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Consumer trust in the digital economy: The case for online dispute resolution

Abstract

As e-commerce expansion surges, consumer trust remains fragile. This mismatch, greatly fuelled by the COVID-19 pandemic, reveals disparities between the rapid pace with which consumer activities are being migrated online and inadequate consumer protection. Dispute resolution mechanism has been proposed by consumer experts as an essential tool that helps to foster trust. The notion of trust is unpacked to theorize why it matters in business transaction, and how a third-party can serve as an institutional mechanism to help transacting parties overcome distrust and settle dispute. To examine how the theories work in practice, selected studies are reviewed to determine whether the presence of consumer dispute resolution promotes trust and whether its absence leads to business costs. This includes in-house business online dispute resolution such as customer support and third-party e-payment systems. The findings confirm that effective online dispute resolution processes can increase trust along with consumer loyalty and repurchasing intentions, as well as prevent customer churn and dissatisfaction.

The trust-enabling benefits of online dispute resolution are yet to be fully realized, especially for cross-border business-to-consumer e-commerce. Wider awareness and implementation are needed, but these global challenges require timely collaborations by the international community.

Key words: Trust, digital economy, ODR, e-commerce, consumer protection



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Abbreviations

ADR	Alternative dispute resolution
ASEAN	Association of Southeast Asian Nations
B2B	Business-to-business
B2C	Business-to-consumer
C2C	Consumer-to-consumer
CIGI	Centre for International Governance Innovation
COVID-19	2019 Novel Coronavirus
ICPEN	International Consumer Protection and Enforcement Network
ODR	Online dispute resolution
OECD	Organization for Economic Cooperation and Development
SME	Small and medium-sized enterprise
UNCTAD	United Nations Conference on Trade and Development
UNGCP	United Nations Guidelines for Consumer Protection

Glossary

A note is provided below to clarify some terms and concepts used in this paper intended for business-to-consumer context. They are listed in alphabetical order.

Alternative dispute resolution: Any type of out-of-court dispute resolution approach between consumers and businesses, whether public, private or hybrid. Such systems are not generally designed to provide redress or compensation for consumers, which is a power usually reserved for judicial authorities. The three traditional models of alternative dispute resolution are mediation, conciliation, and arbitration.¹

Charge-back: A dispute resolution mechanism for credit card payments. “Charge-back is a mechanism whereby consumers are able to reverse credit card transactions if they experience undue harm from a business.” Compared to dispute resolution, charge-back “provide consumers with a more favourable position when a dispute arises; should dispute resolution procedures ensue, the funds remain in the possession of consumers instead of businesses.”²

Consumer and customer: A distinction is made between the usage of consumer and customer based on the context of the discussion in this paper. Consumer is used in a generic way without reference to a specific business. By contrast, customer is used in the context of a business’s organisational or transactional features. For example, Chapter I explores ‘consumer trends’ and ‘consumer trust’ in the digital economy, while Chapter II centres on the ‘customer experiences’ from and ‘customer supports’ of certain X or Y businesses in question. The latter is particularly relevant to Chapter II which focuses on empirical studies on businesses or platforms and their ‘new customers’ or ‘current customers’ (rather than ‘new consumers’ or ‘current consumers’, which would not be suitable here).

Consumer trust: A consumer’s belief in the likelihood that an exchange will proceed according to their expectations. It follows that in an exchange environment where there is low trust or where trust is absent, that belief would be based on their perceived risks associated with the transaction. Therefore, for the purpose of this paper, a working definition of consumer trust is as follows: A consumer’s expressed views, based on their perceptions and/or experience, of the trustworthiness of a provider of information, goods or services or any factors relevant to that provider.³ Trustworthiness in this context refers to the degree to which someone or something, in relation to that provider, is expected to act in a way that may be beneficial, neutral or detrimental to the consumer.⁴

Dispute resolution and redress: The distinct legal nature of consumer dispute resolution and redress, based on UNCTAD and OECD’s positions, is as follows (UNCTAD 2018: 8-9): “Dispute resolution refers to ‘the use of mechanisms designed to provide consumers who have suffered economic harm resulting from transactions involving goods or services, including transactions across borders, the opportunity to resolve their complaints against businesses and to obtain redress’ and redress refers to ‘compensation for economic harm, whether in the form of a monetary remedy (for

¹ UNCTAD (2018: 8).

² UNCTAD (2018: 11).

³ For example, interpersonal factors may include personal motivation or disposition of the provider; institutional factors may include the country, regulatory environment or technological features of the provider.

⁴ See Dasgupta (2005) for the theories of trust that have been considered in producing this working definition.

example, a voluntary payment, damages, restitution or other monetary relief) or a conduct remedy with a restorative element (for example, exchange of a good or service, specific performance or rescission of a contract)'.⁵

Online dispute resolution: Mechanisms for resolving disputes facilitated by electronic communications and other information and communications technology that replaces in-person, face-to-face interactions. These can include online forms, telephone or videoconferencing that involve automated processes through the use of software.⁶ 'Customer care and complaints functions'⁷ provided by a business can be considered as part of online dispute resolution processes. But if a dispute cannot be settled between the business and the consumer themselves, then an independent 'online dispute resolution provider' can step in to help resolve the dispute. Examples of these include public online dispute resolution schemes on a national or regional level, private dispute online dispute resolution systems, and certain digital payment systems.

