

## CONSUMER PROTECTION IN E-COMMERCE TRANSACTIONS IN ZAMBIA

CHILUFYA PETER SAMPA<sup>1</sup> & NYAWA MSIDI<sup>2</sup>

ZCAS University, Zambia

<https://doi.org/10.37602/IJREHC.2023.4615>

### ABSTRACT

In the last fifteen years, e-commerce has gradually developed from what was previously viewed as a western phenomenon to a necessary global resource. It has made it possible for local and imported goods and services to be purchased online with ease. E-commerce is still in its infancy in Zambia, but it is a fast-growing market, in which consumer are susceptible to risks such as counterfeit, defective or unsafe products, misrepresentations as to the quality appearance and function of a product. This study analysed the extent to which the law on consumer protection protects Zambian consumers in e-commerce transactions. It identified the challenges faced by Zambian consumers in e-commerce transactions and it examined the law that protects consumers in e-commerce transactions in Zambia. The study established that Zambian consumers are protected during local online transactions through two pieces of legislation, namely, the Competition and Consumer Protection Act, and the Electronic Communications and Transactions Act, but the protection does not extend to cross border transactions. It proposes that consumer protection may be enhancement of the available legal and regulatory measure, and consumer awareness programs.

**Keywords:** Consumer Protection, e-commerce, law, Zambia.

### 1.0 INTRODUCTION

The internet has significantly affected the way consumers and businesses interact - from the physical person to person transactions, to transactions performed on digital markets and platforms. The investments by many governments, including the Zambian government, in internet provision have resulted in increased penetration, and service delivery has meant that consumers are increasingly using electronic commerce (e-commerce)<sup>3</sup>. This has significantly changed lives and brought new opportunities for both consumers and businesses. E-commerce has become increasingly relevant to consumers worldwide, and the opportunities it offers have helped to facilitate economic development and growth, based on emerging network

<sup>1</sup> ZCAS University, Department of Law, Lusaka, Zambia. Email: cpsampa@yahoo.co.uk

<sup>2</sup> ZCAS University, Department of Law, Lusaka, Zambia. Email: nyawanyirongo@gmail.com

<sup>3</sup> Justina Dugbazah and others, 'Strengthening the Capacity of Africa's E-Commerce Systems Using Digital Technologies: A Case of Zambia' (*Who We are Mandate Results*, 11 July 2022) <<https://www.nepad.org/blog/strengthening-capacity-of-africas-e-commerce-systems-using-digital-technologies-case-of-zambia>> accessed 30 November 2023.

technologies, such as computers, mobile phones and connected devices that promote consumer welfare<sup>4</sup>. As such, it is seen as a tool for new opportunities, development and enhanced welfare.

An increasing number of consumers have access to the internet and engage in e-commerce transactions, which provide easier and faster access to products and services<sup>5</sup>. By definition, e-commerce is the sale or purchase of goods or services, conducted over computer networks by methods specifically designed for the purpose of receiving or placing of orders<sup>6</sup>. Since it began in 1995, e-commerce has steadily grown globally, bringing about enormous change in business firms, markets, and consumer behaviour<sup>7</sup>. In 2022, Global Business to Consumer (B2C) e-commerce accounted for an estimated \$6.5 trillion<sup>8</sup>. In developing countries, B2C e-commerce is rapidly expanding, particularly in Asia and Africa<sup>9</sup>. It is beneficial for consumers because it is fast, occurs across different jurisdictions, and may be paid for with ease<sup>10</sup>. This makes it easy for consumers from developing countries such as Zambia to enjoy the same product quality as consumers in developed countries. Despite its benefits, e-commerce has raised challenges for consumers, particularly in developing countries like Zambia. They are vulnerable to counterfeit, defective or unsafe products,<sup>11</sup> misrepresentations as to the quality appearance and function of a product, and the risk of non-delivery of products which have been duly paid for in both local and cross border online transactions.<sup>12</sup> These are detrimental for consumers, and they weaken their trust in e-commerce.

