

# Draft Concept note

## Consumer protection in the digital age, Data Privacy and Protection: Webinar for Pacific Island Countries

23 November 2021

11:00-13:00 Hours (GMT +7) Bangkok time

### **Background**

Consumer protection in the ICT sector has undergone significant transformation due to technological changes at all levels. In the era of voice-only users, the main consumer concerns were related to the tariff, voice quality and the protection of personal data that the service providers acquire. With evolutions in technologies, especially after the introduction of broadband and more specifically mobile broadband, the consumer can now access many different platforms and services like e-commerce, digital financial services, social media, e-health and e-education amongst others. These services collect data, apply different technologies (big data analytics, artificial intelligence and machine learning to name a few), make decisions, and provide information about the users collectively and at times individually as the services are used. This has further added complexity to consumer protection. As more and more services (public and private) shift online, the need for consumer protection has also enhanced in terms of scale and scope.

ITU-D Study Group 1 Question 6 has recently released a report titled “Consumer information, protection and rights: Laws, regulation, economic bases, consumer networks”, that identifies personal data protection, privacy, the right to information, ethical billing, fair contract clauses, number portability, universal access, confidentiality, speedy complaint resolution, quality of service, radiation protection, child online protection, fair advertisements and the safe use of the Internet are key elements of any laws that seek to protect consumers.<sup>1</sup> One particular aspect that has gained significant importance is consumer data protection and data privacy. However, depending on their competencies and capacity, traditional ICT regulators may be less familiar with these topics, have limited resources to address them, or lack clear authority to cover them or coordinate with other entities on these issues under their current mandates. Consumers themselves are also not aware enough regarding the use of these services and susceptible to online fraud, identity theft and other problems.

### **Importance of Consumer Protection and Existing studies/recommendations**

Consumer protection is an important aspect of service provisioning and has invited the attention of national governments as well as consumer associations and other stakeholders. Even within the ICT sector, consumer protection still remains an important aspect because if customers do not feel comfortable enough, they might not use the ICT services with confidence that will impact digital inclusion, which is critical in the digital transformation of the society, especially post COVID-19.

Several UN agencies have also provided guidelines and recommendations in this area. In addition to the ITU Study group report mentioned above that also not only highlights many of the issues faced by consumers in the ICT sector but also provides many good examples of best practices from around the world. Furthermore, the ITU and World Bank’s “Digital Regulation Platform” has a separate chapter on Consumer affairs.<sup>2</sup> The platform highlights several important issues related to consumer protection such

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<sup>1</sup> <https://www.itu.int/en/myitu/Publications/2021/07/22/12/33/Consumer-information#>

<sup>2</sup> <https://digitalregulation.org/consumer-affairs/>

as: Consumer rights in the digital context, good practices in consumer support, international organizations relevant to consumer affairs, digital consumer right (consumer consultation), consumer requirements from regulators, dispute resolution and good practices in consumer outreach and education.

In addition the above mentioned platform also highlights the importance of staying safe online. In particular the online safety of children is recognized as an important aspect due to the increased use of online education and access<sup>3</sup>. Personal data has become an increasingly valuable strategic commercial asset, so many countries feel the need to protect such data and give individuals the ability to control the collection, processing and use of their data. Having a data protection laws in place is widely recognized as a key factor in facilitating digital transformation<sup>4</sup>. The ICT-Eye<sup>5</sup> is another resource that provide information about ICT related consumer laws and the aspects they cover. UNCTAD has proposed separate guideline for consumer protection<sup>6</sup>. Many of the aspects of consumer protections mentioned in the guide are applicable in the ICT sector as well.

