

CHALLENGES TO CONSUMER POLICY IN THE DIGITAL AGE

Background Report

*G20 International
Conference on
Consumer Policy*

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Foreword

The digital transformation that is underway in our economies and societies has provided consumers with a wealth of commercial opportunities while also bringing a number of new and emerging risks.

This report provides an overview of selected key benefits and challenges faced by digital consumers, in support of discussions at the G20 International Conference on Consumer Policy in Tokushima, Japan on 5-6 September 2019. It focuses on six issue areas of particular importance to policy makers:

- adjusting policy to rapidly changing technologies (Chapter 1)
- strengthening cross-border co-operation (Chapter 2)
- enhancing the impact of product recalls in the digital age (Chapter 3)
- dispute resolution and redress and new technologies (Chapter 4)
- the role of consumer protection agencies in attaining the Sustainable Development Goals (Chapter 5)
- protecting vulnerable consumers in the digital age (Chapter 6).

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Introduction

Digital transformation is profoundly impacting our economies and societies, changing the ways in which consumers interact with each other and the online marketplace. Consumer data, in this context, have become an essential economic asset powering a wide range of new and innovative business models, technologies, and transactions.

Digital transformation has affected long-standing consumer policy issues, such as information asymmetries and inadequate disclosures, misleading and unfair commercial practices, consumer fraud, product safety, cross-border enforcement co-operation, dispute resolution and redress, sustainable consumption and the protection of vulnerable digital consumers. The revised OECD *Recommendation of the Council on Consumer Protection in E-commerce* (adopted in 2016) (E-commerce Recommendation) provides a robust foundation to guide policies for a global online marketplace¹ (OECD, 2016^[1]). However, consumer policymakers have recognised the need to do more to keep up with the pace of change inherent to digital transformation and to provide consumers with well-tailored protections and the tools enabling them to participate effectively in the digital era (see Annex A for selected key OECD recommendations).

In their *G20 Roadmap for Digitalisation: Policies for a Digital Future* (Federal Ministry for Economic Affairs and Energy of Germany, 2017^[2]), which was accompanied in 2017 by a G20 Digital Economy Ministerial Declaration,² the Ministers directed Group of Twenty (G20) economies to further study new business models in relation to consumer trust, and explore how to protect consumers in the digital economy under the Argentinian G20 Presidency. To support G20 economies in their efforts to implement the Roadmap, and at the request of the 2017 G20 German Presidency during the first ever G20 Consumer Summit³ held on 15 March 2017 in Berlin, the OECD produced a Toolkit for Protecting Digital Consumers (OECD, 2018^[3]). The Toolkit was launched at a G20 Consumer Summit held on 16 May 2018 under the Argentinian Presidency of the G20 (Argentinian Directorate for Consumer Protection; CI, 2018^[4]; G20, 2018^[5]).

Under the G20 Japanese presidency, the Consumer Affairs Agency, Government of Japan (CAA), in collaboration with Tokushima Prefecture, will organise an International Conference on Consumer Policy, to be held in Tokushima on 5-6 September 2019.⁴ The aim of this conference is to discuss among government officials how consumer authorities can better address emerging challenges to consumer policy in the context of the digital economy and Sustainable Development Goals (SDGs), and to promote international co-operation. To support the discussion, the OECD, at the request of the CAA, has produced this report, which provides an overview of trends, consumer benefits, and key policy challenges in the following six selected issue areas:

- adjusting policy to rapidly changing technologies (Chapter 1)
- strengthening cross-border co-operation (Chapter 2)
- enhancing the impact of product recalls in the digital age (Chapter 3)
- dispute resolution and redress and new technologies (Chapter 4)
- the role of consumer protection agencies in attaining the SDGs (Chapter 5)
- protecting vulnerable consumers in the digital age (Chapter 6).

1. Adjusting policy to rapidly changing technologies

1.1. Objectives and scope

Consumers around the globe are experiencing a period of rapid change as digital transformation delivers new technologies, business models, transactions, as well as a wide range of innovative goods and services.

This chapter examines the consumer benefits associated with selected developments such as the Internet of Things (IoT), artificial intelligence (AI) and online platforms, including peer platform markets (PPMs), and explores ways in which governments and other stakeholders may address related challenges.