### 1.1 Scope and Objectives of this paper

In Zambia, e-commerce is still in its infancy, but it is a fast-growing market. Consumers are protected from online unfair practices through two pieces of legislation; *the Competition and*

---

<sup>4</sup> United Nations, '70/186. Consumer Protection' <[https://unctad.org/system/files/official-document/ares70d186\\_en.pdf](https://unctad.org/system/files/official-document/ares70d186_en.pdf)> accessed 28 November 2023.

<sup>5</sup> Dennis Ndonga, 'E-Commerce in Africa: Challenges and Solutions' (2012) 5 African Journal of Legal Studies <[https://brill.com/view/journals/ajls/5/3/article-p243\\_2.xml](https://brill.com/view/journals/ajls/5/3/article-p243_2.xml)> accessed 28 November 2023.

<sup>6</sup> UNCTAD, 'Consumer Protection in Electronic Commerce' (United Nations Conference on Trade and Development 2017) <[https://unctad.org/system/files/official-document/cicplpd7\\_en.pdf](https://unctad.org/system/files/official-document/cicplpd7_en.pdf)> accessed 28 November 2023.

<sup>7</sup> Kenneth C Laudon and Carol Guercio Traver, *E-Commerce 2016* (12th edn, Business Technology Society 2017) <[https://materikuliahhamdan.files.wordpress.com/2019/09/kenneth-c.-laudon-carol-traver-e-commerce-2016\\_-business-technology-society-2016-pearson.pdf](https://materikuliahhamdan.files.wordpress.com/2019/09/kenneth-c.-laudon-carol-traver-e-commerce-2016_-business-technology-society-2016-pearson.pdf)> accessed 28 November 2023.

<sup>8</sup> Laura Gatica Barrientos, Emma Rosa Cruz Sosa and Patricia E Garcia Castro, 'Considerations of E-Commerce Within A Globalizing Context' (2012) 16 International Journal of Management & Information Systems.

<sup>9</sup> UNCTAD, 'UNCTAD B2C E-Commerce Index 2018 Focus on Africa' (United Nations Conference on Trade and Development 2018).

<sup>10</sup> Barrientos, Sosa and Castro (n 6).

<sup>11</sup> Christine Riefa, 'Cross-Border Enforcement of Consumer Law: Looking to the Future' (University of Reading 2022) <[https://unctad.org/system/files/information-document/ccpb\\_WG\\_e-commerce\\_cross-Border\\_Riefa\\_en.pdf](https://unctad.org/system/files/information-document/ccpb_WG_e-commerce_cross-Border_Riefa_en.pdf)> accessed 28 November 2023.

<sup>12</sup> Vipin Jain, Bindoo Malviya and Satyendra Arya, 'An Overview of Electronic Commerce (e-Commerce)' (2021) 27 Journal of Contemporary Issues in Business and Government <[https://www.researchgate.net/profile/Vipin-Jain-13/publication/351775073\\_An\\_Overview\\_of\\_Electronic\\_Commerce\\_e-Commerce/links/60a8d9af45851522bc0aed79/An-Overview-of-Electronic-Commerce-e-Commerce.pdf](https://www.researchgate.net/profile/Vipin-Jain-13/publication/351775073_An_Overview_of_Electronic_Commerce_e-Commerce/links/60a8d9af45851522bc0aed79/An-Overview-of-Electronic-Commerce-e-Commerce.pdf)> accessed 28 November 2023.

*Consumer Protection Act*<sup>13</sup> and the *Electronic Communication and Transactions Act*.<sup>14</sup> While the *Competition and Consumer Protection Act* is an Act of general application on consumer protection, the *Electronic Communication and Transactions Act* provides specific protection for electronic transactions. E-commerce transactions that involve Zambian buyers and sellers may be enforced, albeit with some challenges, when online unfair practices occur, by the Competition and Consumer Protection Commission. Its legal mandate is to protect consumers from unfair trade practices.<sup>15</sup> Although Zambian law offers some protection for cross border e-commerce transactions, online unfair practices have been difficult to enforce, to the detriment of consumers<sup>16</sup>. Therefore, this study analyses the extent to which the law on consumer protection protects Zambian consumers in Business to Consumer (B2C) e-commerce transactions. It identifies the challenges faced by Zambian consumers in e-commerce transactions. It then examines the law that protects consumers in e-commerce transactions in Zambia, and it suggests recommendations that may enhance the protection of consumers in e-commerce transactions in Zambia.

