

Protection of Consumer Rights in Digital Marketplace in Pakistan:

A Critical Review of Current Policies and Future Guidelines

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Abstract

The rapidly growing e-commerce sector of Pakistan faces significant challenges vis a vis consumer protection, including the absence of robust infrastructure for online payments, inconsistent enforcement of regulations, privacy issues and absence of consumer protection laws that specifically apply to online shopping. These challenges, coupled with rising incidents of online fraud such as identity theft and opaque service pricing, complicate the efforts of consumers in the digital marketplace. Existing consumer protection agencies usually lack the technical expertise required to address these emerging issues. Current regulations, which primarily address the safety of physical products, are inadequate for addressing critical issues such as false advertising, product warranties, and dispute resolution in digital commerce. Additionally, gaps in data protection, weak intellectual property laws, and limited secure shipping options further undermine consumer confidence in the sector. This paper, therefore, examines the current state of consumer protection in the digital era, analyzing key concerns and providing actionable recommendations to strengthen regulatory frameworks and enhance consumer rights. To enhance consumer safety in the digital age in Pakistan, this paper recommends modernizing and strengthening the existing legal framework,

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empowering regulatory bodies, establishing a national consumer protection statute, enhancing dispute resolution mechanisms, and fostering international cooperation to address cross-border trade challenges. We expect that implementation of these suggestions will help enhancing consumer protection in the digital era with increased reliance and assurance in online transactions, ultimately resulting in sustainable growth in the sector.

Keywords: *digital era, consumer protection, digital transformation, e-commerce.*

1. Introduction

The internet penetration in Pakistan has been increasing steadily and its rate stood at 36.7% of the population in 2023, with 87.35 million internet users in the country (datareportal, n.d). The World Bank Data show that the rise of internet users in Pakistan started from 1% in 2001, with steep rise after 2014 and reaching 21% in 2021 (World Bank, n.d.). With increased internet usage, especially since the advent of 3G and 4G technologies in 2014, consumers are increasingly buying and selling products and services through online and mobile platforms. In this context, the policy paradigm regarding regulation of Digital Transformation, which must essentially accompany users' rights protection, must offer sound foundation.

Consumer protection in the digital era is a growing concern due to more frequent use of digital platforms including E-services in all aspects of life. Consumer protection in the realm of E-commerce in Pakistan revolves around the legal and regulatory framework, the reliability and security of online transactions, and the resolution of disputes for online shoppers.

E-commerce has been growing over time in Pakistan, which is driven by increasing internet penetration, rising smartphone usage, and a shift in consumer behavior towards online shopping. However, it faces several challenges, including consumer trust, digital infrastructure, logistics, regulatory framework and payment security.

1.1. Problem Statement

The digital era is the period characterized by extensive use of Information and Communication Technologies (ICTs) in every field of life including communication and businesses. As per International Trade Administration, Pakistan is one of the largest markets for e-commerce with a huge potential for revenue generation. With all its benefits, the digital era also has various consumer protection risks including loss of privacy and security, financial loss, identity theft, reputational damage, and emotional distress. The consumer



protection in the digital era, therefore, has become increasingly important making it essential to guarantee fairness, enhance trust, and mitigate the risks related with the growing digital services in Pakistan.

1.2. Existing state of consumer protection

As per International Trade Administration, Pakistan stands at 46th in the global E-commerce ranking, with revenue of \$ 4.2 billion. Greatest contributors in E-commerce are the social media platforms like facebook capturing about 49.2 million users for sale and purchase. Moreover, OLX, daraz, Food Panda, Zameen, Pak Wheels etc are some of the platforms in Pakistan that contribute in E-commerce the most (ITA, n.d.)