1.2. Selected developments in the digital transformation

1.2.1. *The IoT and AI*

The terms IoT and AI encompass two distinct, but complementary, types of technologies that are increasingly being combined together.

The IoT is “an ecosystem in which applications and services are driven by data collected from devices that sense and interface with the physical world” (OECD, 2016^[6]). Using Internet connectivity, the IoT enables interactions between devices, objects and consumers. Examples of consumer products using IoT technology include wearables, smart home appliances, toys and childcare equipment, and connected cars.

Available data suggests that the IoT market for consumer products is increasing rapidly (OECD, 2018^[7]), generating massive streams of structured and unstructured data. To help unlock the value of such data, the IoT is increasingly being paired with AI.

According to the OECD (2019^[8]):

An AI system is a machine-based system that can, for a given set of human-defined objectives, make predictions, recommendations, or decisions influencing real or virtual environments. It does so by utilising machine and/or human-based inputs to: i) perceive real and/or virtual environments; ii) abstract such perceptions into models through analysis in an automated manner e.g. with machine learning, or manually; and iii) use model inference to formulate options for information or action. AI systems are designed to operate with varying levels of autonomy.

Businesses are increasingly using AI to provide new services to consumers, both within the IoT and more broadly. AI technologies are fundamental to some IoT devices (e.g. digital assistants and driverless cars). However, other IoT devices (such as many fitness trackers and smart home products) are more simplistic and do not rely (yet) on AI. Further, AI technologies can and often are included in a number of consumer goods and services including tangible goods (e.g. robotised vacuum cleaners and “smart” home thermostats) and digital services (e.g. online translation services).

1.2.2. *Online platforms and PPMs*

Online platforms and PPMs have radically changed how consumers interact in markets, and with each other, in the digital transformation. Online platforms can be defined as

“digital services that facilitate interactions between two or more distinct but interdependent sets of users (whether firms or individuals) who interact through the service via the Internet” (OECD, 2019, p. 20_[9]). PPMs are a specific type of online platform that “involve[s] the commercial exchange of goods and services between peers through Internet platforms” (OECD, 2016_[10]). In these markets, a consumer is matched with another consumer using an intermediary. There are different types of PPMs, with some of the best known globally, such as eBay, Uber and Airbnb, spanning markets such as product sales, transport and short-term accommodation services. It should be noted that in some jurisdictions, the distinction between PPMs and other online marketplaces has become blurred as most online marketplaces now use a “hybrid” model (i.e. enabling both consumer-to-consumer [C2C] and business-to-consumer [B2C] transactions). For example, more than 80% of the transactions through eBay are made between businesses and consumers, and the volume of offers from businesses on Airbnb and Uber has significantly increased.

1.3. Consumer benefits

The IoT, AI and online platforms (including PPMs) offer a range of potential benefits to consumers, including:

- New and innovative consumer goods and services, providing greater choice for consumers. For example, many IoT products bring entirely new services or functionalities (OECD, 2018_[11]; OECD, 2018_[7]). Digital assistants, which were born smart, offer new ways of searching and shopping online.
- Cost savings, including reduced transaction and search costs, as well as cheaper or “free” products.
- Greater personalisation, which makes use of the wealth of consumer data that online platforms and IoT products collect about users, and AI technology, to constantly offer more tailored products and services to consumers (OECD, 2019_[9]; CI, 2019_[12]).
- Convenience, customisation and remote control, especially for a number of IoT consumer products in the smart home (OECD, 2018_[11]; OECD, 2018_[7]).
- Freeing consumers from making decisions, and avoiding the influence of behavioural biases. AI-powered products, such as digital assistants, can make suggestions free from behavioural biases that may otherwise influence consumers (OECD, 2019_[13]).

1.4. New challenges for consumers

Almost all of these new developments raise potential consumer issues in terms of transparency and disclosure; discrimination and choice; privacy and security; interoperability, and accountability. In addition, new technologies can raise new issues around ownership, the need for aftermarket support, and product safety.

