or jurisdiction in addressing consumer protection in electronic transactions as countries are not in the same status of technology and economic development. National policy or regulations may hinder the development of electronic transactions. Thus, issues of consumer protection may be properly addressed by international consultation and co-operation by exchanging information and establishing a general understanding about the way of addressing effective protection.[133] The information is about business engaged in e-transaction to identify the business, to promote prompt, easy and effective consumer communication, appropriate and effective resolution of any dispute.[134]

3.3.3. United Nations Commission on International Trade (UNCITRAL) Model of Law on Electronic Transaction

UNCITRAL is established in1966 by United Nation General Assembly as a main organ of the United Nation System to harmonizing and unifying International trade law.[135] The UNCITRAL Model of law in electronic Transaction is adopted first in 1996 and amended in 1998 and 2021 for promoting international electronic transaction by making a uniform legal framework, focusing on consumer protection and contract formation for removing some barriers affecting electronic transactions. It gives certain rules to the national legislators with a set of internationally accepted rules to remove legal challenges and increase the legal basis of electronic transaction.[136]

The Model law encourages countries to have the existing laws in place and use the legal remedies to a new technology, but if countries do not have laws on electronic transaction it provides the relevant opinion to use the model law as resource material for the making of new domestic law.[137] The purposes of the UNCTRAL model law are to avoid legal barriers to the effective use of electronic communication, to promote uniformity of legal rules on e-commerce in a cross-border boundaries, to facilitate proper use of electronic transaction, to encourage confidence in business-to-consumer electronic transaction and enable the use of electronic communication as a means of transaction.[138]

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[133] id

[134] id p.15

[135] José AngeloEstrella Faria, UNCITRAL: the organization, 2010, p.11

[136] Samuel Maireg Biresaw, Comparative Analysis of the Role of the UNCITRAL Model Laws on Electronic Commerce and Electronic Signature in the Harmonization of the Law of E-Commerce, 2021, p. 2

[137] id, p.3

[138] Commonwealth Secretariat, 'Model Law on Electronic Transactions,' (Commonwealth Secretariat 2017), p.3

The UNCITRAL model of law on electronic transaction was the first legislatives adopt the basic principles of non-discriminatory, technological neutrality and functional equivalence as a fundamental element for electronic transaction.[139] It establishes relevant rules for equal treatment of electronic and paper base information that gives legal recognition to electronic transaction based on the basic principle of the use of e-commerce and functional equivalence.[140] The electronic records or contracts have a similar legal validity to that of written form in the use of electronic signature is recognized in the model law.[141] This clearly denotes that electronic document cannot loss its legal validity only by merely being in digital form.[142]

The other important principle in the model law of UNCITRAL is the technological neutrality that refers the legal framework of electronic transaction should be adaptable to the new technology without requiring any updates.[143] The principle ensures that the law to be flexible, inclusive and supportive to the new technology. The functional equivalence refers to electronic communications should have similar legal recognition to that of traditional paper base communication, if they perform the same function with reliable and accessibility.[144] The stipulation about the requirement of writing, signature and originality of documents further elaborate the functional equivalence principle by setting out important requirements of writing, signature and originality of text.[145] The signature stated under article 7 is about electronic signature to identify the author of the article and indicated the participant's approval of the content in the text.[146] This enables and facilitates the use of e-signature which is technically reliable and equivalent to the hand writing signature as an authentication and reduce uncertainty for electronic

[139] https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_commerce
[140] United Nation Commission on International Trade Law, Model law on Electronic Transaction, (UNCITRAL 1996), Article 5
[141] Sadi Ibrahim Ibrahim, 'The Legal Challenge Facing Electronic Contract in Tanzania: Acritical analysis of the Electronic Transaction Act, Act no. 13 of 2015', p.29
[142] https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_commerce, Supra note 139
[143] UNICTRAL Model Law Supra note 140
[144] id
[145] United Nation Commission on International Trade Law, Model Law Supra note 140, Article 6,7 and 8 these articles further elaborate the operational definition of functional equivalence with that of traditional methods
[146] United Nation Commission on International Trade Law, 'Model Law on Electronic Commerce with Guide to Enactment 1996 with additional article 5 bis as adopted in 1998, (UNCITRAL 1998) p.39

transaction as a specific legal framework.[147] The law builds a basic principle on the requirement of electronic signature in electronic environment.[148]

3.3.4. The US legal framework

The US legal framework for safeguarding consumers in cross-border business-to-consumer electronic transactions is highly dependent on the federal statutes and enforcement agencies. The US legal system is a composition of Federal laws and State regulations, but it is important to focus only on the direct comprehensive relevant federal laws of the country because of the complexity and application of other state legislation along with the federal ones. Based on this the main legislation is the Federal Trade Commission Act that forbids unfair or deceptive practices that affects commerce including cross-border e-commerce transactions targeting U.S. consumers.[149] It establish the Federal Trade Commission (FTC) to enforce antitrust law, transparency in advertising, pricing, and refund policies, ensuring foreign businesses disclose clear terms to avoid misleading U.S. consumers.[150] And it prohibits unfair or deceptive commercial practice that affects consumer rights.[151] Unfair practices include the withdrawing of fund from consumer bank account without authorization and that cause substantial injury to consumers where the injury may or may not be avoided by the consumer.[152] If a representation, omission, or practice misleads or is likely to mislead customers, it is has a significant impact on their choice to purchase the product.[153]

The Electronic Fund Transfer Act (EFTA) is another Federal law enacted in 1978, to safeguard consumers when they transfer money electronically through debit/credit card payments and digital wallet transactions, automated teller machines (ATM) and automated withdrawals from bank account which are prevalent in cross-border e-commerce.[154] Electronic money transfers are transactions that allow banks to credit or debit consumers' account using computers, phones, or

[147] United Nations Commission on International Trade Law, 'Model Law on Electronic Signatures (UNCITRAL 2001) available on https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_signatures
[148] id
[149] https://www.justia.com/consumer/consumer-protection-law
[150] Felix Pratama Tjipto, 'Comparative Law Analysis of Consumer Protection Law in E-Commerce Transaction Between Indonesia and United States,' 2021, Vol.5, p. 14
[151] Roscoe B. Starek and III Lynda M. Rozelle, 'The Federal Trade Commission's Commitment to On-Line Consumer Protection,' 1997, Vol.15 John Marshall Journal of Computer & Information Law, p. 680
[152] id
[153] id, p.681
[154] Will Kenton, 'Electronic Fund transfer Act (EFTA): Definition and Requirements,' August 02,2024 available on https://www.investopedia.com/terms/e/electronic-funds-transfer-act.asp

magnetic strips by means of ATM, debit card, direct deposit, point of-sale (POS) transactions, transfers initiated by phone, Automated Clearing House (ACH) systems, and pre-authorized withdrawals from checking or savings accounts.[155] The EFTA protects consumers by limiting their liability for unauthorized transactions in case when the debit card is stolen, fraud and orders error resolution.[156] It requires clear disclosure of transaction terms and access to records, ensuring transparency in international purchases processed through U.S. financial institutions.[157] In cross-border contexts, it applies to transactions involving U.S. payment systems, but enforcement against foreign merchants is complicated by jurisdictional issues and reliance on U.S. payment processors.

