

Critical Analysis of Consumers' Rights Under E-Commerce Transactions in Nigeria

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Abstract

The paper examined the critical analysis of consumers' rights under the e-commerce transaction in Nigeria. It adopted the survey method of data collection and the study's Findings indicate that there is no integral or inclusive legal framework designed to cater sufficiently to the protection of consumers. The systems, statutes, agencies, and measures that are meant to protect consumers are under threat from myriad problems and challenges. The study also show that traders are interested in making profits at all cost and, as such, engage in fraudulent or unlawful transactions in e-commerce to the detriment of consumers. Also, the study found that a significant percentage of the interviewees trust the e-commerce sector, but a large portion have experienced fraud when an e-commerce transaction occurs and, as such, have lost money in the process. A majority of the interviewees believe that security is not guaranteed when an e-commerce transaction is done. Therefore, the study recommended among others that the legislative and administrative requirements for the exercise of the rights of consumers in e-commerce transactions may be implemented by the government through the instrumentality of law or administrative policy. That the Various weak points in consumer protection as currently provided under existing laws in Nigeria should be identified and amended accordingly.

Keywords: *E-Commerce, Consumer protection, Sales of Goods ACT, Consumer right, Dispute resolution*

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Background to the Study

E-commerce has become the operational platform for buying and selling in Nigeria. This gradual shift from brick-and-mortar business methods indicates that a colossal niche market exists within cyberspace in Nigeria. In the earlier years, e-commerce platforms were operational in places of advanced development, until Nigerians recognized the need for digital platforms. Coming on the heels of the creation of these platforms in Nigeria was the establishment of regulatory bodies responsible for regulating information technology (Okolie & Ojomo, 2020).

Since the advent of e-commerce and its evolution, it has come with strategic advantages to consumers and suppliers alike in their positionalities. For businesses, e-commerce has revolutionized the manner of transactions and has expanded market outreach to the world, potentially leading to more profit and business growth. However, over time, the magnitude of e-commerce increased and has led to the need to properly coordinate the legal advantages and protections for the diverse operators. Several operators under e-commerce are consumers. Therefore, there exists the exigency to protect individuals who own or consume goods and services in the virtual world, providing them with remedies as sanctioned by the law. The international response to protecting consumers using cyberspace was to model regulations, guidelines, or beliefs under e-commerce transactions. It is an established fact that e-commerce law serves as a veritable instrument through which transactions are conducted in Nigeria today. (Afolayan, 2021)

Background of E-Commerce in Nigeria

E-commerce is making substantial inroads in Nigeria. The situation is expected in a country where over 40 million Nigerians access the internet daily. There are about 20 million Nigerians who use their mobile phones to connect to the internet. The number of internet users in Nigeria is 140 million, just as the total number of phone subscribers has grown to more than 162 million. These inexorable advances in the development of digital technologies and the internet have made it easier for Nigerians to be active in commercial transactions. The higher the degree of technological revolution, the greater the proportion of Nigerians engaging in online transactions, and the closer and faster e-commerce will bring the socio-economic settings of Nigerians to bear fruit. (Okpara, 2021)

Nigeria's e-commerce growth is mainly driven by the following demographic, economic, and social factors. E-commerce enhances access to markets for consumers all over the world, just as it continues to give businesses of all sizes greater access to the world market. These benefits are mainly in terms of enabling consumers in remote areas to have the same variety of goods and services as those in urban areas at the lowest possible prices. To guarantee that the online quantified standard of living of Nigerians aligns with reality, the role of e-commerce in ensuring the welfare of the consumer is very vital. A number of reasons account for the majority of Nigerian consumers' reluctance to take part in e-commerce transactions, including the lack of consumer trust, the integrity of online traders, reliability, security considerations, length of time it will take to deliver items, non-availability of trials, and so forth. The extent to which this reluctance limits their use of mature-based e-commerce is

unclear in Nigeria, which is why the evolution of online transactions should be regulated to incorporate consumer rights in recent times. (Akintola and Muritala2022)