While E-commerce is economical and facilitates interaction, it carries greater risks due to the lack of contracts, financial insecurity, and unorganized complaint redressal mechanism, which at times seriously hurts consumer's trust and confidence. This demands for a stronger regulatory framework, which could remove these bottlenecks. Pakistan does have institutional infrastructure for consumer protection at various levels, which require for establishment of councils and courts for consumer protection. Among these, the SBP's Financial Consumer Protection Guidelines of 2014 are the most important. Currently, consumer courts are functioning in only 17 of 36 districts of Punjab (E-commerce policy of Pakistan, 2019)

2. Review of Literature

The current situation of cyber economy of Pakistan and legal cover to e-commerce to protect online consumers is not up to the mark. Many online consumers, using cyberspace for e-shopping, are vulnerable to multiple threats like cybercrimes, violation of consumer rights through misleading advertisements, deceptive sale techniques, lack of redress system and alternate dispute resolution mechanisms etc. (Aziz, 2023). Pakistani consumers have long been neglected either deliberately or inadvertently by the Government and manufacturers, as the laws have not been implemented in full spirit (Dr. Rizvi et al., 2023). Many online consumers prefer the 'cash on delivery' mode of payment, likely to avoid the risk of financial or data theft in cyberspace. The 'cash on delivery' mode of payment is not convenient for e-businesses due to the increase in their operational costs etc. It undoubtedly increases the cost of doing business in the country. Another factor for preference of 'cash on delivery' mode of payment may be that only small number Pakistanis have bank accounts. The e-commerce in Pakistan is now gradually experiencing an increase in number of transactions via digital payment system as State Bank of Pakistan has introduced 'Raast' payment system. The mobile banks like jazz

cash, easypaisa and Upaisa are also being used for online payments now. The step of State Bank of Pakistan to ensure biometric verification of all account holders has been really very effective in order to secure cyberspace (Aziz, 2023).

3. Research Methodology

In this study, a combination of desktop research and analysis of the existing policy landscape of Pakistan was employed to collect the data. The desktop research involved reviewing secondary sources including official publications, academic papers, reports, and data of the digital industry to gather existing information and discernments on the subject, in order to get a comprehensive understanding of the subject. This method was also helpful in providing a broad understanding of the subject from various sources, which led to identification of gaps in the existing policy landscape of Pakistan regarding e-commerce, and provided an indication of the problems faced by consumers in the digital era.

Besides, the study analyzed the policy landscape consisting of laws, policies, procedures, regulations, and guidelines pertaining to the subject, evaluating the strengths, weaknesses, and practical applications of current policies. Moreover, the scan of policy landscape also provided an analysis of the existing threats and opportunities in the digital environment of the country, based on which, policy proposals were framed for future guidance.

The integration of these two methods allowed the research to offer a balanced examination of the subject, combining theoretical acumens with real-world policy considerations. The policy proposals, if implemented, are expected to bring about a positive change for consumers in the volatile digital marketplace in Pakistan.

4. Analysis and Findings

The reliability and security of online transactions represent a notable concern for consumers in Pakistan, who encounter various forms of fraud and scams, such as phishing, counterfeit products, fraudulent websites, payment fraud, and shipping fraud. According to PTA, over 60 percent of Pakistanis lack confidence while making online payments. This obstructs the E-commerce's fostering in the country.

In Pakistan, the current methods for resolving disagreements between online buyers and sellers are insufficient and ineffective. There is a glaring absence of a user-friendly system that is specifically designed to handle complaints and conflicts. The laws that are meant to protect consumers do not properly address digital transactions, and the online platforms themselves lack effective policies and procedures for resolving disputes.



5. Issues and challenges

5.1. Complex and non-comprehensive Legal framework

Increasing number of consumers of e-commerce needs a robust legislation, and strict cyber security measures for protection against frauds and cyber-attacks. However, Pakistan, on the one hand, lacks a strong framework regarding E-commerce regulation, whereas, on the other hand, its laws and regulations regarding traditional consumer protection are in dire need of implementation.