These Federal laws provide comprehensive protections to consumers in US but with challenges in cross-border enforcement due to jurisdictional complexities and regulatory gaps on ongoing legislative updates. Businesses must adopt transparent terms, secure payment systems, and robust data protections to comply. International cooperation through and bilateral agreements is critical for effective enforcement.

3.3.5. The European Union

The European Union (EU) legal regime on consumer protection is the most comprehensive one in the protection of consumer rights to create a unified legal rule across the member states. It ensures high degree of protection for consumer interest in a cross-border electronic transaction across member states facilitating a single digital market.

The Treaty on the Functioning of the European Union (TFEU) provides strong legal base for consumer protection in cross-border e-commerce in EU legal framework.[158] It gives a better consumer protection, promoting the health, safety, and economic interests of consumers, right to get proper information and education ensuring consumers engagement in cross-border e-commerce which is safeguarded against unsafe products, unfair practices, and lack of transparency.[159] The laws are harmonized to facilitate uniform consumer protection regulations

[155] id
[156] https://elawfirm.org/blog/understanding-the-electronic-funds-transfer-act-efta-what-you-need-to-know/
[157] id
[158] Treaty on the Functioning of the European Union (TFEU), 2012, under article 12,16,18 and 26-66 of the treaty, it gives a comprehensive framework that ensures consumer safety, fairness, transparency, and non-discrimination in cross-border electronic transactions, underpinning key EU legislation and enforcement mechanisms.
[159] id, Art.169

and guaranty the internal market's operation across Member States to eliminate barriers and provide consistent standards for cross-border electronic transactions.[160]

The Product Liability Directive (85/374/EEC)**,** as amended by Directive (EU) 2024/2662, Unfair Terms in Consumer Contracts Directive (93/13/EEC)**,** Unfair Commercial Practices Directive (2005/29/EC), as amended by Directives (EU) 2019/2161 and 2024/825, and Consumer Rights Directive (2011/83/EU)**,** as amended by Directive (EU) 2019/2161, are the core EU directives which collectively form a comprehensive legal framework for consumer protection in cross-border electronic transactions based on the TFEU. These directives ensure safety, transparency, fairness, and non-discrimination in e-commerce by addressing defective products, unfair contract terms, deceptive practices, and consumer rights in distance contracts. Strict liability for defective products purchased online,[161] safeguards consumers against unfair terms in online contracts,[162] unfair means if they cause significant imbalances contrary to good faith, requiring clarity and including unfair terms non-binding,[163] prohibits misleading and aggressive online practices, banning those distorting consumer behaviour[164], false information or omissions,[165] and coercive tactics,[166] harmonizes contract rules and mandating pre-contractual information,[167] trader responsibility for undisclosed return costs,[168] and timely delivery,[169] fostering trust in cross-border e-commerce. These are major points stated in the provisions of core EU directives regarding on consumer protection provisions in cross-border electronic transaction. In electronic transaction, an EU consumer is safeguarded at precontractual stage, contractual stage and during execution of a contract while they are engaged in a commercial relation with a trader.[170]

3.3.6. African Union legal framework

Africa has experiencing a significant growth in electronic transaction despite there are obstacles like lack of sufficient digital infrastructure development, restricted access to internet and weak

[160] id, Art.114
[161] Consolidated Product Liability Directive, Art.1, see also article 6,7,9and 15 that address the liability of the producers such as, producers' liability for damage, defectiveness, latent injuries etc.
[162] Unfair Terms in Consumer Contracts Directive (93/13/EEC), Art.3(1)
[163] id Art. 5 &6
[164] Unfair Commercial Practices Directive (2005/29/EC), Art.5
[165] id, Art.6-7
[166] id, Art.8-9
[167] Consumer Rights Directive (2011/83/EU), Art.6
[168] id, Art.13
[169] id, Art.18
[170] Bartosz Targański, 'The legal aspect of consumer protection in cross-border e-commerce,' 2025, p.224

regulatory means.[171] The consumer concerns in electronic transaction platform in Africa has both the opportunity to have more choice and convenient in accessing products with lower transaction cost, but the challenges to African consumer mainly related to poor internet connectivity.[172]

Africa Union has played a vital role in advancing consumer protection in business to consumer cross-border electronic transaction across the continent, through the development of unified legal framework, policy coordination and capacity building initiative based on African Free Trade Area protocol. There is no specific model law on consumer protection adopted by AU, solely on a cross-border business -to-consumer electronic transaction. But there have been tremendous developments and initiatives addressing the consumer protection issue in relation to electronic transactions. These initiatives and developments serve as a guiding principle for member states while they are transacting among themselves.

Africa has a digital transformation strategy (2020-2030) significantly enhance consumer protection in cross-border business to consumer electronic transaction by promoting uniform legal framework, cybersecurity, expanding digital access and consumer awareness.[173] The key contribution of the strategy in cross-border business to consumer electronic transaction focuses on promotion of harmonized legal and regulatory framework, strengthening Consumer Protection policies, advancing cybersecurity and data protection, development of digital infrastructure and access to internet connectivity and increase digital literacy and consumer awareness.[174]

The AU model law on electronic transaction is adopted by African Union in 2019 as a key legal instrument to enable cross-border business to consumer electronic transaction across the African continent.[175] It aims to have a unified law on electronic transaction across the member states that recognize the legal validity of e-commerce and promotes trust on consumer in digital trade. In some respect this model law is adopted by the UNCTRAL model law on electronic commerce[176] and has similar principles. The none denial of legal validity and enforceability of electronic

[171] Kolawole Victor Owoigbe and Kehinde Onayemi Adesoga, 'E-commerce Revolution in Africa: The Gateway to Global Trade and Economic Development,' 2023, p.1

[172] Brendan Chukwuebuka Ugwu, 'Integrating Consumer Protection Concerns into the AfCFTA E-Commerce Protocol,' available on https://youngafricanpolicyresearch.org/integrating-consumer-protection-concerns-into-the-African-continental-free-agreement-by-brendan-c-ugwu/

[173] African Union, 'The digital Transformation Strategy for Africa (2020-2030)' (Arica Union 2020) available on www.au.int

[174] id

[175] African Union, 'Model law on Electronic transaction, 2019'(African Union 2019) available on www.au.int

[176] UNICTRAL Model law on electronic transaction 1996, Article 5, Supra note 140

information is a crucial principle for cross-border business to consumer electronic transaction that guarantees online consumer contract to have the same legal stand to that of traditional contacts.[177] Likewise stated in UNCITRAL the model law of Africa does not favor specific technology ensuring compatibility with diverse digital platform i.e. flexibility, allowing business and consumers to use different technologies without legal barriers.[178] Functional equivalence is also another principle of the model law. Electronic signatures and records have fully the same legal function as that of paperwork if they meet the standards of reliability, accessibility and integrity.[179]