Importance of Consumer Rights in E-Commerce

Though the term consumer is primarily described as a person who buys goods and services for personal use, it implies some degree of trust and confidence on the part of the buyer as to the quality of goods purchased. Consumer needs, wants, and rights are the psychological, functional, and moral foundation of a consumer association. The need for the protection of consumer rights thus reflects an awareness of human vulnerability and a felt need for some form of protection in the function of transactions in the marketplace. In e-commerce, the protection of consumer rights also constitutes an essential component of the evolving processes and entire architecture of this new method of conducting business transactions. The implication of this is that the level of confidence, trust, and willingness of consumers to opt for doing business online to a larger extent will depend on how well they know and are willing to assert these rights. (Bananda and Nwagwu2021)

To this end, the adoption of consumer rights as an integral part of e-commerce dynamics in Nigeria is in line with the contemporary and globally recommended practice of encouraging sustainable and equitable growth of e-commerce. Some scholars are of the view that the might of the seller can easily be manipulated to exploit consumers. In today's society, consumers in the marketplace are exposed to a variety of risks. These risks may assume different forms based on which of the rights is being violated. Consumers may also be exposed to rights violations which indeed constitute a violation of some other provision(s) of the Constitution. Thus, the protection and enhancement of consumers' rights is essential for the sustenance and vitality of e-commerce in Nigeria. The ability of consumers to enforce their rights also depends on their level of awareness and consciousness of what their rights are and how such freedoms should be protected. Thus, consumer education programs become relevant in this direction. Ethical business helps to consolidate the reputation of its image and at the same time improves the confidence of its clients. In contrast, misconduct or behavior does not build the individual's self-image establishment or sustain long-term relationships. In other words, doing business ethically would lead to sustained success. In effect, business practice and ethics go hand in hand. (Saliu et al.)

History has shown that malpractices and unethical business practices have resulted in great loss in personnel and productive resources in the market. E-commerce should be a consumer-determined and consumer-nurturing process that is highly ethical and trustworthy in products and services. But it has to be noted that unethical business that occurs in the marketplace entails consumer rights infringements. The global anger over the emergence of numerous cases of consumer fraud is evident in the explosive rise in internet scams, cybercrime, and computer hacking, the rise in the number of unsolicited advertisements that bombard the electronic mailboxes of individuals, and the scam letters that solicit payment for promised large returns that never materialize. The activities of many business concerns are built around online content piracy, software destruction through virus infection, software secret personal data theft, and extortion of business competitors. The proliferation of such ills constitutes

network or business crime waves. The proportion of spam, i.e., unsolicited commercial email, to legitimate email has proliferated in the last five years, and the level of email fraud, ranging from fraud to produce malicious attachments, increased tremendously. The trend is not waning, and neither are the ills being alleviated. (Bananda and Nwagwu 2021)

Legal Framework for E-Commerce in Nigeria

E-commerce trading is governed by a certain legal framework in Nigeria. Section 11 of the Cyber Crimes (Prevention, etc.) Act stipulates that such transactions are regulated by the provisions of the Act. Other Nigerian laws and international agreements protect the rights of consumers in relation to e-commerce transactions. These include Trade-related Investment Measures, the General Agreement on Trade in Services, the Council of Europe's Convention on Cyber Crimes, the United Nations Commission on International Trade Law Model Laws on E-Commerce, and various directives of the European Parliament and of the Council. Section 12(1) of the Cyber Crimes (Prevention, etc.) Act provides that every Internet Service Provider shall provide an electronic service that enables the public to browse all names of Nigerian domain names and all names that are reserved in Nigeria without any access or usage identifiers. Section 17(1) of the same Act charges the Nigerian Communications Commission with the responsibility of ensuring the implementation of the Act as well as keeping up to date with international e-commerce law practices. (Ezennia and Marimuthu2022)