Major Laws/ Regulations in Pakistan regarding consumer protection/ rights are as follows (Wakeel, 2021):

- (1) Consumer Protection Act, 2005
- (2) Islamabad Consumer Protection Act, 1995
- (3) Khyber Pakhtunkhwa Consumer Protection Act, 1997
- (4) Balochistan Consumers Protection Act, 2003
- (5) Balochistan Consumer Protection Rules, 2007
- (6) Punjab Consumer Protection Rules, 2009
- (7) Islamabad Capital Territory (Consumer Protection) Rules, 2011
- (8) Sindh Consumer Protection Act, 2014

Figure 1.

Digital Pakistan Policy, 2019



Pakistan has introduced Digital Pakistan Policy in 2018 for smooth implementation of ICT infrastructure, which is basically aimed at paving the way for a holistic growth of e-Commerce by fostering an enabling environment in which equal opportunities are provided for the growth of enterprises. The main elements of the Policy are illustrated in the **FIGURE-1**. In line with the policy, E-commerce portal to address issues arising during the e-commerce at various levels ranging from dispute resolution to consumer protection and intellectual property rights. However, this facilitation is not backed by any exclusive E-commerce laws and regulations, which constitutes a major predicament in enforcement of such important aspect of commerce in the digital era.

The Electronic Transactions Ordinance of 2002 that governs the use of electronic transactions in Pakistan does provide a legal framework for e-commerce activities including preventing fraud, protecting personal data, unauthorized access, and safeguarding against hacking (E-commerce policy of Pakistan, 2019).

However, its ultimate goal is to enhance E-exports, and target e-SMEs. As far as Consumer Protection is concerned, the policy does not have enough to offer, except for Dispute Resolution. It further necessitates the government to enhance all such dispute resolution forums for increased efficiency and effectiveness for E-consumers (E-commerce Policy of Pakistan, 2019).

However, the existing policy landscape, some prominent laws and policies have been elaborated above, does not peculiarly devise a comprehensive mechanism for digital transaction, due to which the consumers' confidence could not yet be fully boosted for indulgence in a completely digital environment.

5.2. Reliability and security of online transactions

The reliability and security of online transactions represent a notable concern for consumers in Pakistan, who encounter various forms of fraud and scams, such as phishing, counterfeit products, fraudulent websites, payment fraud, and shipping fraud. As already shown by the PTA's report, the consumers in Pakistan lack confidence while making transactions through online payments, the e-commerce industry faces a significant challenge of consumer trust in our country.

According to the ADB, "e-commerce in CAREC countries, laws and policies," Pakistan does not have a privacy statute of general application or a national consumer protection statute, which applies directly to electronic commerce. Online purchase is a new trend, which accompanies uncertainties giving rise



to apprehension of online buyers primarily because of potential fraud and scams.

One of the biggest reasons for this lack of confidence is the inability of Pakistan to attract payment giants such as PayPal, which protects the interests of consumers to some extent in the digital era.

5.3. Awareness level of the Public

One major challenge is the lack of consumer trust in online shopping in our country. Many people are unfamiliar with the concept, which leads to concerns about fraud and scams. The public in Pakistan is now well aware of the relevant laws regarding consumer protection which is primarily due to low literacy rate in general and digital in particular. Even the urban population in various cities of Pakistan are reluctant to approach the relevant courts for grievance redressal, as in most of the cases the judicial proceedings create delays, resulting in even more inconvenience.

However, with around 64% of Pakistan's population under the age of 29, there is a significant openness to embracing technology, which has contributed to the growth of e-commerce in the country.