Another important instrument of AU is The African Continental Free Trade Area (AfCFTA) protocol establishes a free trade area with the objective of creating a single market for goods and services to strengthen economic integration of the African continent.[180] Removing tariffs and non-tariff barriers on goods and services promotes regional values for the African continent's engagement into the global economy, increases industrialization, and advances the continent's economic and social development.[181] From the general objectives of the AfCFTA protocol for promoting sustainable and inclusive economic growth increased competitiveness and industrial development indirectly benefits consumer by providing transparent and efficient market for cross-border business to consumer electronic transaction.[182] As stated in article 4 of the protocol trade in goods, services, investment, and intellectual property right that contains digital service as integral to electronic transaction. Even though the protocol does not clearly address the issue of consumer protection, its provisions provide the framework that support protection of consumers in cross-border business to consumer electronic transactions by means of trade facilitation and regulatory cooperation.

3.3.7. Electronic Transactions and Consumer Protection under Ethiopian Law

The electronic transaction in Ethiopia is at a promising stage by making the first key legal frameworks to regulate the electronic transaction and consumer protection. The Electronic transaction proclamation of Ethiopia along with other relevant laws such as Trade Competition

[177] African Union Model law, supra note 175, Article 5
[178] id, Article 6
[179] id, Article 7and 8
[180] African Union, Protocol on Trade in Goods to the Agreement Establishing the African Continental Free Tread Area' (African Union 2018) available on https://au.int/en/african-continental-free-trade- area
[181] Andrea Cofelice, 'African Continental Free Trade Area: Opportunities and Challenge,' 2018, p.32
[182] The African Continental Free Tread Area protocol, Article 3, supra note 180

and Consumer Protection Proclamation, the Computer Crime Proclamation and Electronic Signature Proclamation indirectly protect consumer in cross-border business to consumer electronic transaction. These legal frameworks show Ethiopia's commitment creating a secure and trustworthy electronic marketplace to safeguard consumers' rights in the rapidly growing electronic transaction in the country. Although the laws offer a base for electronic transactions, continued work is required to close all implementation gaps and stay up to date with technological developments. Some of the provisions are aligned with the AU and the UNCITRAL model law of electronic transaction.

Electronic Transaction Proclamation of Ethiopia

The Electronic Transaction Proclamation of Ethiopia is the first legal instrument that can provide a legal framework on the electronic transaction operation.[183] The law aims to ensure equal treatment of paper and computer-based information, create a secure legal environment for electronic transactions, enhance citizens' economic role, and provide electronic government services. The proclamation defines electronic transaction as trading by using computer mediated network including mobile phone and other electronic machine to conduct electronic commerce and electronic government service.[184] And, electronic commerce is also defined by the proclamation as it is the purchasing and selling of products and service thorough internet and various information networks.[185] Even if there is no such clear definition of the electronic government service in the definition section of the proclamation, from the reading of some provisions the services provided by the government through electronic means such as issuance of permits, license or approvals or making or receiving of payments by government agencies in electronic from or by electronic means,[186] publication of all Federal government laws are made by the Federal Electronic Negarit Gazeta.[187] However, the proclamation shall not apply to any law requiring writing or signature for matters related to personal status such as marriage and divorce, in relation to the making, execution or revocation of will or testamentary instrument,

[183] Proclamation No. 1205/2020 Electronic Transaction Proclamation (Ethiopia) [2020] Federal Negarit Gazette 26th Year No. 57, 12581
[184] id, Article 2(19)
[185] id, Article 2(12)
[186] id, Article 35(1)
[187] id, Article 36(2)(a)

Court procedure, judicial summon, search order, arrest order and judicial decrees, transfer of any interest of immovable property and creation, performance or enforcement of power of attorney.[188]

The proclamation is an important legal framework to facilitate and regulate electronic transactions of the country by promoting secure digital transactions. The legal recognition of e-contracts, e-signature and records are new contribution of the proclamation and providing the same legal status with paper base documents that shows cross-border electronic contracts can apply in Ethiopia as long as the proclamation requirements are meet.[189] This provision facilitates cross-border business to consumer electronic transaction by recognizing digital contract like online purchase agreement with foreign suppliers. This transforms the country legal rules on making transactions only by written form to the advanced electronic way of business operation due to the new technological advancement in a digital world.

One of the other relevant issues incorporated in the proclamation is the provisions dealing with the protection of consumers in electronic transactions. These provisions give high confidence to the consumer and create fairness and transparency to the digital market. A supplier who offers goods and services by means of electronic market platform is require to include all the information listed in the provision to the consumer on website where such goods and services advertised to be offered.[190] Before sending the final purchase order, the supplier must allow the customer to examine the entire electronic transaction, fix any errors, or cancel the transaction.[191] The objective behind this provision seems to allow consumers to review and correct the potential error in the electronic transaction before giving final order and to protect the consumer from unintentional error and make an informed purchase decision. This reduces the likelihood of disputes and builds consumer trust in e-commerce platforms.

In case the supplier fails to comply, the consumer is entitled to cancel the purchased within 14 days of receipt of goods and services due to the transaction.[192] In parallel the supplier shall refund all the money he has received from the consumer due to the transaction.[193] The consumer

[188] id, Article 3(2)
[189] id, Article 6, it is the same with the principle of Non-discrimination to that of the UNCITRAL model law stated under article 5
[190] id, Article 28 (1)
[191] id Article 28(2)
[192] id, this right of the consumer aligns with international standards stated in EU's Consumer Rights Directive (2011/83 EU)
[193] Proclamation No. 1205/2020 Electronic Transaction Proclamation, supra note 183, Article 28(4)

protection provisions are also applicable to any cross- border electronic transaction of the parties regardless of whatever nation's laws apply to the contract.[194] This provision has given a wider protection of consumer right to the extent of applicability of other law as long as the right provided in the law has given a better protection to the consumer even if, the provisions stated in the proclamation gives such protection to the consumer. However, in a situation where the agreement provides an exclusion of any right of the consumer stated in the proclamation the agreement shall be null and void.[195] Moreover, the proclamation, puts the remedial mechanism to the consumer to file his grievance and compliant against the supplier who fails to comply the provision and to maintain fair and prudent way of transaction.[196] Considering the protection of consumer right and interest, the consumer can lodge his complaint to the ministry of Innovation and Technology.

Trade Competition and Consumer Protection proclamation of Ethiopia

Consumer protection law contains all the information about goods and services supplied to the market, buying of commodities by one's own choice based on quality or price bargaining, but not to be mistreated by businesspersons, and claiming damages. But the core purpose is to protect the consumer from dishonest business conduct, defective products, buying and exposure to dangerous goods or services that has plaid a pivotal role in establishing a stable market economy to maintain the seller profitable and productive.[197] The Trade Competition and Consumer Protection Proclamation of Ethiopia contains robust provisions in the protection of consumer right.[198] The proclamation aims to promote commercial activity in line with the country's free market economic policy, protect businesses from unfair practices, prevent misleading market conduct, and ensure consumer health and well-being. It also establishes protection of consumer and trade competition systems and determines powers and duties of relevant organs.