Given that e-commerce is borderless, it is imperative that laws governing it in each country are in harmony with international laws and practices. In order to adequately regulate e-commerce in Nigeria and protect consumers in online transactions from deceptive conduct, it is suggested that Nigeria should adopt comprehensive "Computer Crime and Electronic Commerce Legislation" to protect consumers of electronic products and services that obey international best practices. Given the above, there is a need for laws to be enacted in Nigeria to safeguard consumers' online transactions. Advocates the creation of regulatory regimes to govern e-commerce transactions more effectively. Regulatory regimes exist where laws directly interfere with conduct that is undesirable. In the context of e-commerce, the undesirable conduct consists of fraudulent and deceptive activities. Establishing the desirability of ensuring compliance with e-commerce agreements and conduct inevitably leads to the discussion of regulatory frameworks balancing or harmonizing the rights and obligations of consumers or sellers with the requirements of a marketplace. It is also imperative to determine the value of establishing good regulatory practice for e-commerce and use the achieved balance or harmonization as pointers. Regulatory practices must be in line with good governance. Governance itself entails the exercise of economic, political, and administrative authority to manage a country's affairs. The goals of good governance are optimally the proper placement of economic policy and the maintenance of a conducive legal environment for the conduct of business. Legal frameworks mainly reduce market uncertainties, which are usually fraught with transaction and risk costs. Good governance also demands that appropriate machinery for the enforcement of rules and regulations be put in place. (Tom Alexander & Jasper Andreas, 2022)

Thus, it is pertinent to identify the "gaps" existing in our laws as they pertain to consumers' online rights in the protection of e-commerce transactions. The consumer, as used in this context, is the individual who acquires goods and services for use and consumption rather than for commercial purposes. There is a considerable gap in the current legal regimes. The implication is that consumers can trade online and potentially deceive buyers of substandard products or goods that are not in conformity with what is ordered. Given that e-commerce is an international activity, only an international approach can guarantee the safety of a market built in cyberspace. Hence, one must bring and harmonize the imperatives of e-commerce laws with the international conventions and protocols governing e-commerce. (Afolayan, 2021)

Relevant Legislation and Regulations

Relevant Legislations and Regulations The key laws governing e-consumers' rights include the Consumer Protection Act, the National Information Technology Development Agency Act, the Cybercrimes Act, and the Electronic Transactions Act. The Consumer Protection Act is significant in protecting consumers who engage in online transactions and also provides the procedures, powers, authorities, and jurisdiction of the consumer protection agency to sue for consumer injuries and enforce consumer rights and obligations under the Act. The limitations of the law have been identified in relation to the enforcement mechanisms centered on the consumer protection council, making it ineffective in solving consumer protection rights in Nigeria. There is equally limited legislative protection of online consumer transactions in Nigeria, as the other laws do not specifically address online consumer transactions. The electronic transaction laws and regulations that are relevant to consumer rights protection under e-commerce in Nigeria are the Data Protection Law, the Electronic Contract Law, and e-transaction guidelines and regulations. The Nigerian Data Protection Regulation has provisions that can foster consumer confidence in e-commerce and also preserve the data rights of online consumers. The law has limited enforcement mechanisms in protecting the rights of consumers in e-commerce. The law recognizes the digital economy and data protection as a link based on trust, and privacy as an important consideration in fostering confidence for e-commerce. The enforcement mechanism in the law only extends to sanctions, penalties, and remedies but does not specifically mention consumer remedies. The option of compensation for the consumer is not directly mentioned. Data protection laws ensure that consumers' rights to privacy and personal data are protected. (Ali et al.2021)

Consumer Protection Mechanisms

There are various mechanisms currently in place to protect consumers of e-commerce transactions in Nigeria. The consumer protection strategies could be either formal or informal in nature. The formal strategies for consumer protection in Nigeria include institutional mechanisms such as non-judicial systems like the consumer protection department, consumer protection council, ombudsman, or judicial systems such as appeals to the court for restitution, and also class action suits where many consumers join suits and file their claims in court. On the other hand, the informal strategy emphasizes self-regulation, a form of soft approach where businesses voluntarily practice fair trade to minimize conflicts. Further, the farmers' market is an example of an informal consumer protection mechanism in Nigeria,

where farmers come together at the market square to sell their local products directly to the public at regulated prices. (Afolayan, 2021)