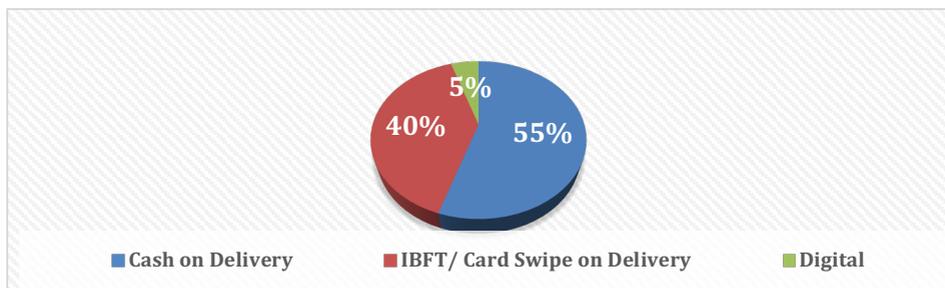
The real issue is how to positively engage this major portion of society in the digital era. Merely 35 percent of Pakistanis possess rudimentary digital skills that impede their participation in the e-commerce sector (Zeshan, 2023).

5.4. Lacking efficient alternate dispute resolution systems

It is an established fact that troubleshooting is at the core of smooth operation of any technology. A total absence of such mechanism can cause to render the technology totally useless. E-commerce, being a technological mode of transacting, is dependent even more on such troubleshooting tools in form of dispute resolution system.

Figure 2

Payment Modes for e-commerce



Pakistan lacks alternate dispute resolution mechanism. So far, Punjab has been able to establish some centers, which are mediated by serving judges. Except this, there is no such setup or appellate fora, where disputes could be referred in case of longstanding complexities. This prohibits the E-commerce market, and the consumers from being confidently involved in flourishing the industry.

Various countries, have introduced elaborate multi-tiered systems for dispute resolution in e-Commerce industry. As per the E-Commerce Policy of Pakistan, "For instance, disputes relating to domain names and disputes involving huge B2B transactions are entertained by the Online Dispute Resolution Center of China International Economic and Trade Arbitration Commission (CIETAC), general disputes relating to e-Commerce can be resolved by the Online Dispute Resolution Center established by e-Commerce Laws Net and Beijing Deofar Consulting Ltd. Large marketplaces, such as Ali Express, have developed their own internal complaint mechanisms. Arbitration in China is conducted under a general law, which was passed in 1994 (E-commerce policy of Pakistan, 2019).

Pakistan on the other hand lacks to offer such a comprehensive and exhaustive alternate system.

5.5. Lack of trust and confidence

The confidence of consumers is regarded as the fuel in the e-commerce model. Therefore, its growth is largely dependent of trust of consumers. The communal and economic dynamics because of the technological changes are indifferent on one side and the other side possesses a darker spell. Concerning e -merchandising, Consumer International (CI) states that regardless of the advantages and ease of online mechanizing, many distrust it. Most internet users do not choose online retail stores due to a lack of credence. Illegal and fraudulent scams or unfair exercise are the major causes of low or sometimes complete loss of trust in online platforms.

The trust deficit, coupled with lack of digital transaction capabilities of consumers, majority of payment for goods and services ordered online are made in Cash, as shown in the Figure. To promote financial inclusion and digitization, Cash On Delivery (COD) mode of E-Commerce, which is not an effective way of payment in E-commerce, needs to be replaced with a sophisticated system such as PayPal.

To fix the trust and protection-related issues, concerned bodies must take action to thwart such frauds. However, only the legislation department cannot resolve the issues. Businesses also need to be proactive while dealing with their consumers and must ensure clear-cut terms and conditions, fair-and-square pricing policies, a keen indemnity process.



6. Recommendations

To ensure fairness and transparency in digital transactions and to address various issues and gaps in Pakistan's digital economy, this paper recommends the following actions to better protect the rights of consumers:

1. The policy framework for digitization and E-commerce should be amended to make it more consumer centric and innovative by:
 - i. Increasing the awareness level of the Public through the use of various media sources including electronic and social media;
 - ii. Establishment of efficient alternate dispute resolution systems including tribunals, councils and courts across the country;
 - iii. Minimizing the vulnerability of consumers to online fraud and financial risk through robust controls including online payment regulations, efforts for bringing in PayPal, and channelizing the informal and non-banking payment systems like Easy Paisa, Upaisa, Jazz Cash and Omni payment systems;
 - iv. Managing through systematic regulations the widespread and unwanted number of infuriating advertisements and deceptive marketing tools in online transactions; and
 - v. Ensuring that quality of the ordered goods and services matches the agreed upon standards, which will also need to be regulated through certain laws.
2. A rigorous and comprehensive capacity building program must be promptly initiated. This will be possible only through the establishment of IT Parks by involving the private partners by extending concessions and facilitating the experienced IT companies to establish the infrastructure and roll out the IT educations to far flung areas. Besides the following areas need particular focus:
 - i. Although consumer protection laws are in place, but detailed regulations and procedures have not been formulated. The implementation of these laws is at the core of successful E-commerce.
 - ii. At the national level, we currently lack a Consumer Protection Policy, which should be prioritized to provide guidance and facilitate coordination among various stakeholders.
 - iii. Universities must be approached to include specific courses on

consumers' rights as part of the basic curriculum. Many universities of Pakistan have established Incubation Centers, which are perfect platforms for implementation and education regarding consumer protection.

- iv. The E-commerce including online transactions, payment modes, quality and timeliness should be clearly defined and regulated through a centralized system.
3. The government should formulate online dispute resolution mechanism for B2B e-commerce through the inclusion of essential changes in the proposed Trade Dispute Resolution Act. The following explanation will provide additional clarity on the process:
 - i. The process should be initiated through establishment of a responsive complaint mechanism for such transactions between consumers and online retailer shops, marketplaces, and financial institutions to make an enabling environment for the consumers in the digital era.
 - ii. Secondly, domain at various level including government, consumer and business should be clearly demarcated.
 - iii. Finally, specific timelines should be allotted to every individual complaint.
 - iv. In case of successful establishment of claims by consumers, the refund policy should be clearly devised and the obligation on part of suppliers at fault should be ensured.
 - v. The model of PM portal, a public sector complaint mechanism, can be followed while developing the mechanism.
 - vi. The CRCP, a non for profit organization, registered under Trust Act, has already been working since 1998 for rights of consumers and facilitates online complaints. A close liaison with the commission could further strengthen the mechanism.
 4. In order to tackle the issue of limited access to ICT in rural areas, it is crucial for the Pakistani government to allocate funds towards enhancing digital infrastructure, enhancing the quality and accessibility of networks.
 - i. E-commerce businesses could also contribute by introducing alternative payment options and enhancing reliability.
 - ii. It's a long term process, which needs work at foundation level, that can be initiated by introducing IT learning in rural level, initially on



small scale, and gradually increasing it to included advanced learning. This again can be achieved through well directed goals which must be incorporated in the Digital Policy.

5. To build trust among customers, the government should regulate e-commerce companies to offer secure payment options, provide transparent information about their products and services, and offer reliable customer support. This regulation should be strengthened as follows
 - i. Any deviation from this regulation should be dealt in by Cyber Security Laws, which have already been enacted to regulate cybercrimes including online frauds, extortions and harassment.
 - ii. Deceptive marketing should be brought under Cyber Security Laws.

7. Conclusion

Consumer protection in the digital era is a major concern in Pakistan due to lack of implementation of legislation and regulations, and the necessary infrastructure. The lack of data protection and privacy laws, along with unclear dispute resolution mechanisms, presents significant challenges for consumer rights including fairness, reliability, trust and financial protection in the digital age.

To tackle these challenges, it is recommended to update and improve existing legislation, introduce a national consumer protection law, promote data protection and privacy laws, enhance dispute resolution mechanisms, educate consumers, empower regulatory bodies, foster international collaboration, address cross-border e-commerce challenges, ensure strict enforcement, and establish partnerships. Ensuring fair and transparent digital transactions, addressing information imbalances, and protecting consumers from risks and vulnerabilities associated with e-commerce and digital services are essential in safeguarding consumer rights in the digital era.

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