Consumer protection and distribution of goods or services are stated in part three. The consumer has the right to get appropriate data about goods and services based on their choice, to be treated

[194] id Article 32
[195] id Article 33
[196] id Article 34
[197] Daniel Liberto, 'What are consumer protection law?' November 16,2024 available on https://www.investopedia.com/articles/pf/10/know-your-consumer-protection-laws.asp
[198] Proclamation No. 813/2013 Trade Competition and Consumers Protection Proclamation (Ethiopia) [2014] Federal Negarit Gazette 20th Year No. 28, 3717

respectfully, for the malfunction of the seller to claim compensation for the damaged suffers.[199] The trader has the duty to display the price of commodities inclusive of tax and other fees, affixed labels on goods with appropriate information such as name of goods country of manufacture etc…, issue receipts and keep pads, disclose his trade name and any information the consumers require to know.[200] The commercial advertisements about goods and service shall not provide inaccurate or deceptive information about the nature, components and quality of goods, and their source, weight, volume and manufacturing process, place of delivery, quality mark, trade mark and logo, and the anticipated outcomes of using the product.[201] As one consumer protection rule, it is forbidden to hoard or divert commodities that have been identified as scare on the market by the ministry public notice, except storage of agriculture products by the peasant farmer and goods that are not beyond the quantity for personal or family consumption.[202]

The businessman is prohibited to do the activities enumerated in article 22 of the proclamation that can affect the consumer right and violate the consumer protection rule of the law. As one remedies to the consumer grievance and upon the investigation by the required body,[203] violations of the prohibited act stated in the provision subject to criminal liability and a rigorous imprisonment from 1- 7 years accordingly in addition to the fine punishment stated.[204]

The protection of consumer rights can be effective only when the consumers themselves understand their responsibilities and take action to safeguard their interest. In view of this any consumer has the duty to report to the required body about the defective products and service and the damage that may cause.[205] Moreover, without affecting warranties or legal or contractual advantages of him, he has the right to claim the seller to replace the products, refund the paid money, or re-deliver any defective services within 15 days on the date of purchase.[206] These cannot prejudice the right of the consumer to demand any relevant compensation for the damage sustained due to defective goods or services based on the relevant law. [207] All those provisions

[199] id, Article 14
[200] Id, Article 15,16,17 &18
[201] id, Article 19
[202] id, Article 24
[203] id, Article 36
[204] id, Article 43
[205] id, Article 20(1)
[206] id, Article 20 (2) (a) &(b)
[207] id, Article 20(3)

serve as foundation for the consumer protection framework in international business-to-consumer electronic transactions. However, the proclamation is silent and lacks specific provision for consumer protection in cross-border business to consumer electronic transactions.

Computer crime proclamation for the protection of consumer right in Ethiopia

The main intermediate technology in the operation of electronic transactions in a digital economy is the computer. Any criminal act against the operation of computer interconnectivity and on the machine itself, affects the prudent practice of e-commerce and trustworthiness of the parties in the digital market. In view of economic, social and political development of the country, appropriate protection and utilization of information technology has a pivotal contribution. As electronic transactions are operated in the absence of physical presence but by means of information or data exchange between the parties involved, there is a high possibility of computer crime against data transferred.[208]

Following the technological advancement and the increasing interconnectivity of the country to the rest of the world, the provisions of computer crime stipulated in the criminal code are repealed and replaced by separate computer crime proclamation.[209] The proclamation essentially addresses the cybercrimes offense to protect unauthorized access to computer systems, data interception and use of computer system for illegal activities.

Unauthorized access intentionally to the whole or part of the computer system, computer data or to the computer network treated as an illegal activity and punishable under the law.[210] This provision addresses e-commerce risks that can be affected by an authorized access of computer such as hacking, online fraud and data breaches that damage the consumer trust and financial security during online transaction. Unlawful interception, interference with computer system, causing damage to computer, criminal act on data usage, computer related forgery and fraud, electronic identity theft [211]etc…. are the notable crimes on computers that can affect the electronic transaction directly or indirectly for business done through computer mediated methods. Although, the computer crime proclamation primarily for cybersecurity, but by the provisions of

[208] Sourabh Munjal and Anooja A, 'Cyber Crimes – Threat for the e-commerce,' 2016, SSRN Electronic Journal, published at: https://www.researchgate.net/publication/306401151

[209] Proclamation No. 958/2016 Computer Crime Proclamation (Ethiopia) [2016] Federal Negarit Gazette 22nd Year No. 52, 9206

[210] id Article 3(1)

[211] id Articles 4-11

the proclamation on the protection of fraud, data protection and information dissemination, it has a pivotal role in the contribution of protection of consumer rights in electronic transactions. But there is no specific provision in the context of consumer protection in cross-border business to consumer electronic transactions.

Electronic signature proclamation of Ethiopia

Electronic signatures have been defined in different ways, but they have the same conceptual meaning. Generally, it is digital representation of an individual's intention to authenticate or endorse a document, contract, or agreement.[212] It is an information in digital system attached to or associated with electronic message to identify a signatory in relation to e-message and the signatory's confirmation of the information contained in it.[213] It provides legal recognition of the transaction, promote trustworthiness in communication, attest the identities of the parties involved and authenticate message and avoid non-denial of it in e-commerce.

Electronic signature has a pivotal role for establishing security, and legal validity of e-commerce in a digital market platform, and it gives assurance for both buyers and sellers who engage in such business. While Ethiopia moves towards a digital future, the Electronic signature proclamation of the country has an important contribution to the upcoming electronic transaction development.[214] The legal recognition of e-message and e-signature cannot be deprived its legal effect by sole reason that it is made by electronic form.[215] Therefore, the legal recognition and validity of e-signature provides binding effect on e-commerce contract like purchase agreement or service for online market and essential to open and trustworthy system of transaction.[216] It also prevents the seller from the denial of transaction and claim due to lack of a formal requirement.