The mechanisms put in place above are widespread, but are they effective in addressing many obvious cases of consumer grievances and disputes in e-commerce transactions? The informal protection mechanism seems to function very well in a few localities than in others, but the position of the formal e-commerce consumer protection is sorrowful and needs concerted action in the nearest future. There is also evidence that the Nigerian government is not handling the issue of e-commerce transaction grievances/disputes effectively. The Nigerian government institutions and some non-governmental organizations are making efforts to develop rules and regulations to improve information asymmetry and to protect consumers, but these have not really translated to significant benefits for e-commerce consumers based on the many claims of consumers. Government alone, therefore, cannot run the marketplace, and the formulation of regulations also requires the participation of other groups such as consumers, businesses, and their agents, and all must increasingly cooperate and mobilize to achieve more effective consumer protection. (Akomoledede and Afolayan 2020)

The use of media by both governmental and non-governmental organizations is another mechanism for creating awareness about consumers' rights in Nigeria. A host of governmental and non-governmental organizations have enhanced the understanding of consumers' rights in Nigeria through the print and electronic media such as newspapers, radio, television, public lectures, symposia, and seminars.

Finally, due to the burgeoning problems arising out of e-commerce transactions, there is a need for an extensive consumer education program as part of the strategy for the protection of e-consumers. Under the program, e-consumers' rights should be painstakingly explained to them, and means of enforcement should be made known to them. In addition, the consumers' rights, which are contained in national policy, should, as a matter of priority, be re-enacted into law, so that they will have the force of law and also ensure uniformity of consumer laws. The law and enforcement agencies should be strengthened to enforce the law. (Akomoledede and Afolayan 2020)

Dispute Resolution Mechanisms

Dispute resolution varies according to states or countries. It differs if it is consumer to consumer, business to business, or consumer to business. This software provides for the resolution of business to business or consumer to business conflicts only, which are business-initiated platforms. The issue here is about the consumer-initiated resolution of disputes with member businesses under e-commerce transactions. One of the most important redresses available to consumers is mainly for business to consumer, where there is no direct control to avoid issues with consumers. They are generally classified into three: both consumers and businesses can choose mediation to sort out issues; it is used widely for international contract dispute resolution. This option can be costly if a consumer is poor and vulnerable, especially if the mediator charges on a time basis. (Oni & Adeyeye, 2020)

Arbitration is less formal but still a legal process with a neutral decision-maker. Arbitration is more like court but completely removes it; the arbitration tribunal has the same legal power as a court to resolve the dispute. The strength of the arbitration dispute could be proper if there is a default of a term of the arbitration. Then the unhappy party can go to court, and courts must respect arbitration decisions. Protests can be raised to appellate courts if there animates a partial dispute on facts of law, and this is administered by the business parties. Finally, litigation is generally seen as a court process to determine the cases. Where there is a clear legal error, the appeal could be successful. In normal cases, once clear, nearly all online disputes could go for action for litigation in a local or detailed midpoint. Arbitration and litigation can be seen as the same action taken to settle disputes by the same method, but doing it internally and externally. The strength of litigation should be preferred over arbitration for e-commerce dispute settlements. (Larosa et al.2023)