⁵ The quote continues: "While dispute resolution and redress both aim to protect consumer rights, the former refers more specifically to transactional settlement of disputes between consumers and businesses, while the latter usually involves enforcing the delivery of (substantive) justice through corrective or complementary measures. Corrective measures are those aimed at compensating consumers and ensuring reparations for any unlawful damages. Complementary measures are those aimed at ensuring general consumer interests, such as with regard to health or the environment. Measures aimed at ensuring consumer redress can be adopted through administrative, judicial or alternative dispute settlement procedures, depending on the jurisdiction. Most consumer protection laws confer enforcement power upon consumer protection authorities, including for corrective and complementary measures, yet compensation is usually reserved for judicial authorities" (UNCTAD 2018: 8–9).

⁶ UNCTAD (2018: 9).

⁷ UNCTAD (2018: 10–11).

Key Messages and Recommendations

Key Messages

Consumer trust is essential to all economies. For any healthy digital economy to grow sustainably, it is vital to protect consumers and boost their confidence when e-commerce and cross-border trade are booming. To avoid complacency, which can lead to consumer distrust and costs to businesses, the time is ripe to act. A useful tool for fostering consumer trust in the digital economy is effective online dispute resolution.

Recommendations

1. Recognize, promote and educate the importance of consumer trust and dispute resolution in facilitating international trade and cross-border e-commerce.
 2. Encourage businesses to provide access to or implement effective online dispute resolution for consumers, especially in developing countries.
 3. Participate in international dialogues to exchange ideas on overcoming consumer trust challenges and share best practices on approaches to consumer dispute resolution.
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Introduction

The onset of the 2019 Novel Coronavirus (COVID-19) global pandemic has instigated a tectonic shift in the digital sphere. From socializing and working, to the rolling-out of public health applications and treatments, the pace of digitalization has accelerated like never before. The impact is being felt much more acutely in developing regions of the world, where a dramatic uptake of online products, services, information, and activities have been reported (UNCTAD Survey Report 2020, October). Meanwhile, unequal access to digital provider of goods and services amongst developing economies and inadequate protection for consumers and vulnerable populations online have become more pronounced.⁸ Despite sustained sectoral efforts at bridging the digital divide, this major turn of events has exposed existing legal and regulatory deficiencies that impact consumer trust in profound ways.⁹

At the Eighth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices¹⁰ (UNCTAD Report 2020, December), UNCTAD (News 2020c) highlighted one specific recommendation in its call to action¹¹: “Encourage businesses, especially online platforms, to provide online dispute resolution mechanisms for consumer complaints.” This paper reflects on and takes stock of some of the most pressing challenges that underlie consumer protection by delving into its crux: consumer trust. These challenges are examined within the context of consumer online dispute resolution (ODR), the topic of an UNCTAD Technical Cooperation Project that commenced in 2020 (ibid.: 43).¹²

⁸ Some of these “consumer challenges in e-commerce in developing countries” are noted in UNCTAD (2017: 4–5).

⁹ UNCTAD (2021b); UNCTAD News (2020c); UNCTAD Report (2020, April).

¹⁰ As the focal point in the United Nations system and the only platform for global international cooperation, UNCTAD’s Annual Ministerial Conference is the highest-level meeting on competition and consumer protection at the multilateral level. Members of government, heads of competition and consumer protection authorities and senior officials from both developed and developing countries to establish direct contacts and promote voluntary cooperation and the exchange of best practices.

¹¹ In accordance with guideline F of the United Nations Guidelines for Consumer Protection, henceforth referred to as the United Nations Guidelines or the Guidelines (UNGCP 2015). Guideline F covers Dispute Resolution and Redress, containing five points. As noted in UNCTAD (2018: 2), “The Guidelines are the only internationally agreed instrument on consumer protection, and have been widely implemented by UNCTAD member States.”

¹² See: <https://unctad.org/project/delivering-digital-trading-infrastructure-and-online-dispute-resolution-consumers-means>

1. Consumer Trust is a Universal Concept

As the cornerstone of modern civil societies, consumer protection has never been more important in a world where the rapid global digital transformation is contributing to ever-expanding cross-border trade and e-commerce. Over the past four decades, the United Nations have made great strides and achieved several milestones: consumer protection principles and guidance have been published with the aim of helping Members States to implement and improve measures in safeguarding consumers' safety and rights both offline and online.¹³

This paradigm shift is a defining feature of the 21st century consumer: transactions have gone from a physical setting to digital modes of exchange encompassing business-to-business (B2B), business-to-consumer (B2C), consumer-to-consumer (C2C) and more (UNCTAD 2003: 177). As everyone takes on the ubiquitous role of a consumer in their daily lives, the international community is increasingly recognizing the universal need to better protect consumers and to reinvest in consumer trust-building (Yu 2018). It is pertinent to address consumer protection matters through the lens of trust since trust underpins all consumer affairs. In this vein, UNCTAD (2017: 5) has noted that "consumer trust in digital markets is one of the main challenges in the development of e-commerce", because "the impersonality of e-commerce weakens the relationship between providers and consumers, thereby increasing consumer vulnerability. The web-based environment is propitious to unfair commercial practices."

Trust, therefore, is a fundamental pillar of e-commerce upon which digital societies and economies are vitally dependent to function well. One important tool that can help foster consumer trust and build competitive markets in national and regional economies is effective ODR systems (UNCTAD 2018: 5).¹⁴ In terms of ODR implementation, consumer disputes in e-commerce and retail sector have been shown to be particularly suitable in reaping the benefits of ODR (ODR 2021: 66, 69). For these reasons and in line with the United Nations Guidelines on Consumer Protection¹⁵, a renewed focus on ODR as a means of enhancing trust is needed.

1.1 E-commerce trending upward, especially during COVID-19

Global e-commerce sales have been soaring over the past decade, nearing \$5 trillion in 2021 and projected to reach around \$6.4 trillion by 2024 (Emarketer 2021; Shopify 2021). NASDAQ (2017) estimated that by 2040, 95 per cent of consumer purchases will be

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