### **Impact of new technologies on Consumer Protection**

New technologies also have an impact on consumer protection. According to the ITU report titled “Big data, machine learning, consumer protection and privacy” that identified beside the two technologies mentioned in the title Artificial Intelligence as something that will have a significant impact on consumer protection<sup>7</sup>. The said report discusses this topic more in the context of financial services but such technologies can be used in other sector also. Furthermore, UNCTAD Digital Economy Report 2021 identifies some of the technologies that impact the data related regulation which has an impact on consumer protection in general and the economic prosperity in particular ate (big) data analytics, Internet of Things, cloud computing and other Internet based services. There are other technologies like location based services that can have an impact on consumer protection but are required for example for ride sharing services. The list will continue to grow as new services and technologies become available.

The ITU and World Bank’s “Digital Regulation Platform” also consider the impact of these technologies and provide explains it with the following figure:

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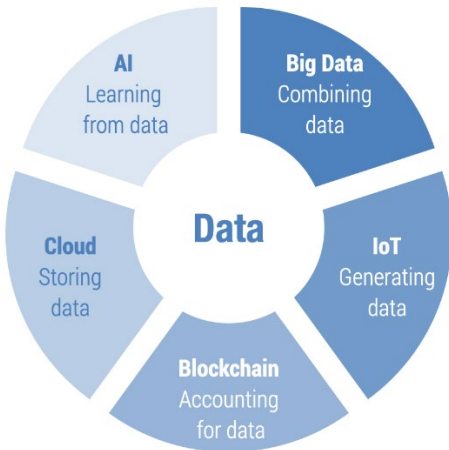
<sup>3</sup> <https://www.itu.int/en/ITU-D/Cybersecurity/Pages/COP.aspx>

<sup>4</sup> <https://au.int/en/documents/20200518/digital-transformation-strategy-africa-2020-2030>

<sup>5</sup> <https://www.itu.int/net4/itu-d/icteye#/topics/2010>

<sup>6</sup> [https://unctad.org/system/files/official-document/ditccplpmisc2016d1\\_en.pdf](https://unctad.org/system/files/official-document/ditccplpmisc2016d1_en.pdf)

<sup>7</sup> Artificial intelligence involves techniques that seek to approximate aspects of human or animal cognition using computing machines. Machine learning refers to the ability of a system to improve its performance, by recognizing patterns in large datasets.



These technologies are different in that the IoT is subject to ICT sector regulations, while the others currently are not. While applications based on these technologies may be subject to ICT regulators or subject-specific regulators, such as data protection and consumer protection regulators and the entity in charge of cybersecurity, the technologies themselves are not. Cryptocurrencies, for example, use blockchain technology and the regulatory responsibility lies with central banks.

### **Consumer Protection issues in the Pacific**

#### **Status of laws related to the consumer protection**

The ITU member countries in the Pacific have placed due importance of to consumer protection in their ICT regulations. In this context, the ICT/telecommunication sector regulation in most countries cover consumer protection. However, in the digital context there are other laws such as the Electronic transaction for digital financial services, consumer rights online, data protection and cyber crime regulations that most countries lack. The following table illustrates the consumer protection laws in the ICT sector and other related laws that cover the latest technologies and services.

Sr. No.	Country	ICT Legislation covering Consumer Protection (Year)	Electronic Transactions	Consumer Protection	Privacy and Data Protection	Cyber Crimes
1	Fiji	Yes (2012)	Yes	No	No	Yes
2	Kiribati	Yes (2007)	No	No data	No	Yes
3	Marshall Islands	No <sup>8</sup>	No data	No data	No	No
4	Micronesia (FSM)	Yes <sup>9</sup>	No data	No data	No data	No
5	Nauru	Yes <sup>10</sup>	No data	No data	No	No

<sup>8</sup> [http://rmiparliament.org/cms/images/LEGISLATION/PRINCIPAL/1990/1990-0105/MarshallIslandsNationalTelecommunicationsAuthorityActof1990\\_1.pdf](http://rmiparliament.org/cms/images/LEGISLATION/PRINCIPAL/1990/1990-0105/MarshallIslandsNationalTelecommunicationsAuthorityActof1990_1.pdf)

