



NACPEC[®]

NORTH AMERICAN CONSUMER PROJECT ON ELECTRONIC COMMERCE

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Internet Consumer Protection Policy Issues

Background

Electronic Commerce growth over the past decade has been remarkable and will continue to grow at an impressive rate in the coming years¹. The Business-to-Consumer (B2C)² and Consumer-to-Consumer (C2C)³ marketplaces are not considered sufficiently reliable and secure by consumers. In order to realize the commercial potential of these marketplaces, consumers need to have confidence that the goods and services offered are fairly represented; that they will get the goods or services they pay for; that redress mechanisms are available; that their privacy is duly protected and that security mechanisms are in place to protect their personal information, transactions, credit cards or other mediums of payment. The Internet has brought numerous advantages and benefits compared to other traditional forms of commerce such as the convenience to buy from home at anytime without geographical restrictions; make price and product comparison and have access to worldwide products at lower prices, and in general, make better and informed purchase decisions. However, along with those benefits and advantages, have also appeared significant and potential risks and threats that undermine consumer confidence on the Internet such as cross-border fraud and false and deceptive practices through misleading vehicles such as *Spam*, *Phishing*, *Spyware* and *Identity Theft*.

International Organizations and Instruments on Internet Consumer Protection

Multilateral

United Nations

¹ Forrester Research estimates that B2C sales worldwide range around \$454.4 USD billions during 2004. Whilst Gartner estimates that the B2C e-commerce for products and services in the United States grew to approximately \$227.7 billion during 2005.

² The term B2C has been commonly used to refer to a sale by a business enterprise or retailer to a person or "consumer" conducted through the Internet. The B2C is divided into two main segments: *Intangible and Tangible Products*.

³ The term C2C is generally referred to the sale of a product pertaining to a consumer to another consumer either directly or through an intermediary exclusively dedicated to this activity.

The United Nations Conference on Trade and Development (UNCTAD) through its *Information and Communication Technologies (ICT) and E-business Branch*⁴ is responsible for conducting analytical work aimed at policy makers and practitioners in the field of e-commerce, Internet and ICT. This Branch has issued a number of publications and organizes seminars and workshops to raise awareness and promote the exchange of experience among e-commerce practitioners and policy makers in developing countries. Among relevant documents on e-commerce issued by the UN Branch are:

1. *Information Economy Report 2005*
2. *E-Commerce and Development Report 2004*

Organization for Economic Cooperation and Development (OECD)

Since the end of the nineties, the OECD through its *Committee on Consumer Policy*⁵ has been working primarily with the industry, consumer and law enforcement agencies in order to develop principles and practices that ensure the effective protection of consumer online and against the growing problem of cross-border fraud and deceptive commercial practices on the Internet. The OECD has *inter alia* issued the following instruments:

1. *Guidelines on Consumer Protection in the Context of Electronic Commerce (December 9, 1999)*
2. *Guidelines for Protecting Consumers from Fraudulent and Deceptive Commercial Practices Across Borders (June 11, 2003)*

Regional

Asia Pacific Economic Cooperation (APEC)

At the regional level, the *Electronic Commerce Steering Group (ECSG)*⁶ of the Asia-Pacific Economic Cooperation (APEC), a government related group, has created a set of online voluntary consumer protection principles, which reflect some of the principles of the OECD Consumer Protection Guidelines and other approaches and practices in the APEC region. The *ECSG* has issued the following documents relevant to e-commerce consumer protection:

1. *Voluntary Online Consumer Protection Principles (July 17, 2002)*
2. *Approaches to Consumer Protection Within the APEC Region (August 2002)*

⁴ The website of the UN ICT and E-Business Branch is available at:

http://r0.unctad.org/e-commerce/e-commerce_en/about_en.htm

⁵ The website of the OECD's Committee on Consumer Policy is available at:

http://www.oecd.org/department/0,2688,en_2649_34267_1_1_1_1_1,00.html

⁶ The website of APEC's ECSG is available at:

http://www.apec.org/apec/apec_groups/som_special_task_groups/electronic_commerce.html

The European Commission (EC)

The EC launched in May 2000 an initiative entitled: “*E-Confidence Initiative*” as a joint effort between businesses, consumers and government to reach an agreement on common requirements, a set of good practices and useful approaches to increase consumer confidence across the EU. The EC through the *European Consumer Centres Network*⁷ has issued the following document on e-commerce consumer protection:

1. Consumer Confidence in E-Commerce: lessons learned from the e-confidence initiative (November 8, 2004)

Cross-Border Consumer and Law Enforcement Networks

In the area of international cooperation and law enforcement, the *International Consumer Protection and Enforcement Network (ICPEN)*⁸, formerly known as the International Marketing Supervision Network (IMSN), is a inter-governmental membership organization consisting mainly of consumer protection and law enforcement authorities of more than 30 countries, most of which are members of the OECD. The mandate of the Network is to share information about cross-border commercial activities that may affect consumer interests, and to encourage international cooperation among law enforcement agencies. ICPEN held seminars, workshops, awareness campaigns and issue documents on consumer protection on a regular basis.