Challenges and Issues

A host of challenges pervades e-commerce transactions in Nigeria. Firstly, fraudulent activities by sellers or suppliers with unscrupulous characters are highly prevalent. Entrepreneurial risk within a dynamic business environment, such as e-commerce, presents various degrees of risk to consumers. The risk associated with purchasing items online often leaves consumers afraid of the inescapable dilemma of adversity. Also, buying and selling over the internet depend upon the use of personal or identifiable financial resources that must be disclosed to unknown parties by the contracting parties. The legal framework for protecting personal data in the e-commerce Nigerian landscape has not made an appreciable impact as the Nigerian Data Protection Regulation is still at a rudimentary stage. Also, inasmuch as there is no legal administrative framework that guarantees the protection and efficacy of online transactions, this sector will always be viewed with a high level of suspicion. Moreover, in an environment such as Nigeria, where the population stands at about 200 million, with 40% classified as 'poor' and access to the internet/technology, the rights of consumers, which are founded on what one earns or one's capacity to earn, are practically meaningless. As a result, consumers have been left to their fate to face the risk of online transactions, and every consumer has become a universal guinea pig; as such, their plights are usually determined by economic policy. This is why poverty, lack of trust, and insecurity have deprived the Nigerian consumer of demand credence for many online businesses. Many citizens are not as informed to monitor all these provisions because of a lack of the wherewithal to determine the accuracy of data and information provided above. If consumer protection awareness can be created, individuals and the nation as a whole will have little to worry about when it comes to e-commerce activities. (Okolie & Ojomo, 2020)

Fraud and Security Concerns

Fraud and security are two of the major issues in consumer e-commerce transactions. The sophistication of fraud has continued to increase in various ways, particularly in phishing, whereby a fraudster makes misleading attempts to obtain sensitive and personal information, such as login information and passwords. Another advanced issue that has escalated in today's cashless society is identity theft or account takeover, which has made it more difficult to curb fraud. These sophisticated fraudulent activities have the capacity to erode consumer trust and

render the robust e-commerce digital wallet system redundant and unattractive. To put it in a broader context, if there are not enough strict regulations protecting e-consumers and adequate sanctions in place for offenders, e-commerce players may exploit these loopholes, leading to a major market failure. The scammer, in effect, can dupe a consumer with false proposals, allowing him to steal her money. Other types of sophisticated financial fraud include the perpetrator taking the money, not issuing an item or service, transferring virtual currencies, and requesting real money worth via money wire transfer services, mobile money, and semi-formal money remittance. This concern is reinforced by the prevailing situation, in which the subsisting platform security measures have proven insufficient to prevent nefarious activities by web surfers. Thus, there is an obvious need to upgrade e-consumers' protection against advanced fraud. Combinative responses include stronger enforcement and improved power of relevant regulatory authorities, public enlightenment campaigns, continuous advancement in the cybersecurity value chain including improvement in online screeners' capabilities, card security and usage regulations; improvement in databases, information and intelligence sharing among e-commerce platforms, enforcement agencies, and consumer protection groups, and maybe the introduction of point sinkers. (Yetunde)

Conclusion

This study discusses the critical analysis of the rights of consumers in e-commerce transactions in Nigeria. The study observes that consumers' dependence on online transactions has exposed them to several risks such as unfair or deceptive business practices, which have necessitated the need for a robust legal framework characterized by consumer protection laws that safeguard consumer rights in the case of default. Despite the simplistic contractual nature of e-commerce transactions, the presence of intermediaries such as electronic platforms cause some difficulties in ensuring the recognition, enforcement, and protection of consumers' rights under business-to-consumer (B2C) e-commerce contracts. This study found that there are some instances of interference in consumer rights in the course of entering the e-transactions, but in the exit relationship, it is gladdening to state that consumers' rights are fully protected by Nigerian laws.

This study concludes that the challenge identified has considerable implications for consumers in online transactions. The challenges may deter consumers from embracing e-commerce activities in Nigeria and will hinder the development of any nation's economy. In the same vein, the challenges identified have several implications for merchants operating within the e-commerce space in Nigeria. This is premised on the fact that if consumers are not strong enough to exercise their rights when the need arises, it may create a lack of trust between both parties, which may culminate in the limitation of market access. In order to fully protect the rights of consumers in e-commerce in Nigeria, this study recommends the adoption of a more proactive and less reactive approach. This can be achieved via research to ascertain the actual problems and issues militating against e-commerce. Also, this study opines that amending Nigerian laws to meet the realities of e-commerce transactions will benefit the Nigerian e-commerce environment.