<sup>9</sup> <https://tra.fm/what-is-the-tra-doing-for-you/>

<sup>10</sup> [http://ronlaw.gov.nr/nauru\\_lpms/files/acts/78bc1d95f6ce35f670398cc5e31ff89b.pdf](http://ronlaw.gov.nr/nauru_lpms/files/acts/78bc1d95f6ce35f670398cc5e31ff89b.pdf)

6	Papua New Guinea	Yes <sup>10</sup>	No data	No data	No	Yes
7	Samoa	Yes (2020)	Yes	No	No	Yes
8	Solomon Islands	Yes <sup>11</sup>	Yes	No data	No	No
9	Tonga	Yes (2020)	Yes	No data	Yes	Yes
10	Tuvalu	No data	No	No data	No	Draft
11	Vanuatu	Yes (2020)	Yes	Yes	No	No

Table<sup>12</sup>: Status of different laws in the 11 ITU members from Pacific countries

### Consumer protection related issues in the Pacific countries

Several UNCTAD Rapid eTrade Readiness Assessments of Least Developed Countries as well workshops covering Samoa, Vanuatu, Solomon Islands, Kiribati, Tuvalu, Togo and Vanuatu have highlighted very important issues in relation to the consumers of ICT and other online services especially in relation to the digital economy<sup>13</sup>. Some of the key challenges identified have been:

- 1) Limited awareness of e-commerce relevance among policy and law makers, consumers, and businesses.
- 2) Weak legal and regulatory frameworks, including protection of consumers online.
- 3) Inappropriate education for the digital economy.
- 4) Limited Internet access in rural/ remote areas and costly access to fixed and mobile-broadband Internet.
- 5) Persistent barriers for women and youth to engage in e-commerce, preventing the leveling of playing fields through increased inclusivity.
- 6) Lack of business development skills and adequate e-commerce skills for MSMEs.

### Objectives of the workshop

There is greater need to approach consumer protection in ICT era holistically in light of the new digital services and emerging technologies. Consumer protection including data protection and privacy has been a growing need in the Pacific expressed by countries. As envisaged under ITU **Asia-Pacific regional Initiative 4 : Enabling policy and regulatory environments** expected results ***“Improved awareness of policy and regulatory frameworks relating to data privacy and cross-border data”***, it is important to raise awareness amongst stakeholders on this important issue. A workshop on consumer protection for the Pacific is envisaged with the following objectives

- Increase understanding of the role of emerging technologies on consumer protection

<sup>11</sup> <https://www.tcsi.org.sb/index.php/library/legislation/49-telecommunications-act-2009/file>

<sup>12</sup> The information about the ICT/Telecommunication laws has been taken from the ITU Eye referred to earlier<sup>3</sup> while for the rest references have been provided. Information about the laws related to electronic transactions, consumer protection, privacy & data protection and Cyber crime have been taken from UNCTAD<sup>11</sup>.

<sup>13</sup> [https://unctad.org/system/files/official-document/dtlstict2019d7\\_en.pdf](https://unctad.org/system/files/official-document/dtlstict2019d7_en.pdf)

- Create awareness among the regulators and policy makers in the Pacific on consumer protection (including data privacy and protection) in the digital age, international practices and its implications in the Pacific
- Identify the key issues and challenges related to consumer protection in the Pacific

### **Expected Outputs**

By the end of the training, the participants should be able to:

- Improve their awareness on Consumer protection in the digital environment and international practices
- Develop better understanding on how emerging technologies are impacting existing consumer protection frameworks and evolving remedial measures,
- Enhance their knowledge on data protection and data privacy frameworks, international practices, and way forward

### **Provisional Agenda**

The workshop will include two sessions :

Session 1: Consumer protection in the digital environment

- a) Enhanced need for consumer protection
- b) Consumer protection to enhance digital inclusion
- c) New technologies and its impact on consumer protection

Session 2: Data Protection and privacy

- a) Data protection and privacy: what does it mean in the digital environment?
- b) Framework on data protection and data privacy
- c) International best practices