1.4.1. Transparency and disclosure

Transparency and adequate disclosures are important to building consumer trust and effective competition in the digital transformation (OECD, 2010_[14]). A lack of transparency and overly complex, legalistic, or otherwise inadequate disclosures about how consumer data is collected, used and shared, however, appears to be a common issue across the range of new developments discussed above (OECD, 2018_[11]; OECD, 2017_[15]; CI and the

Internet Society, 2019_[16]; OECD, 2019_[9]; ACCC, 2018_[17]). Some of this data could be highly sensitive. In relation to IoT devices, for example, such data could include:

- what a consumer says and does, where she is, who she is with, and what her children are saying and doing
- details about her home, including how much energy is being used, which devices she is using, the contents of her fridge and what television she watches
- physiological signs including sleeping patterns, vital signs, and even sexual activity (Apthorpe et al., 2017_[18]).

AI technologies also present unique transparency and disclosure challenges for consumers who have only a limited understanding about how the highly complex algorithms and other AI technologies used by online platforms, PPMs and IoT products, work (OECD, 2019_[9]; CI, 2019_[12]; CI and the Internet Society, 2019_[16]). A consumer survey undertaken by Consumers International (CI) (2019_[12]) regarding consumer perceptions about AI suggests that consumers have little understanding of “who is behind things”. Nevertheless, the research also suggested that transparency alone might be of limited use in providing consumers with understanding and control. In addition, it is unclear whether and how greater consumer understanding of these complex technologies will affect consumer trust in digital interactions.

Likewise, due in part to inadequate disclosures, consumers may not understand limitations regarding product ownership, interoperability and aftermarket support in respect of IoT-enabled consumer products (OECD, 2018_[11]). IoT products that do not have a traditional consumer interface and digital assistants that allow for voice-activated e-commerce also raise unique issues for disclosure (OECD, 2019_[13]).

1.4.2. Discrimination and choice

The collection of vast quantities of consumer data provides more opportunity than ever for businesses to engage in consumer profiling. While businesses can use these profiles to personalise offers in ways that benefit consumers, they could equally use them to discriminate against consumers in terms of pricing, the offers presented, or the way that information is presented (i.e. to take advantage of behavioural biases) (Consumer Policy Research Centre, 2019_[19]). While personalisation may be economically efficient, and may benefit (some) consumers, it may also lead to an unfair commercial practice. Many consumers consider personalisation to be unfair, especially if it takes advantage of vulnerable or disadvantaged consumers (OECD, 2018_[20]; US FTC, 2016_[21]).

The use of AI raises specific issues around discrimination (CI, 2019_[12]; OECD, 2019_[8]). In particular, if AI learns using data that is inherently biased, these biases will likely carry through to the way in which the AI operates and makes decisions (OECD, 2017_[22]). In addition, to the extent that consumers increasingly rely on AI to make consumer decisions on their behalf, this raises fundamental questions around consumer autonomy and choice that policymakers and stakeholders will need to address. Indeed, consumers interviewed about their views on AI raised concerns that an over-reliance on AI could cause people to “stop functioning properly as humans” (CI, 2019_[12]).

1.4.3. Privacy and security

IoT devices, AI and online platforms including PPMs, all rely on large amounts of consumer data. While this has obvious benefits in terms of personalisation and functionality, there

are potential privacy and security risks if businesses do not appropriately protect consumer data, or if businesses use the data in ways that are detrimental to consumers (OECD, 2018_[11]; OECD, 2019_[9]; OECD, 2018_[7]).

1.4.4. Product safety

IoT devices could also present a number of safety risks resulting from the ability to control such devices remotely. Connected products that were otherwise safe when placed on the market may become unsafe following, for example, a software patch or bug, or data breach. This could result in the data or the device being compromised, the connectivity interrupted, or the functionality being remotely controlled by a malicious actor. Similarly, autonomous or semi-autonomous decision making by AI technology could potentially result in product safety risks (OECD, 2018_[7]; US FTC, 2018_[23]).

1.4.5. Accountability

New product ecosystems and business models can raise questions as to who is ultimately accountable and liable if something goes wrong in a consumer transaction.

Accountability and liability may be difficult for consumers to ascertain in the case of interconnected IoT devices and ecosystems. Consumers may have difficulty determining which part of the ecosystem (or service support) caused the issue or fault (OECD, 2018_[11]).

Accountability and liability, and the ability to access effective redress, are key concerns for consumers in respect of AI (CI, 2019_[12]; OECD, 2019_[8]). The OECD Recommendation on AI requires that AI actors be accountable for the proper functioning of AI systems, and for respect of the principles in the Recommendation (OECD, 2019_[24]).