3.4. Challenge in the Protection of Consumer Rights in E-Commerce

Information technology has rapidly transformed the traditional way of business making to an electronic means by providing convenience, efficiency, and giving broader opportunity for

[212] Audrey Quiteves, 'What is Electronic Signature: The Benefits and Legality,' April 08,2025, available on https://www.azeusconvene.com/articles/what-is-electronic-signature

[213] Muluneh Bayabill Dessie, 'Legal Aspects of Electronic Commerce: The Case in Ethiopia,' (Abyssinia Law, Feb. 2024) https://www.abyssinialaw.com/blog/legal-aspects-of-electronic-commerce-the-case-in-ethiopia

[214] Proclamation No. 1072/2018 Electronic Signature Proclamation (Ethiopia) [2018] Federal Negarit Gazette 24th Year No. 25, 4743

[215] id, Article 3&4

[216] Ivascanu Daniela, 'Legal Issues in Electronic Commerce in the Western Hemisphere,' 2025, Vol.17, Arizona Journal of International and Comparative law, p.229

selection of goods and services to the consumer irrespective of the location of the seller. Despite these advantages, there are many challenges that the consumer is facing, i.e. high exposure to risk, such as fraud, data insecurity, misleading information and unfair contractual terms that affect the consumer trust and confidence in e- transactions.[217] Following this there is a need for having enabling legal framework and regulation to protect the consumer from such risk and improve confidence in the business operation.[218]

The legal protection in cross-border electronic transaction protects the rights and inters of parties involved in a business mainly consumers who are extremely exposed to the risk of loss.[219] Providing a strong legal framework is fundamental for a country to safeguard the transaction takes place fairly, securely and accountably.[220] However, there are many challenges attached to legal protection in a cross-border transaction because of the variation of regulation at local and international level in terms of substantive and jurisdiction matter. Confusion and difficulty in determining jurisdiction is due to the complexity of various legal systems across nations, such as the differences between common law and civil law and the various dispute resolution rules.[221] The existence of differences between local regulation and international norms creates inapplicable rules and legal uncertainty that complicate the applicability and enforcement of rules and regulations.[222]

3.4.1. Jurisdiction

Jurisdiction is the power to determine the applicable law or legal rule within a given period and ascertain which court's decision is binding on a given legal matter.[223] The jurisdictional challenge for consumer protection in cross-border business to consumer electronic transactions is basically due to the existence of different legal rules and enforcement mechanisms between different countries. This complexity of regulatory framework among various locations is due to every

[217] Lestari Wulandari S, Selly Swandari, Swadia Gandhi Mahardika and Tengku Andrias Prayudha, 'Legal Protection for Consumer in E-commerce Transactions: Challenges and Solutions in the Digital Era,' 2025, Vol. 2, Journal of Mujaddid Nusantara, p. 24

[218] id

[219] Barnard Nainggolan, Hendra Susanto, Heni Yuniantin and Suwarno Suwarno, 'Guarantee of Legal Protection in cross-border electronic transaction,' 2025, Journal of Law and Sustainable Development, p. 7

[220] id

[221] id, p. 8

[222] id

[223] Mrinali Komandur, 'Jurisdiction and Enforcement of E-Commerce Contracts,' 2017, Vol. 5, International Journal on consumer law and practice, p. 91

jurisdiction have their own legal rules and regulatory instruments.[224] When a consumer in one country requires to buy goods or services from a seller in another country by the operation of electronic transaction, determining the applicable law and identifying courts that have jurisdiction over the dispute arises between the parties is unclear. Since there is no clear understanding of jurisdictional rules in cross border electronic transactions at international level it will further affect the international e-commerce and complicate the resolution of disputes that may arise.

Electronic transactions operate among several nations, and every nation has its own rules protecting their financial transactions, data protection and consumer rights.[225] These can create a challenge in determining the applicable legal rules and subsequently difficult to identify the court's having jurisdiction over the cases. Traders and consumers face serious challenges as a result of such jurisdictional ambiguity and may affect the consumers getting remedies in case of fraud, data protection, despiteful advertisement and misrepresentation of supplied products.[226]

The existence of weak regulations and legal rules with inadequate enforcement mechanisms in several jurisdictions is also a challenge to the effective of protection of consumer in electronic transactions particularly in cross-border business to consumer electronic transactions where different legal frameworks and enforcement mechanisms exists.[227] International cooperation and uniform consumer protection legal frameworks applying in all jurisdictions are an important action to be taken to avoid these challenges.[228] However, cooperations between regulatory organs and their counterparties in other jurisdiction may be difficult in case when there is a disparity of laws and competence in capacity of enforcement.[229]

3.4.2. Lack of Harmonized legal framework

Harmonization of legal rules is a way of unifying different laws, regulations, court decisions, legal system and principles and policies to have legal uniformity, certainty, justice, equality and clarity for avoiding the risk of legal pluralism.[230] It uniforms legal rules and policies related to

[224] Nima Ballaji, 'Consumer Protection in the Era of Digital Payments: Legal Challenges and Solutions,' 2024, Vol.15, Beijing Law Review, p.1275
[225] id
[226] id
[227] Lestari Wulandari supra note 217
[228] id
[229] Nima Ballaji, supra note 224
[230] Sidi Ahyar Wiraguna, Faisal Santiago and Ahmad Redi, 'Legal Harmonization of E-commerce Transactions in order to support Indonesia's Economic Development,' Jakarta Journal of Social Research, P.1930

electronic transactions ensuring facilitated cross-border business and avoid legal inconsistencies.[231] Harmonizing of legal rules in e-commerce has several reasons primarily foster cross border trade, reduce transaction cost and enhance legal certainty. Standardizing different rules in different jurisdictions confirms electronic transactions to become more accessible and predictable for traders and consumers. It also gives consumers confidence to loge their claims on the available unified legal rules and get the proper legal protection in their cross-border transactions.

The lack of legal harmonization for a cross-border business to consumer electronic transaction hinders the business due to complexity and difficulty in navigating different laws across the border. Harmonization ensures consistency and uniformity of legal rules. However, lack of uniformity increases the risk of non-compliance, legal disputes and eventually decreases consumer confidence and trust in engaging electronic transactions.

3.4.3. Consumer Awareness and Education

Lack of consumer awareness and education can significantly affect the safeguard of consumer rights in digital transactions. This exposes consumers to vulnerable fraud, deceptive information and practice and ultimately erode trust in digital transactions. Consumer education is understood as a valuable tool for developing knowledge about the type of business and supply and demand chain in e- transactions, and aware the consumer safety.[232]

The United Nation Guidelines states consumer education is one of the consumer rights that facilitates the protection of consumer rights.[233] For consumer protection it forces the member state to develop and promote the growth of consumer education and information dissemination about consumer choice, benefit and costs.[234] As electronic transactions continue to expand through time, it is important to know their rights and the risk related to online transactions.[235] The importance of consumer education and awareness empowers consumers to have informed choice of goods and services for better purchasing decision and conscious for their right and responsibility to

[231] id
[232] Dahiru Jafaru Usman, Nurli Yaacob and Aspalella A. Rahman, 'Lack of Consumer Awareness: A Major Challenge for Electricity Consumer Protection in Nigeria' 2015, Vol.11, Asian Social Seince, p. 242
[233] id
[234] United Nations Guidelines for consumer protection, 2016, p.16
[235] Hariom Gupta and Amit Singh, 'Digital Consumer Rights: Navigating the Challenges of E-commerce in India,'2025, International Journal of Civil law and legal research, p. 131

assert their rights and face unfair practice.[236] Increasing of awareness also helps the consumer to prevent fraud and foster trust in the digital market.[237] When consumers feel confident that their rights are safeguarded their interest in engaging in electronic transactions will increase. Promotion of fair business practices also has the effect of consumer education and awareness. A consumer needs to know the effective redressal and grievance management mechanism. Knowledge of available redressal mechanism enables consumers to get relief to their compliant effectively and resolve their grievance.[238]