This study concludes, stating that without the presence of a national legal framework and a related enforcement and protection mechanism of consumer rights in e-commerce, trade and transactions between the consumer and e-commerce businesses in Nigeria may be hindered. The study offers a viable alternative to mitigate the identified challenges by developing strategies that enhance the rights of consumers in B2C. The strategies involve adopting a rights-based approach, which is essential because it can clarify the rights of consumers further, make them less ambiguous, and amenable to adapting to evolving conditions suitable for consumer protection. There is a clear need for Nigeria to have minimal, but strong e-commerce legislation, from which Nigerian consumers will benefit and have their rights protected in the course of entering e-commerce and e-transactions in Nigeria.

Summary of Key Findings

There is no comprehensive legislation, law, constitution, or regulation on e-commerce in Nigeria. Findings indicate that there is no integral or inclusive legal framework designed to cater sufficiently to the protection of consumers. The systems, statutes, agencies, and measures that are meant to protect consumers are under threat from myriad problems and challenges. Findings show that traders are interested in making profits at any cost and, as such, engage in fraudulent or unlawful transactions in e-commerce to the detriment of consumers. In addition, consumers play various roles in the e-commerce industry and merit protection. It was also found in the survey that a significant percentage of the interviewees trust the e-commerce sector, but a large portion have experienced fraud when an e-commerce transaction occurs and, as such, have lost money in the process. A majority of the interviewees believe that security is not guaranteed when an e-commerce transaction is done, and many of them believe the government of Nigeria's efforts in ensuring consumers' rights in e-commerce transactions in the country are ineffective. There is a need to focus on consumer trust, as this will result in a high level of consumer protection in Nigeria. Consequently, measures should be put in place to protect consumers from fraudulent e-commerce transactions and enhance consumer security as it relates to fraudulent e-commerce transactions in Nigeria. Additionally, raising consumers' awareness to inform them of their rights in e-commerce transactions will give consumers the willingness to exercise their rights and make companies take consumers' rights into consideration in the course of their entrepreneurship. In conclusion, for consumers' rights to be fully protected in the digital age, all stakeholders have a role to play.

Recommendations for Strengthening Consumer Rights

To prevent such occurrences, certain strategies should be developed to assist in protecting the rights and interests of consumers in Nigeria. For example, the legislative and administrative requirements for the exercise of the rights of consumers in e-commerce transactions may be implemented by the government through the instrumentality of law or administrative policy. Various weak points in consumer protection as currently provided under existing laws in Nigeria have been identified. These weaknesses arise from the provisions of the Sale of Goods Act, Supply of Goods Act, and the legislation of Nigeria, which are not sufficient to cater to the problems unique to e-commerce transactions. In light of this, it is suggested that the administration should urgently ensure that the key provisions of the report, or any other aspect that is more appropriate, are implemented to further protect consumers in e-commerce transactions in the country.

The existing consumer laws in Nigeria may protect the rights of a consumer in a transaction that in some way relates to e-commerce; however, some provisions of the law may be unsuitable to deal with some peculiar problems that may arise from e-commerce transactions. The proposed amendments to the law will provide the extra protection needed for consumers in e-commerce transactions. Lastly, the problem with the existing consumer protection laws is that strict enforcement measures are not in place. It is therefore suggested that the government should strive to develop effective measures for enforcement to ensure compliance. Businesses should be made to strictly adhere to the rules of consumer protection laws through appropriate legal conduct. Products should be safe, and consumable goods placed in the market should comply with the minimum health, safety, and environmental standards as prescribed by law. Moreover, product liability should be available against the manufacturers of unsafe products. The government should be encouraged to embark on strict effectiveness techniques that help facilitate the eradication of unsafe products from the market. The whole community should be briefed on the benefits of a high level of consumer protection against unsafe products. Moreover, commercial industries should be encouraged to engage in the provision of more complete warranties against unsafe goods. Finally, the administration should be advised to work and cooperate fully with the appropriate consumer representative bodies and legal academia in the treatment of complaints and, more importantly, in the determination of safe products.

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