Further, in the case of PPMs, sellers could potentially avoid responsibility and liability in jurisdictions where consumer protection legislation does not apply to transactions between consumers (OECD, 2016_[10]).

1.4.6. Interoperability

Interoperability is key to ensuring that different systems and devices can work together. While some restrictions on interoperability may spur innovation and could safeguard privacy and security, some level of interoperability is necessary in order to avoid “lock-in” and support consumer choice and competition (OECD, 2018_[11]). Alongside hardware and software interoperability, consumer data interoperability is likely to be important to facilitating consumer choice and competition (CI, 2016_[25]).

1.4.7. Other issues associated with new technologies

IoT devices, and the use of AI technology in consumer products, may raise a number of other unique challenges including:

- **Changes to traditional ideas of ownership:** When a consumer purchases an IoT device (or a product using AI technologies), they buy the device itself (the hardware), and a license granting the right to use the software (OECD, 2018_[11]). The licencing conditions may limit the degree to which a product may be repaired, modified, resold, or interoperable with other devices. This may undermine traditional consumer assumptions regarding ownership.
- **Aftermarket support:** Most IoT devices require software support and Internet connection to work effectively. If a manufacturer withdraws software support, this

could mean a device does not function as intended. Further, a lack of support could make a device vulnerable to security breaches, which could result in risks to privacy, security or even safety (OECD, 2018^[11]; OECD, 2018^[7]; US FTC, 2018^[23]; US FTC, 2018^[26]). Products using AI technologies could similarly require aftermarket support to ensure that they continue to function as intended.

1.5. Challenges for governments

The rapid pace of change requires agility from government agencies. Governments need to assess whether current consumer protections still work in the digital transformation to ensure that there are no “gaps”. Further, governments should ensure that they have the required competencies. Businesses and industry also have a role to play.

1.5.1. Consumers need to be protected both online and offline

Governments need to consider how to adapt and implement current consumer policies and protections in this age of rapid technological progress. While consumer policy is often technologically neutral and broad enough to cover new technologies and business models, governments should constantly monitor and analyse developments in digital markets to ensure that consumers are adequately protected and can benefit from those markets.

Policy papers can be a useful way to assess and consult on whether policy changes are required. In this respect, the Government of the United Kingdom has published a White Paper on *Modernising Consumer Markets: Consumer Green Paper* and has also undertaken a *Smart Data Review* (Department for Business, Energy and Industrial Strategy, 2018^[27]; UK Government, 2019^[28]). These papers look at some of the challenges raised by new technologies and business models.

In 2016, France adopted new legislation (The Digital Republic Act/*Loi pour une République numérique*), which requires online intermediary platforms to inform consumers about, for example, its status, its ranking system, and the parties’ rights and obligations (European Parliament, 2017^[29]). Similarly, the European Union is planning to introduce new information requirements on platforms, as proposed in the so-called New Deal for Consumers package (European Commission, 2019^[30]). The proposal also contains a requirement to clearly inform the consumer when a search result is being paid for by a trader, as well as the main parameters determining the ranking of search results.

1.5.2. Government competencies

If governments are to stay on top of consumer issues in the digital transformation, they need to possess the necessary technical expertise required to understand these emerging issues. This will be a key challenge for governments. International fora, such as the OECD, play a key role to help address such challenges.

1.5.3. Co-operation across disciplines and jurisdictional boundaries

The risks discussed above span several issue areas, including consumer, competition, data protection, and security. Hence, consumer authorities need to co-operate and co-ordinate with their counterparts in other relevant disciplines. In addition, the global nature of the digital transformation implies that governments increasingly need to co-operate across borders (see Chapter 2).

1.5.4. A role for business and industry

Businesses and industry associations should also play an important role in developing and designing new technologies and policies that provide consumers with effective protections. That is, to ensure that new products benefit consumers without putting them at risk of detriment or exploitation of consumer preferences, vulnerabilities, personal weaknesses or biases.

Government and other stakeholder efforts should be aligned to protect consumers, where possible. For example, the Canadian Multistakeholder Process on Enhancing IoT Security was a voluntary effort to leverage expertise from all stakeholder groups in the development of broad-reaching recommendations to enhance IoT security in Canada. In addition, the initiative established relationships and a working group for ongoing collaborations and implementation of recommendations (Internet Society, 2019_[31]).