## 2.0 CHALLENGES FACED BY CONSUMERS IN E-COMMERCE TRANSACTIONS IN ZAMBIA

The introduction of the internet and e-commerce has brought about a change in the way consumers and business interact with one another. Although it has a lot of benefits, e-commerce has created a number of challenges that have been faced by consumers and business alike. Buying and selling online raises legal challenges that have to be addressed by both Governments and the industry itself<sup>17</sup>. This applies to domestic transactions and even more so to international transactions. The challenges faced by Zambian consumers in e-commerce transactions arise at the three stages of service consumption; the pre-purchase, purchase and post purchase stages.

During the pre-purchase stage, customers search for information that helps them decide to make a purchase, based on their needs<sup>18</sup>. The challenges that consumers face include information asymmetry; little or no information on a product or service being sold when compared to the knowledge the seller has on the product or service<sup>19</sup>. Online customers have been subjected to misleading information on actual and total prices, effective interest rates and consumer rights under the relevant national law<sup>20</sup>. This negatively influence transactional decisions, as consumers are not able to make an informed decision.<sup>21</sup>

---

<sup>13</sup> Act No. 24 of 2010.

<sup>14</sup> Act No. 4 of 2021.

<sup>15</sup> Preamble of the Competition and Consumer Protection Act (n 11).

<sup>16</sup> Riefa (n 9).

<sup>17</sup> Andrii M Padalka and others, 'Consumer Protection When Purchasing Goods on The Internet' (2021) 28 Journal of the National Academy of Legal Sciences of Ukraine.

<sup>18</sup> Rodoula H Tsiotsou and Jochen Wirtz, 'The Three-Stage Model of Service Consumption', *he Handbook of Service Business: Management, Marketing, Innovation and Internationalisation* (Cheltenham 2015)

<[https://www.researchgate.net/publication/264673092\\_The\\_Three-Stage\\_Model\\_of\\_Service\\_Consumption](https://www.researchgate.net/publication/264673092_The_Three-Stage_Model_of_Service_Consumption)> accessed 28 November 2023.

<sup>19</sup> United Nations (n 2).

<sup>20</sup> Riefa (n 9).

<sup>21</sup> UNCTAD (n 4).

At the purchase stage, consumers would have weighed the information received about a product and decided to buy it online.<sup>22</sup> The common challenges faced by consumers include unfair contract terms, unsecure online payment security systems, and invasion of privacy<sup>23</sup>. Many consumers do not read or understand terms and conditions of a contract in online transactions because they are usually very long, obscure, and hidden in fine print<sup>24</sup>. Payments that are made using personal bank accounts, are susceptible to fraud and once payment is made reversals are a challenge,<sup>25</sup> unless a consumer uses a payment service provider that acts as middleman between the consumer and the trader.

Consumer data and banking information that is shared exposes consumers to the risk of invasion of privacy through personal information that is collected by providers and intermediaries.<sup>26</sup> Personal data that is collected online without the permission or prior knowledge of a consumer which have led to identity theft and other crimes which negatively affect the credit ratings of a consumer.<sup>27</sup>

After a payment for a product has been made, the consumer enters the post purchase stage in which he waits for the product or the service to be delivered.<sup>28</sup> In the case of cross border online transactions, Zambian consumers generally use a courier with a foreign address, and acceptance of the product is through an agent in country of origin of the product.<sup>29</sup> When the consumer in Zambia receives the product, they may not be afforded an opportunity to return a defective or unsuitable product, or claim a refund.

### 3.0 LEGAL PROTECTION OF CONSUMERS IN E-COMMERCE TRANSACTIONS IN ZAMBIA

As earlier stated, consumers are protected from unfair practices that may arise through e-commerce by the Competition and Consumer Protection Act, and the Electronic Communications Transaction Act. The former Act broadly provides for consumer protection in both traditional and online transactions, and it is enforced by the CCPC. The latter Act expressly provides for online transactions, and it is enforced by the Zambia Information and Communication Authority (ZICTA). ZICTA was established to regulate the provision of electronic communication products and services in Zambia.<sup>30</sup>

---

<sup>22</sup> Tsotsou and Wirtz (n 15).