3.4.4. Cyber security and Fraud

Cybersecurity and fraud pose significant challenges to consumer protection in cross-border business-to-consumer (B2C) electronic transactions. Cybersecurity is a cornerstone for consumer trust, which is important to protect cross-border electronic transactions and boost economic development.[239] However, the cybersecurity threat endanger the validity of electronic trade and expose personal and financial data to risks, and complicate dispute resolution across jurisdictions.[240]

3.4.5. Enforcement of dispute resolution

Enforcement of consumer dispute resolution in a cross-border business is difficult because of jurisdiction complexity, existence of different legal frameworks and enforceability of redressals. Differences in the understanding of fairness and conflict resolution mechanisms as well as culture and language variance also be a limitation to enforcement and dispute resolution mechanism.[241]

[236] id
[237] id
[238] id
[239] Arjun Kamisetty, 'The Role of Cybersecurity in Safeguarding Cross-border E-Commerce and Economic Growth,' 24 Jan. 2025, Journal of Cybersecurity and Economic Development, P.90
[240] id, p.91
[241] Inam ur Rehman, Muhammad Qasim, Raja Waqas Ahmad, 'The Future of Online Dispute Resolution in Cross-Border E-Commerce: Challenges and Opportunities,' 2024, Vol.2, Law Research Journal, P.116

Chapter Four

The Dispute resolution mechanism for consumer protection in a cross-border business-to-consumer electronic transaction

4.1. Introduction

Electronic transaction is not risk free way of business because online sellers may not be honest and professional in such model of transaction.[242] This risk can happen because of goods cannot be physically inspected before full payment is made and misrepresentation of goods and unknown seller.[243] Consumer grievances in electronic transaction can be from unauthorized or fraudulent transaction, incorrect way of transaction, discrepancies in the product delivery, deceptive information and advertisement, and lack of transparency or fair treatment. Such grievance causes financial loss and affects the trust of consumers in online business. Failure to develop a framework for resolution of consumer claim can affect the effectiveness of international business-to-consumer electronic transactions.[244]

The United Nations Commission on International Trade Law (UNCITRAL), the Organization for Economic Co-operation and Development (OECD), and the United Nations Guidelines for Consumer Protection (UNGCP) are a non-binding framework on dispute resolution and redress mechanisms, but the implementation of those legal principles left to the national jurisdictions.[245] The major legal remedies available for consumer protection in cross-border business to consumer electronic transactions under the framework of UNCITRAL, OECD, and UN Guidelines for Consumer Protection (UNGCP) is Online Dispute Resolution mechanism (ODR). This means of dispute resolution mechanism is the same as that of the traditional Alternative Dispute Resolution (ADR) in many ways except ODR uses the information technology platform to resolve the dispute.

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242 https://www.sciencedirect.com/science/article/abs/pii/S1567422316300254

243 id

244 Ashok R.Patil professor and Pratima Narayan, 'Protection of Consumer in Cross-border electronic transaction', 2014,Vol. 2, International Journal on Consumer Law and Practice, p. 72

245 United Nation Commission on International Trade Law, 'Notes on Organizing Arbitral Proceeding,' (UNCITRAL,2016), p.1, see also Organization for Economic Co-operation and Development, 'Recommendation of the council on Consumer Protection in E-commerce,' (OECD,2016), p. 17 and United Nation Guidelines for Consumer Protection (United Nation 2016), p. 15

4.2. Online Dispute Resolution (ODR)

The ongoing transformation of online business transactions requires the justice system to use internet to resolve cross border business to consumer dispute in a simple and cost-effective way. Online dispute resolution is a digital platform to resolve a consumer dispute using internet in a cross-border electronic business through negotiation, mediation, or arbitration for low-cost and high-volume disputes.[246] Unlike the traditional alternative dispute resolution means the arbitration, mediation and negotiation in ODR is conducted in online using the information communication technology platform.[247] It is accessible, fast and cost-effective in resolving disputes in relation to online business without the need of physical presence or hearing.[248] It is a technology-based justice system that uses digital technology to dispute settlement within and beyond the traditional way.[249] In short it can be said that ODR is the synergy of ADR and ICT (Information communication Technology) to resolve cross-border business to consumer dispute due to online transaction, where the traditional means of dispute settlement were inefficient.[250] The advantages of ODR is to help customer and businesses obtain effective and timely resolution for their legal needs.

The main principles of ODR are efficiency, transparency, accessibility, credibility, security and enforceability that can contribute to the continuity and effectiveness of justice services by offering simple, efficient and out-of-court solutions for consumers to business disputes.[251] In turn, this can help accessibility of justice for businesses to consumers disputes in a cross-border trade. However, such system is not suitable for more complex negotiation. Due process and fairness, and enforceability are the main drawbacks of ODR in resolution of consumer dispute.[252] The due process problem of ODR is related to ensuring transparency, impartiality, access to evidence and

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246 https://rapidruling.com/alternative-dispute-resolution-glossary/what-is-online-dispute-resolution-odr/

247 Taleh Abbasli, 'Can Online Dispute resolution prevail over the traditional methods of resolution?' 2022 P.30

248 Alemu Balcha, Online Dispute Resolution for Electronic Commerce Under Ethiopian Legal Framework: The need for reform,' 2022, Vol.11, Oromia Law Journal, p.106, see also UNCITRAL, Technical Note on Online Dispute Settlement,2017, section 5, para.26 it is a proceeding that cannot be done on an ad hoc base involving the parties to a dispute and a neutral.

249 Organization for Economic Co-operation and Development, 'Online Dispute Resolution Framework,' (OECD, 2024) p.7, see also UNCITRAL Technical Notes on Online Dispute Resolution, 2017, p.4

250 Alemu Balcah Supra note 248, p. 108 see also UNCITRAL Technical Notes on Online Dispute Resolution, 2017, p.1

251 Faye Fangfei Wang, Online arbitration, Feb.2018, p.37

252 Lilian Edwards and Caroline Wilson, 'Redress & Alternative Dispute Resolution in Cross-Border E-commerce Transaction,' (European Parliament, Policy Department Economic and Scientific Policy, Briefing Note IP/A/IMCO/IC2006-206), p.4

enforceability mainly in cross-border consumer dispute.[253] The key problem in the enforceability of ODR is because of the non-binding nature of outcome, jurisdictional differences, lack of legal recognition, validity of ODR arbitral award and enforcement of agreements arising from online mediation.[254] The legal uncertainty of ODR enforcement impedes its development.[255] As ODR is applying on consumer dispute in online transaction, it is challenging to have a conclusive types of ODR being used in the field of electronic trade, this is because it is applied across boundaries of different states in a different jurisdiction. However, the advancement of technology will enhance the online dispute resolution means to be done within short period, with less cost, sensitive and flexible approach to manage conflicts in international electronic transaction.[256] UNCITRAL classifies ODR into three major stages, Negotiation, facilitated settlement and final state which is arbitration. [257]