Questions for discussion

1. Do new technologies and business models raise new challenges for consumers?
2. Do existing consumer protection policies address such risks adequately? If not, how should they be adapted?
3. What expertise will be required for governments to protect consumers against risks associated with new technologies and new business models?
4. How should consumer authorities co-operate with data protection and competition authorities to address digital challenges?

2. Strengthening cross-border co-operation

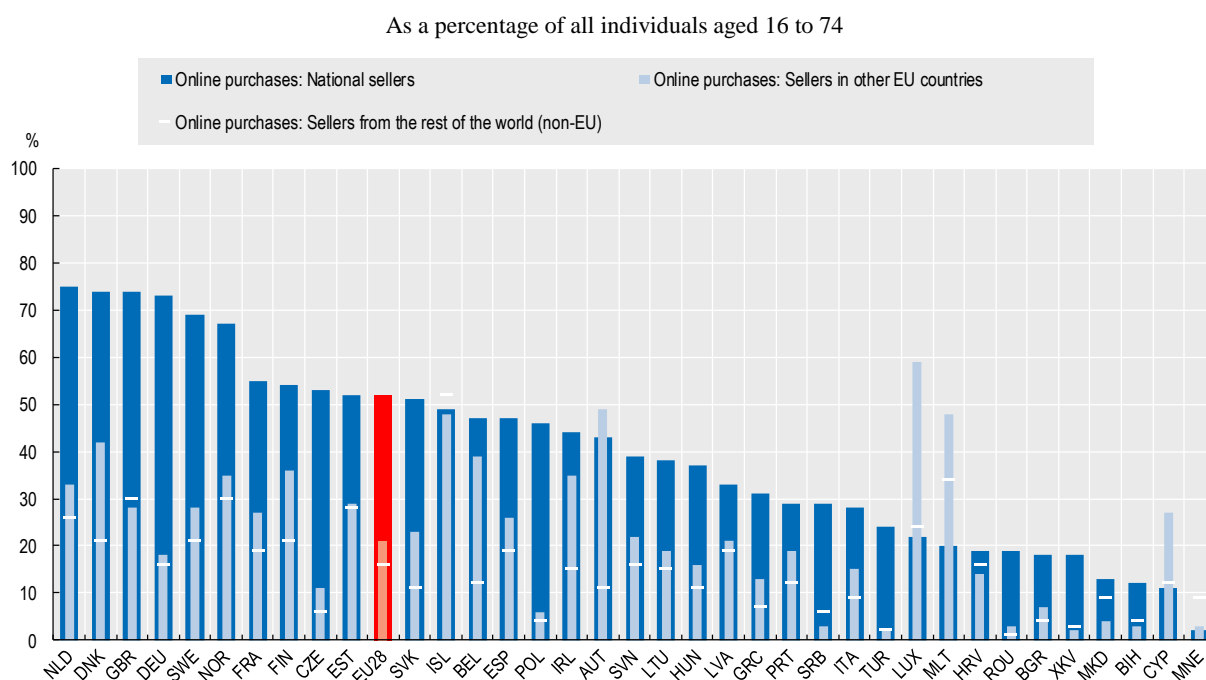
2.1. Objectives and scope

This chapter explores ways to strengthen consumer trust in cross-border transactions through enhanced international co-operation. It provides an overview of best practices in information sharing and law enforcement among G20 members, and points to some key co-operation challenges requiring policy attention.

2.2. Growing volume of online cross-border transactions

Cross-border online transactions are on the rise globally (KPMG, 2017^[32]). Available data from the European Union (EU) points to a significant increase in cross-border purchases from only 6% of sellers from other EU countries (4% for the rest of the world) in 2008 to 21% (16% for the rest of the world) in 2018 (Figure 1) (OECD, 2019^[33]).

Figure 1. Individuals who purchased online from sellers in other EU countries, 2018



Note by Turkey: The information in this document with reference to “Cyprus” relates to the southern part of the Island. There is no single authority representing both Turkish and Greek Cypriot people on the Island. Turkey recognises the Turkish Republic of Northern Cyprus (TRNC). Until a lasting and equitable solution is found within the context of the United Nations, Turkey shall preserve its position concerning the “Cyprus issue”.