<sup>23</sup> UNCTAD (n 4).

<sup>24</sup> Riefa (n 9).

<sup>25</sup> VA Lawack-Davids, 'Consumer Protection Measures for Erroneous or Unauthorized Internet Payments: Some Lessons from The European Union?' <<https://obiter.mandela.ac.za>> accessed 28 November 2023.

<sup>26</sup> *ibid*.

<sup>27</sup> ZICTA, 'Identity Theft' (*Consumer Protection*, 2023) <<https://www.zicta.zm/services/consumer-protection/identity-theft>> accessed 30 November 2023.

<sup>28</sup> Tsotsou and Wirtz (n 15).

<sup>29</sup> International Trade Administration, 'E-Commerce' (*Zambia Country Commercial Guide*, 8 July 2022) <<https://www.trade.gov/country-commercial-guides/zambia-ecommerce>> accessed 30 November 2023.

<sup>30</sup> ZICTA, 'ZICTA Consumer Protection Guidelines' <<https://res.cloudinary.com/dqrw0req3/image/upload/v1694421906/fjrqpzrcfoel7avde5.pdf>> accessed 29 November 2023.

### 3.1 Unfair Trade Practices and Misleading Representations

In Zambia, unfair trade practice may occur in three ways. It may be in the form of conduct that misleads consumers or compromises their standard of honesty and good faith, or places pressure on them by use of harassment or coercion, thereby distorting their purchasing decisions.<sup>31</sup> This is a broad definition which captures a wide range of conduct in e-commerce, and it is prohibited in by law.<sup>32</sup>

*Section 47 of the Competition and Consumer Protection Act*<sup>33</sup> provides for a broad range of definitions of misleading representations that are prohibited in Zambia, some of which are relevant for the protection of consumers in e-commerce transactions. A misleading representation is made when a person or an enterprise falsely represents that any goods are of a particular standard, quality, value, grade, composition, style or model or have a particular history or previous use. It is also made when any goods are falsely represented as new; or as having sponsorship, approval, affiliation, performance characteristics, accessories, uses or benefits that they do not have. In addition, a statement is misleading if it attributes a product to a false place of origin. This section can be applied to purchases in brick and mortar stores/shops transactions as well as e-commerce transactions within Zambia.

### 3.2 Supply of Defective Goods

*Section 49 of the Competition and Consumer Protection Act (2010)* prohibits persons and enterprises from supplying defective goods and services to consumers, or goods that are not fit for the purpose for which they are normally used. Further, it allows for a person or enterprise to refund a consumer who was supplied a defective good within seven days, or to replace the said goods with goods that are free from defects. The CCPC is authorised to recall defective products from the market. This product recall may be additional to the fines imposed on the erring parties.

### 3.3 Disclosure of Information by Sellers in E-Commerce Transactions

In a bid to protect consumers, *the Electronic Communications Transaction Act*<sup>34</sup> supplements the provisions of the *Competition and Consumer Protection Act* by making it mandatory for an entity that sales a product or service online to make full disclosure of information with regard to the product on sale, its total purchase and transportation costs, and the terms and conditions of sale for the product. In addition, the seller must disclose his or her personal information and contact details for ease of communication. This is intended to allow consumers to enforce their rights, when they supplied with defective goods, or purchase them as a result of a misrepresentation or unfair trade practice.

### 3.4 Protection in Cross Border Transactions

---

<sup>31</sup> Section 45 of the Competition and Consumer Protection Act (n 12).

<sup>32</sup> Section 46, *ibid*

<sup>33</sup> *Ibid*

<sup>34</sup> Sections 63 and 64 of the Electronic Communications Transaction Act (n 12).

The need for sellers of online products to disclose of information applies irrespective of the legal system applicable to the e-commerce transaction.<sup>35</sup> This infers that protection under the Act extends to a transaction by Zambian registered firms that operate in a foreign legal system, and transactions between a Zambian consumer and a foreign firm. Where the consumer is Zambian and the e-commerce transaction is entered in to with a company that is registered and operating in a foreign country, enforcement challenges may arise, as the Zambian parliament does not have extra territorial legislative powers.