The WSIS Plan of Action and the Tunis Agenda

The WSIS Plan of Action

The WSIS Action Plan sets forth a provision on the inclusion of consumers and vulnerable groups in the Information society: “9. e) In the context of national e-strategies, address the special requirements of older people, persons with disabilities, children, especially marginalized children and other disadvantaged and vulnerable groups, including by appropriate educational administrative and legislative measures to ensure their full inclusion in the Information Society”.

Likewise, the WSIS Action Plan underlines the importance of the enhancement of consumer confidence, the protection of data and network integrity, taking into consideration the potential threats to ICT’s and strengthen the trust and security framework with complementary and reinforcing initiatives in the area of consumer protection rights: “12 a) Promote cooperation among the governments at the United Nations and with all stakeholders at other appropriate fora to enhance user confidence, build trust, and protect both data and network integrity; consider existing and potential threats to ICTs; and address other information security and network security issues”.

“f) Further strengthen the trust and security framework with complementary and mutually reinforcing initiatives in the fields of security in the use of ICTs, with initiatives or guidelines with respect to rights to privacy, data and consumer protection”.

⁷ This network consists of 15 European Consumer Centres located in 13 Member States whose main purpose is to serve as a network interface between the European Commission and European consumers, available at: http://europa.eu.int/comm/consumers/index_en.htm

⁸ The website of ICPEN is available at: <http://www.icpen.org/>

The Tunis Agenda

The Tunis Agenda (*paragraphs 36 and 72(d)*) sets forth and reiterate the involvement of the academic, scientific and technical community to the development of the Internet.

Paragraphs 45 and 57 underlines the importance to protect the security and stability of the Internet from threats and vulnerabilities and maintain its security and stability among stakeholders at the national and international levels. Furthermore, *Paragraph 72(k)* calls upon the IGF to “*help to find solutions to the issues arising from the use and misuse of the Internet, of particular concern to everyday users*”.

And finally, *Paragraph 47* acknowledges the importance of e-commerce activities and the need to protect consumer rights on the Internet: “*We recognise the increasing volume and value of all e-business, both within and across national boundaries. We call for the development of national consumer protection laws and practices, and enforcement mechanisms where necessary, to protect the right of consumers who purchase goods and services online, and for enhanced international cooperation to facilitate a further expansion, in a non-discriminatory way, under applicable national laws, of e-business as well as consumer confidence in it*”.

Final Views

Without effective consumer protection on the Internet, the B2C and C2C marketplaces would not possibly reach its full potential in the following years, and the number of consumers transacting online or using the Internet would likely decrease if they do not enjoy the same level of protection and confidence as in the offline world. In order to provide an adequate level of protection, and enhance consumer trust in the electronic marketplace, consumers need to rely on: (i) an adequate consumer regulatory framework; (ii) the consumer protection principles, related documents and recommendations issued by international organizations and cross-border consumer networks; (iii) industry standards and best practices; (iv) educative and preventive online tools; and (v) international cooperation in the enforcement of laws among government agencies and consumer networks to curb fraudulent, misleading and unfair commercial practices occurring on the Internet.

We firmly believe that in order to achieve this goal, academic groups, civil society and consumer protection groups will play an important role regarding the protection and awareness of the consumer interest by creating necessary mechanisms and online tools to inform, educate and prevent consumers from the current dangers of the Internet that in combination with government legislation, enforcement and international cooperation efforts among consumer protection agencies and networks will help to enhance consumer confidence and prevent the most vulnerable party on the Internet “*the final user*”.

Issues for Consideration

We call upon the IGF to consider consumer protection issues a top priority during its policy discussion agenda and meetings and while its mandate last, and if possible, conform a working group on consumer protection policy. The IGF should analyze with the stakeholders those current threats of the Internet, which are diminishing consumer trust on e-commerce, particularly: *Spam & Phishing, Spyware and Identity Theft*.

We strongly encourage the IGF to engage all the stakeholders including academic groups, consumer organizations, civil society groups and experts on the said topics from both developed and developing countries. We are confident that the outcome from the working group on consumer protection within this multi-stakeholder forum would help to: (i) exchange information and best practices; (ii) complement and reinforce the work on consumer protection policy-making occurring in other existing international forums at the multilateral and regional levels; and (iii) raise awareness of these issues among the Internet community.

NACPEC's Mission

The North American Consumer Project on Electronic Commerce (NACPEC) aims to increase awareness of public policy issues affecting consumers on the Internet and provide national and international policy makers with the information and understanding they need in order to make decisions that help them protect consumers and foster the development of the B2C electronic marketplace. NACPEC currently focus its work on six important areas of electronic consumer protection: (i) general regulatory aspects, (ii) jurisdiction and applicable law, (iii) online-dispute resolution; (iv) spam; (v) spyware; and (vi) identity theft.

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