Note by all the European Union Member States of the OECD and the European Union: The Republic of Cyprus is recognised by all members of the United Nations with the exception of Turkey. The information in this document relates to the area under the effective control of the Government of the Republic of Cyprus.

Source: OECD (2019^[33]).

2.3. Need for enhanced cross-border co-operation

Consumer complaint data show that the growing volume of cross-border transactions online has been coupled with an increase in cross-border fraud, and growing availability online of unsafe products that have been banned or recalled from the offline marketplace. In such a context, where new business models and technologies have made it easier to use virtual borders to evade regulations by setting up in one country and targeting consumers in another, deeper and more routine cross-border co-operation is needed (OECD, 2018^[3]; OECD, 2016^[1]; OECD, 2003^[34]).

In 2018, more than 29 000 international complaints were reported to econsumer.gov,⁵ a website dedicated to collecting cross-border complaints and maintained by the International Consumer Protection Enforcement Network (ICPEN), which is an informal network comprised of consumer authorities from over 60 countries (including 14 G20 economies). According to estimates from the European Commission (EC), the detriment caused to consumers by non-compliance with basic EU consumer rules in certain cross-border online markets, and by inefficient cross-border enforcement, amounts to EUR 770 million per year (EC, 2017^[35]).

2.4. Consumer authorities' cross-border co-operation competences

An overview of the ability of consumer protection enforcement authorities in 31 countries to co-operate across borders is provided in a 2018 OECD study (OECD, 2018^[36]), which shows that overall, consumer authorities are well equipped to co-operate with their foreign counterparts, and are able to:

- receive a complaint from a consumer living outside the country concerning a domestic business (100%)
- notify their foreign counterparts about commercial practices causing economic harm to consumers (77%)
- provide investigative assistance to foreign authorities (77%)
- take actions against a domestic business causing detriment to foreign consumers (84%), and against a foreign business causing detriment to domestic consumers (77%).

The OECD study also reports that consumer authorities are generally equipped with the ability to share some types of information with their foreign counterparts. All except one country (97%) responded that their respective consumer authority is able to share publicly available information. The study further indicates that a significant majority of countries are able to share information on a specific business (90%) and expert opinions (83%) with consumer authorities in different countries (OECD, 2018^[36]).

However, a number of authorities are unable to share information from non-public investigations or other confidential information. Issues relating to privacy, data protection and confidentiality can prevent authorities from sharing readily available information on consumer complaints and court filings (OECD, 2018^[36]).

2.5. International co-operation frameworks

The OECD study shows that in most OECD jurisdictions arrangements or legal frameworks have been established to support co-operation on consumer policy and enforcement with foreign authorities. Such frameworks,⁶ include legislation, international agreements, Memoranda

of Understanding (MoUs), as well as information exchange and other activities carried out through international networks (OECD, 2018_[36]).

2.5.1. Legal frameworks

A number of countries have adopted or adapted their existing legislation to increase their ability to co-operate with their foreign counterparts in cross-border cases. Such laws focus on a variety of issues, including information sharing, investigative assistance, and cross-border consumer redress.

In the United States, the US SAFE WEB Act provides the Federal Trade Commission (US FTC) with cross-border enforcement tools in four key areas: information sharing, investigative assistance, cross-border jurisdictional authority, and staff exchanges. Under the Act, the US FTC has to date responded to 130 information-sharing requests from more than 30 foreign counterparts. The authority has also issued more than 115 civil investigative demands, which are administrative subpoenas, in over 50 investigations on behalf of foreign authorities that are investigating conduct that is substantially similar to consumer protection laws enforced by the US FTC, or that involve fraudulent or deceptive commercial practices.⁷ In addition, its law enforcement actions have led to more than USD 2.3 billion in refunds for consumers within and across borders between July 2017 and June 2018 (US FTC, 2019_[37]).

Canada's anti-spam legislation, which came into effect in 2014, also enables the Competition Bureau to share information with foreign counterparts. Under the Act, information sharing can occur where the information concerned is potentially relevant to a foreign state's civil or criminal investigation into a business practice, which is (OECD, 2018_[36]):

- contrary to certain provisions of the Competition Act carried out by electronic means
- substantially similar to offences or reviewable conduct under the Competition Act.