4.3. Negotiation

Negotiation is a method conducted by the parties at equal stand to reach a settlement of disputes. It is the first stage of online dispute settlement by using a technology enabling automated negotiation in which the parties directly negotiate with one another through the existing ODR platform.[258] Since negotiation is practiced by the direct involvement of the parties in a dispute, it is by far the most applied and extrajudicial means of dispute settlement in electronic transactions. In this way of negotiation, the parties confidently submit their offer to the ODR platform, and it gives technical support to negotiation as the software enables the parties to analyze their position and assess the expected outcomes.[259] Information exchanged between the two parties will never be disclosed to third parties, and both are free to settle their case or to use other ways of settlement.[260]

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253 id

254 id, p.6

255 Pablo Cortés, 'Online Dispute Resolution for Consumers in the European Union,' (Routledge Research in IT and E-Commerce Law, 2011), p. 82

256 Inam ur Rehman, Muhammad Qasim, Raja Waqas Ahmad, 'The Future of Online Dispute Resolution in Cross-Border E-Commerce: Challenges and Opportunities,' 2024, Vol.2, Law research journal, p. 115

257 United Nations Commission on International Trade Law, 'Technical Notes on Online Dispute Resolution,' (UNCITRAL 2017) section III, para.18

258 id, para. 19

259 Aura Esther Vilalta, 'ODR and E-Commerce,' in Mohamed S Abdel Wahab, Ethan Katsh and Daniel Rainey (edc), Online Dispute Resolution: Theory and Practice, (Eleven International Publications 2012), p. 116

260 id

4.4. Facilitated settlement

When negotiation fails to get settlement within reasonable time, the settlement will proceed to the next step which is facilitated settlement.[261] In this stage a neutral ODR administrator will be appointed to communicate the parties to reach a settlement.[262] This way of settlement incorporates mediation and conciliation as a major component of settlement that intervene mediator and conciliator as a neutral third party. The neutral third party will facilitate or assist the parties to arrive at a mutually acceptable way of resolutions by using an online communication platform. The facilitated settlement is done by direct party to party discussion, but the facilitator provides his expertise to guide the process, clarify the issue, propose the non-binding decision which opens to the parties to accept or reject the proposed decisions. The neutral third party requires to ensure fairness, transparency and adherence to due process of the accepted guidelines.

4.4.1. Mediation

Mediation is made to resolve the dispute by the parties involving a neutral third party who facilitates communication to help parties to collaborate to reach acceptable resolutions. Online mediation is a process using information communication platform involving a neutral third party to resolve consumer business dispute in a cross-border electronic trade.[263] The facilitator neutral party is required to mediate dispute in an effective, impartial and competent manner to reach a mutual settlement.[264] The parties in dispute have the right to provide their view, evidence and proposed arguments for the resolution of the dispute.[265] The mediator can use his authority as a third-party neutral to design and oversee the process that assists the parties in conducting peaceful discussions, brainstorming the problem, and drafting a mutually acceptable settlement agreement, but he does not have the authority to decide how the dispute will be resolved.[266]

Information technology can assist mediators in varies ways in resolving consumer to business online disputes. Technology enables parties to communicate by text than face to face and helps

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[261] UNCITRAL Technical Notes Supra note 257, section III, para.20 and section VIII, para.41

[262] id, section III, para.20 section VIII, para.42

[263] Dewi Sulistianingsih, Alviona Anggita Rante Lembang, Yuli Prasetyo Adhi & Muchammad Shidqon Prabowo, 'Online Dispute Resolution: Does the System Actually Enhance the Mediation Framework?'.2023, p. 5

[264] Aura Esther Vilalta supra note 259, p. 117

[265] Deepak Verma, Anshu Banwari and Neerja Pande, Online Dispute Resolution, 19 sep.2018, p.140 available on https://www.intechopen.com/chapters/61440

[266] Colin Rule, Online Dispute Resolution and the Future of Justice, Annual Review of Law and Social Science, p.286, available on https://www.annualreviews.org/docserver/fulltext/lawsocsci

them to be more reflective and considerate in their communication. [267] It can also help them to conduct some research prior to replay to the message and to be more informed about the resolution that is not likely to be erroneous.[268] The text communication enables the mediator to clarify the issues individually and to have a joint discussion.[269] The ODR technology helps the mediator to reframe the communication in real time and avoid unnecessary escalation of the dispute.[270]

4.4.2. Conciliation

Conciliation is one of facilitated settlement of disputes by using neutral third-party intervention using technology. The major distinction between online conciliation and mediation is that the conciliator actively assists the process and builds the solution to the parties.[271] The conciliation is conducted through digital platform using video conference or messaging by facilitating the technique such as clarifying the issue, encouraging dialog between the parties and proposing protentional solutions that may be accepted by the parties as binding.

4.4.3. Arbitration

Arbitration is a quasi-judicial procedure where a neutral third party, i.e. the arbitrator involves giving an arbitration award which is final and binding on the parity.[272] It is distinct from mediation since the arbitrator has the authority to give binding decision.[273] The last stage of online dispute resolution under UNCITRAL ODR system for consumer to business cross-border dispute is online arbitration, in some literature it is said as electronic arbitration. It is one of the major ODR mechanisms for consumer disputes in international online transaction using a technological facility and internet network as a media of communication for parties in dispute by third part arbitrator.[274] It requires them to submit their prior consent or agreement to the arbitral institution that provide online dispute Resolution service.[275] The recognition and enforcement of arbitral ward under UNCITRAL model law on International Commercial Arbitration ensures legal recognition to electronic arbitration agreement and awards across the world.[276] On the other hand

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[267] id
[268] id
[269] id
[270] id
[271] Aura Esther Vilalta, supra note 259, p.118
[272] Pablo Cortés Online Dispute Resolution for Consumers in the European Union Supra note 255, p. 68
[273] Deepak Verma Supra note 265
[274] Dewi Sulistianingsih Supra note,263
[275] id
[276] United Nation Commission on International Trade Law, 'Model Law on International Commercial Arbitration

the OECD 2007 and 2016 recommendation on consumer protection in E-commerce indirectly support recognize the arbitration as effective fair and accessible ODR means in a cross-border dispute resolution. Similarly, UNGCP accepts arbitration as a viable method of dispute resolution mechanism mainly for cross border electronic consumer dispute. However, enforceability of the award across boundaries of states remains challenging due to jurisdictional differences and the non-binding nature of the guidelines.

