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

• Advancements in technology, growth of the digital markets have enhanced e-commerce across the world

• Covid-19 has further contributed to the growth of e-commerce

• Consumers have benefited from this as they now have access to more products and services not limited to those supplied in brick and mortal stores

• They are able to compare prices of products from different suppliers at a lower cost

• However, the number of complaints resulting from e-commerce transactions have also increased
INTRODUCTION

• Consumer complaints involving e-commerce transactions tend to cut across borders.

• With consumers in different jurisdictions affected by the same e-commerce issues

• This therefore calls for more coordinated remedies and redress among consumer agencies in handling consumer complaints arising from e-commerce transactions.

• Cross border co-operation among consumer agencies in handling e-commerce cases and developing remedies is key in enhancing the welfare of consumers.
Cross Border Cooperation in E-Commerce Transactions

• CCC thrives on the principles of co-operation with the Members States of COMESA in enforcing the Regulations.

• Co-operation with member states is among the functions of the CCC (Article 7 of the Regulations).

• Recognises that some Member States have consumer protection laws and institution enforcing the laws.

• CCC is only concerned with consumer issues that have an appreciable effect within the Common Market (Article 3 of the Regulations).

• CCC intervenes in matters that affect more than one Member State.

• CCC co-operation with the Member States on consumer issues includes:
  • Sharing the complaints received or consumer issues identified which affect consumers in the Member State concerned
  • Requesting for information relevant to the investigation
  • Requesting consumer agencies for their views to the investigation
Cross Border Cooperation in E-Commerce Transactions

- CCC co-operation with the Member States includes;
  - Case referrals which are outside the jurisdiction of CCC and vice versa
  - Coordination on the implementation of the decisions
  - Capacity building among the Members of Staff

- Member States are required to take appropriate measures, to ensure that they fulfill obligations arising out of the Regulations or those resulting from actions of the Commission under the Regulations

- Use of MOUs with Member States to facilitate Co-operation

- Formation of networks among the agencies responsible for consumer protection
Cross Border Cooperation in E-commerce

• E-commerce cases sometimes involve companies outside the Common Market

• CCC has powers to investigate such companies if their conduct has an effect in the Common Market (Article 3 of the Regulations)

• Use of informal and formal networks by engaging with agencies outside the Common Market as well as those in the Common Market
Common Issues of Concern from E-Commerce Transactions

• Misleading information on the products supplied e.g

- products not meeting advertised specifications such as model, technical details, functionality, size and presumed differences in quality

- Lack/inadequate disclosure of the terms and conditions of the transactions e.g

  - what happens in case the delivered product is defective? How does a consumer return the product?

Case one:

• A cross-border e-commerce site dealing in the sale of vehicles and vehicles parts, also has local officer offices in at least 9 COMESA Countries.
Common Issues of Concern from E-Commerce Transactions

- The e-commerce site advertises that consumers can buy vehicles to be delivered in their country of residence and consumers pay for the product to the e-commerce site but does not disclose that there are third parties involved.

- Unclear return and exchange policies for consumers

- **Case two;**
  
  - The Commission reviewed the return and exchange policies of e-commerce sites whose trade has an effect on consumers in the Common Market.

- One of the e-commerce site’s terms indicated that consumers were not allowed to return products marked ‘shipped from overseas’

- If they were found to be defective or a wrong product is delivered to the consumer different from what is advertised on their site.
Common Issues of Concern from E-Commerce Transactions

• Delays in delivering products to customers
  • Prevalent just after COVID-19 was declared a pandemic in March
  • Products that could be delivered within 30 days were taking more than 90 days to be delivered

• Failure to deliver products, Some online traders fail to deliver products
• Delays in issuing refunds or replacements
• No internal complaint resolution system
Consumer Remedies and Redress in E-Commerce Transactions

• Businesses can be fined up to 10% of turnover generated in the Common Market in the preceding business year if found in contravention of the law.

• Businesses can be required to compensate consumers for loss or damage caused due to supplying defective goods.

• Due to the multi-jurisdiction nature of CCC, close collaborations with Member States are key in ensuring the effective implementation of the remedies.
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