### **3.5 Protection of Consumers Personal Information**

Personal information collected during e-commerce transactions is ensured by the use of secure payment systems that meet the technological standards set for online transactions in Zambia.<sup>36</sup> This adequately protects consumers in local online transactions, but the obligation cannot be enforced in cross border online transactions. In addition, personal information that is collected from a consumer may only be used with his or her prior consent. In this way consumers are protected from identity theft and similar crimes within Zambia.<sup>37</sup>

### **4.0 ENFORCEMENT OF CONSUMERS PROTECTION LAWS**

As alluded to above, the CCPC has the legal mandate to protect Zambian consumers from unfair trade practices. At the same time, ZICTA, whose role is to regulate the provision of electronic communication products and services in Zambia, is also empowered to enforce consumer protection law that specifically address online transactions.<sup>38</sup> There appears to be an overlap in the role of the two institutions with regard to the protection of consumers in online transactions, because the role of ZICTA has been extended to enforcement of competition law on consumer protection in Zambia.

### **5.0 CONCLUSION**

E-Commerce is beneficial for consumers because it has provided a means through which purchases may be made with ease. Despite its benefits, it has presented various risks for consumers which include the risk of delivery of counterfeit or defective goods as a result of misrepresentations or unfair contract terms, and invasion of privacy. In Zambia these challenges are addressed in two pieces of legislation, namely, the Competition and Consumer Protection Act, and the Electronic Communications and Transactions Act, and the said laws are enforced by the CCPC and ZICTA, whose dual role has usurped some of the powers of the CCPC. The protection of consumers from cross border online transaction continues to remain a challenge, in the absence of international enforcement mechanisms.

### **5.0 RECOMMENDATIONS**

#### **5.1 Legal and Regulatory Measures**

---

<sup>35</sup> Section 68, *ibid*

<sup>36</sup> (n 31).

<sup>37</sup> Section 65, *ibid*.

<sup>38</sup> Section 70(3) (n 12).

The provisions on the protection of consumer data and privacy need to be strengthened, especially with regard to data obtained in cross border transactions through multilateral and bilateral treaties on consumer protection and data privacy. This may be done through negotiations with regional bodies such as the Common Market for Eastern and Southern Africa (COMESA) and the Southern African Development Community, and international consumer protection networks such as International Consumer Protection and Enforcement Network (ICPEN) and consumer International.

In addition, innovative Alternative Dispute Resolution (ADR) such as online dispute resolution systems can be explored. This may provide the Zambian consumer an avenue to resolve disputes with traders and manufacturers in other countries and within the country. This is a growing trend whose major setback in a developing country like Zambia may be the cost of arbitration or mediation.

## 5.2 Consumer Awareness

Consumer education is paramount to ensure that consumers safely trade on e-commerce transactions. Business is always ahead in terms of innovations in e-commerce while regulators are always slow or behind. Over regulation may lead to stifling of innovations hence there has to be struck a balance to ensure that regulation does not harm e-commerce transactions. A sure way to ensure that the consumers are protected is to educate the consumer on e-commerce.

## REFERENCES

Barrientos LG, Sosa ERC and Castro PEG, 'Considerations of E-Commerce within a Globalizing Context' (2012) 16 International Journal of Management & Information System <<https://clutejournals.com/index.php/IJMIS/article/view/6726>> accessed 30 November 2023

Competition and Consumer Protection Act No. 24 of 2010

Dugbazah J and others, 'Strengthening the Capacity of Africa's E-Commerce Systems Using Digital Technologies: A Case of Zambia' (*Who we are Mandate Results*, 11 July 2022) <<https://www.nepad.org/blog/strengthening-capacity-of-africas-e-commerce-systems-using-digital-technologies-case-of-zambia>> accessed 30 November 2023

Electronic Communications and Transactions Act No. 4 of 2021

International Trade Administration, 'E-Commerce' (*Zambia Country Commercial Guide*, 8 July 2022) <<https://www.trade.gov/country-commercial-guides/zambia-ecommerce>> accessed 30 November 2023

