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Consumer Protection for Inclusive Digital Trade

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Why online consumer protection matters

- Enhances trust in e-commerce transactions, fundamental to e-commerce development
- Provides remedy to consumers in disputes, ensuring consumer rights
- Reduces transaction costs, e.g. faster processes in online dispute resolution (ODS), reducing after-sale costs (ITC survey)

What you ordered



What you might receive



Key issues- fairness, safety, information, redress

(a) Fair Commercial Practices

- Prohibition of **fraudulent, deceptive, and misleading conduct** in online marketing and sales.
- Requirements for **clear, truthful, and accessible information** about product characteristics, prices, total costs, and seller identity.

(b) Contractual Rights and Transparency

- **Disclosure** of key contract terms before purchase (e.g., cancellation policy, delivery, after-sales).
- **Right to withdraw** or cancel purchases within a cooling-off period (e.g., EU 14-day rule).
- **Transparency in automated decision-making** and personalized pricing.

(c) Product and Service Safety

- Assurance that digital or physical goods sold online meet **safety standards**.
- **Liability for unsafe, counterfeit**, or non-conforming products sold through platforms.

(d) Redress and Dispute Resolution

- Accessible and low-cost mechanisms for complaints, refunds, and compensation.
- Availability of **alternative dispute resolution (ADR)** and **online dispute resolution (ODR)** platforms.
- Cooperation between national authorities to resolve **cross-border disputes**.

(e) Data and Privacy Protection

- Safeguarding consumers' **personal data** collected in online transactions.
- Restrictions on unsolicited communications (**spam**) and **misuse** of consumer data for profiling.

(f) Digital Content and Service Quality

- Ensuring **digital goods** (apps, downloads, subscriptions) function as described.
- Addressing **interoperability** and **update obligations** for digital products.

(g) Platform Accountability

- Verify seller identity and location.
- Clearly distinguish professional traders from private sellers.
- Remove illegal or unsafe listings.
- Cooperate with authorities in enforcement.

Key challenges in cross-border e-trade

Jurisdictional Fragmentation

- Laws on consumer rights, data privacy, and liability differ widely between countries.

Enforcement Gaps

- National consumer protection agencies often lack extraterritorial powers.
- Cross-border litigation not fit for e-commerce: too costly, time-consuming, and complex

Platform Complexity

- Many platforms act as intermediaries rather than direct sellers, blurring responsibility for disputes.

Language and Cultural Barriers

- Consumers may not understand contractual terms, refund policies, or complaint procedures.



Models of ODR

Negotiation-based ODR

- Usually the first step: consumers and sellers attempt to resolve disputes directly through an **online platform interface**.
- Automated tools (e.g., chatbots, guided forms) help parties articulate claims and explore solutions.
- e.g. **PayPal Resolution Centre** — automated workflows for refund or delivery complaints.

Mediation-based ODR

- A **neutral mediator** assists the parties via video conferencing, messaging, or online forms.
- Focus on **consensual resolution** rather than binding decisions.
- e.g. **Alibaba's platform mediation system**, where mediators propose solutions based on transaction data.

Arbitration-based ODR

- A **neutral arbitrator** makes a **binding decision** enforceable under international arbitration frameworks (e.g., the New York Convention).
- Suitable for more complex or higher-value disputes.
- e.g. Private ODR providers like **Modria** (used by eBay and other marketplaces).

Hybrid or Tiered Systems

Many platforms use a **three-tiered model**:

- Automated negotiation;
- Human mediation;
- Binding arbitration (if necessary).

Harmonization and International Cooperation

WTO Agreement on E-commerce

- Trust and e-commerce: online consumer protection, SPAM, personal data protection, Cybersecurity
- “...shall adopt or maintain measures to proscribe misleading, fraudulent, and deceptive commercial activities that cause harm, or potential harm, to consumers engaged in electronic commerce”
- “...consumer protection at a level not less than that afforded to consumers engaged in other forms of commerce.”

OECD Guidelines for Consumer Protection in E-commerce (2016, updated 2024)

- encourage countries to align rules on information disclosure, redress, and data protection.

Regional initiatives

- e.g., EU’s *Consumer Protection Cooperation Regulation*, ASEAN’s *Online Dispute Resolution framework*) foster mutual recognition of judgments and joint enforcement
- ASEAN ODR Network: enable each AMS to build national ODR systems, then inter-link them regionally to ensure interoperability .

Future efforts

Interoperability:

- Strengthening Cross-Border Enforcement and Cooperation
- Interoperability of national consumer laws through model laws or treaties (e.g., WTO, RCEP)
- Develop cross-border standards allowing mutual recognition of ODR outcomes.
- Integration with consumer protection networks: Link ODR with enforcement bodies (e.g., ICPEN, OECD Consumer Policy Committee).

Public-private partnerships:

- Combine platform-based systems with government oversight; Impose due diligence, transparency, and redress obligations on platforms (e.g., seller verification, refund guarantees).

AI-driven resolution:

- Use blockchain for digital traceability and data-sharing.
- Use AI for assessment and resolving repetitive dispute types.

Capacity-building:

- Consumer education programs on digital literacy, privacy, and dispute resolution.
- Support developing countries in establishing and harmonizing ODR infrastructure.