1985 with amendments as adopted in 2006,' (UNCITRAL 2006) Article 35 Available on https://www.oecd.org/sti/ieconomy/

Chapter Five
Conclusion and Recommendations

5.1. Conclusion

The development of new communication technology and its role in the market will force countries to design new economic policies and market strategy. This attracts the interest of business operators and consumers to transact commodities through electronic means. Following the development of telecommunication networks, especially internet with a change in way communication technology electronic trade was first applied by using internet. It has given a significant opportunity for economic development, particularly by increasing access to international market for small and medium enterprises. Sellers can easily reach consumers without boundary limits and consumers can have also broader access to different types of products and services around the world. This creates new opportunities for innovation, business collaboration and the social well benign.

The emergence of internet is a greater factor for worldwide connection for virtual marketing and a means to widen the marketplace can avail consumers effortlessly to get any commodities across the world. The digital technology development transfers the conduct of business to electronically way and make it convenience, speedy and effortlessly accessible to the consumer. When technology continues to advance, the electronic transactions and the digital payment ecosystem will likely become more integrated into the daily life of human beings.

Electronic communication simplifies the cross-border electronic business making; however, e-commerce is highly exposed for violation of consumer rights. The legal regime governing the protection of consumer rights in cross-border business-to-consumer (B2C) electronic transactions has evolved to address the prudence of digital commerce, but significant challenges exist in ensuring consistent and effective protections across different jurisdictions. At the global level, frameworks such as United Nations Guidelines for Consumer Protection (UNGCP), United Nation Commercial Trade Law (UNCITRAL) and OECD's E-Commerce Consumer Protection Guidelines provide foundational principles for transparency, fair trading practices, and dispute resolution mechanism. Regionally, the European Union has established robust protection through different regional directives, which set standards for withdrawal rights, data privacy, and

contractual clarity. However, enforcement becomes complicated when transactions span expands to multiple legal systems with differing consumer protection standards, jurisdictional ambiguities and uneven redress mechanisms. Key challenges include the lack of harmonized laws, difficulties in pursuing cross-border claims, and emerging risks like digital fraud and data breaches. To address these gaps, solutions such as online alternative dispute resolution platforms, enhanced global cooperation among consumer protection agencies should be in place. While progress has been made in creating a safer digital marketplace, achieving truly effective cross-border consumer protection will require greater legal harmonization, stronger enforcement mechanisms, continued adaptation to the rapidly changing e-commerce landscape and exceed international cooperation among countries.

The conceptual and theoretical foundations of cross-border electronic transactions are interconnected to the intersection of digital commerce, international trade law, and consumer protection frameworks. This will remove geographical barriers, enabling businesses and consumers to engage in transactions across jurisdictions with unprecedented comfort. From legal and regulatory point of view, cross-border electronic transactions operate within a multi-layered governance structure, incorporating international soft law (e.g., UNCITRAL Model Laws), regional harmonization efforts (e.g., EU Digital Single Market policies), and national e-commerce regulations. However, the absence of a unified global framework creates asymmetries in consumer rights enforcement, taxation, and data protection, leading to challenges in dispute resolution and compliance. Finally, it will affect the smoothness of the business operation and the consumer trust.

The dispute resolution method of consumer grievances in cross-border business-to-consumer (B2C) electronic transactions presents a complex challenge due to jurisdictional fragmentation, conflicting national laws, and logistical barriers. However, various mechanisms have emerged to address these difficulties, combining legal frameworks, technological solutions, and international cooperation. At the international level, organizations like the United Nations Commission on International Trade Law (UNCITRAL) and the OECD have developed guidelines to promote fair dispute resolution, though these remain non-binding. The EU's Online Dispute Resolution (ODR) platform represents a more structured approach, offering a centralized portal for resolving cross-

border e-commerce disputes within member states. Similarly, alternative dispute resolution (ADR) mechanisms, including mediation and arbitration, provide cost-effective and faster alternatives to traditional litigation.

Despite this way of resolution is implemented, still significant gaps persist. Enforcement remains inconsistent, as judgments in one jurisdiction may not be recognized in a country of enforcement. Additionally, asymmetries in consumer protection laws across countries leave buyers vulnerable to risks like fraud, misrepresentation of sellers, deceptive information and advertisement particularly in regions with weaker regulatory oversight. To strengthen consumer protection in cross-border e-commerce, a harmonized global framework is essential, supported by stronger international cooperation among consumer protection agencies and standardized digital trust mechanisms. Until then, businesses must prioritize transparency, while consumers should remain aware of their rights and available redressal options in respect of international electronic transactions.

5.2. Recommendations

The development of digitalization requires countries to have a parallel stage of information technology infrastructure, consumer literacy, and effective regulatory and redressal means. The consumer trust and smoothness of the business need the active involvement of all parties who engage the business. To this effect there must be unified legal and regulatory framework in addressing the factors that hinder a cross-border electronic transaction. The legal regime for protecting consumer rights in cross-border business-to-consumer (B2C) e-commerce addresses the legal matters in relation to consumer disputes in global and regional frameworks. To this end the experience of EU legal frameworks and the applicability on cross-border electronic transaction across member states facilitates single digital market. The consumer protection regulation of the EU is the most comprehensive and unified legal rules in addressing the protection of consumer rights across the member states. This ensures high level of protection in a cross-border electronic transaction among member states and facilitates a single digital market.

To strengthen the conceptual and theoretical foundations of cross-border electronic transactions, a multi-dimensional approach is necessary. International harmonization of legal frameworks should be prioritized through adoption of model laws like UNCITRAL's provisions on electronic commerce and the OECD's e-commerce guidelines standardize digital trade policies. Emerging technologies must be adopted parallel to the reform of legal and regulatory framework. This entails providing immutable transaction records and smart contracts enabling self-executing agreements, accompanied by electronic way of dispute resolution systems to handle cross-border conflicts efficiently. The jurisdictional complexity needs to be clear by establishing international agreements on identifying the applicable law and mutual recognition of judgments, while parallelly expanding online dispute resolution platforms. This enhances the accessibility of dispute resolution means and its enforcement in a different country. The consumer protection mechanisms should address consumer right violations and safeguard the vulnerability of consumer interest against fraud and all business-related risks. This requires establishing uniform and enabling regulatory mechanism and standardized contract terms.

The future development of cross-border e-commerce depends on balancing innovation with regulatory consistency, ensuring the efficiency of e-commerce, equitable outcomes for businesses and consumers worldwide. The comprehensive framework requires collaboration between

governments, companies, technology developers and consumer advocates to establish secure, efficient and equitable global digital marketplace that balances innovation with applicable safeguard means. International cooperation and adaptive legal frameworks is important to create confidence and sustainability in the global online marketplace.

Furthermore, develop online business platforms and enhance internet connectivity, build a cybersecurity infrastructure, promote online dispute resolution mechanism, enhance consumer education and awareness, strengthen international and regional cooperation and support small and medium businesses using digital marketplace to strengthen consumer protection in cross- border business to consumer electronic transactions.

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