Jain V, Malviya B and Arya S, 'An Overview of Electronic Commerce (e-Commerce)' (2021) 27 Journal of Contemporary Issues in Business and Government <[https://www.researchgate.net/profile/Vipin-Jain-13/publication/351775073\\_An\\_Overview\\_of\\_Electronic\\_Commerce\\_e-Commerce/links/60a8d9af45851522bc0aed79/An-Overview-of-Electronic-Commerce-e-Commerce.pdf](https://www.researchgate.net/profile/Vipin-Jain-13/publication/351775073_An_Overview_of_Electronic_Commerce_e-Commerce/links/60a8d9af45851522bc0aed79/An-Overview-of-Electronic-Commerce-e-Commerce.pdf)> accessed 28 November 2023

- Khare R and Rajvanshi G, 'E-Commerce and Consumer Protection: A Critical Analysis of Legal Regulations' <<https://clap.nls.ac.in/wp-content/uploads/2021/01/E-COMMERCE-AND-CONSUMER-PROTECTION-A-CRITICAL-ANALYSIS-OF-LEGAL-REGULATIONS.pdf>> accessed 28 November 2023
- Laudon KC and Traver CG, *E-Commerce 2016* (12th edn, Business Technology Society 2017) <<https://materikuliahammadan.files.wordpress.com/2019/09/kenneth-c.-laudon-carol-traver-e-commerce-2016-business-technology-society-2016-pearson.pdf>> accessed 28 November 2023
- Lawack-Davids V, 'Consumer Protection Measures for Erroneous or Unauthorized Internet Payments: Some Lessons from the European Union?' <<https://obiter.mandela.ac.za>> accessed 28 November 2023
- Ndonga D, 'E-Commerce in Africa: Challenges and Solutions' (2012) 5 African Journal of Legal Studies <[https://brill.com/view/journals/ajls/5/3/article-p243\\_2.xml](https://brill.com/view/journals/ajls/5/3/article-p243_2.xml)> accessed 28 November 2023
- Padalka AM and others, 'Consumer Protection When Purchasing Goods on The Internet' (2021) 28 Journal of the National Academy of Legal Sciences of Ukraine
- Riefa C, 'Cross-Border Enforcement of Consumer Law: Looking to the Future' (University of Reading 2022) <[https://unctad.org/system/files/information-document/ccpb\\_WG\\_e-commerce\\_cross-Border\\_Riefa\\_en.pdf](https://unctad.org/system/files/information-document/ccpb_WG_e-commerce_cross-Border_Riefa_en.pdf)> accessed 28 November 2023
- Tsiotsou RH and Wirtz J, 'The Three-Stage Model of Service Consumption', *The Handbook of Service Business: Management, Marketing, Innovation and Internationalisation* (Cheltenham 2015) <[https://www.researchgate.net/publication/264673092\\_The\\_Three-Stage\\_Model\\_of\\_Service\\_Consumption](https://www.researchgate.net/publication/264673092_The_Three-Stage_Model_of_Service_Consumption)> accessed 28 November 2023
- UNCTAD, 'Consumer Protection in Electronic Commerce' (United Nations Conference on Trade and Development 2017) <[https://unctad.org/system/files/official-document/cicplpd7\\_en.pdf](https://unctad.org/system/files/official-document/cicplpd7_en.pdf)> accessed 28 November 2023
- UNCTAD 'UNCTAD B2C E-COMMERCE INDEX 2018 FOCUS ON AFRICA' (United Nations Conference on Trade and Development 2018)
- United Nations, '70/186. Consumer Protection' <[https://unctad.org/system/files/official-document/ares70d186\\_en.pdf](https://unctad.org/system/files/official-document/ares70d186_en.pdf)> accessed 28 November 2023
- World Bank, 'Accelerating Digital Transformation in Zambia: Digital Economy Diagnostic Report' (World Bank 2020) <<https://doi.org/10.1596/33806>> accessed 28 November 2023
- ZICTA, 'ZICTA Consumer Protection Guidelines' <<https://res.cloudinary.com/dqrw0req3/image/upload/v1694421906/fjrqipzrcfoel7avde5.pdf>> accessed 29 November 2023



ZICTA, 'Identity Theft' (*Consumer Protection*, 2023)  
<<https://www.zicta.zm/services/consumer-protection/identity-theft>> accessed 30  
November 2023