At regional level, the European Union's Consumer Protection Cooperation (CPC) Regulation provides a framework for enforcement co-operation in the European Economic Area. Participating countries are required to provide mutual assistance to share information and request enforcement measures, and may alert each other about harmful and unlawful commercial practices. A revised version of the CPC Regulation will enter into force in January 2020 to address consumer protection issues in the digital era. New provisions in the regulation include a call for stronger co-ordinated mechanisms to investigate and tackle EU-wide widespread infringements. The new regulation will also improve the current framework by requesting consumer authorities in EU member states to have additional minimum powers to deal with infringements in the digital era (such as the possibility to close websites, carry out test purchases and mystery shopping) (EC, n.d._[38]).

2.5.2. International agreements and Memoranda of Understanding

A number of G20 economies have signed bilateral or multilateral agreements aimed to facilitate cross-border co-operation.

For example, in 2015, the Korea Consumer Agency (KCA) signed MoUs setting out procedures for cross-border dispute resolution with the National Consumer Affairs Centre of Japan and the Better Business Bureau (in 2016). Furthermore, in 2018, the KCA signed an MoU with the Chartered Trading Standards Institute of the United Kingdom to facilitate international dispute resolution (OECD, 2018_[36]; KCA, 2018_[39]).

In 2012, the Australian Competition and Consumer Commission (ACCC) signed an MoU with the State Administration for Industry and Commerce of China, which promotes co-

operation and the co-ordination of enforcement and training activities related to consumer protection (OECD, 2018_[36]). Similarly, in 2016, the Procuraduría Federal del Consumidor (PROFECO) of Mexico signed an MoU with the Superintendency of Industry and Commerce of Colombia to strengthen cross-border co-operation. PROFECO has also signed MoUs with its counterparts in Brazil, Romania, Panama and Spain (OECD, 2018_[36]).

In 2019, the Competition and Markets Authority of the United Kingdom (UK CMA) and the US FTC signed an MoU to streamline the sharing of investigative information and complaint data, simplify requests for investigative assistance, and to help support joint law enforcement investigations. The MoU also provides strong and clear confidentiality and data safeguards (US FTC, 2019_[40]).

2.5.3. International networks

The ICPEN aims to facilitate information sharing on cross-border commercial activities that affect consumer interests, and encourage international co-operation among consumer authorities. Under its umbrella, consumer authorities can carry out joint enforcement actions and other initiatives to address cross-border consumer protection issues. For example, in 2018, the ICPEN developed guidance for businesses on standard terms and conditions for consumers in the digital economy (ICPEN, 2018_[41]). Building on the guidance, in 2019, consumer authorities from 27 jurisdictions sent a joint open letter to app platforms to suggest changes to the layouts of their app stores and improve information provided on the use of consumer data (Authority for Consumers and Markets of Netherlands, 2019_[42]; Norway Consumer Authority, 2019_[43]).

Another example is the Ibero-American Forum of Consumer Protection Agencies (FIAGC), which is a regional forum composed of consumer authorities in Latin America, Portugal and Spain. During 2014 and 2015, its members signed an MoU aiming to enable consumers to file a complaint in their home country in relation to problems experienced with a tourism service provider based in any of the FIAGC countries (OECD, 2018_[36]). Similarly, the Cross-border Consumer Center Japan (CCJ) assists consumers in the resolution of disputes arising from cross-border transactions, in partnership with foreign counterparts. The CCJ has collaborated to date with 24 economies across the globe (National Consumer Affairs Center of Japan, n.d._[44]).

At EU level, the European Consumer Centres Network⁸ provides information on consumer rights and assists in resolving cross-border disputes across European Countries. In 2018, over 118 000 consumers in the European Union received assistance from the network, which also helped consumer authorities by providing information on potential consumer protection law breaches. In addition, over 20 consumer centres serve as contact points for the EU Online Dispute Resolution (ODR) platform (see Chapter 4) (EC, n.d._[45]).

2.6. Challenges

2.6.1. The volume of cross-border enforcement actions remains small

The OECD study shows that almost all countries have established international enforcement co-operation frameworks, but enforcement co-operation has to date taken place among only half of them. In addition, among those countries that have some cross-border enforcement co-operation experience, such co-operation has occurred with only a few countries or within a limited geographical area (OECD, 2018_[36]).

2.6.2. Barriers to international co-operation

The OECD study indicates that a persistent lack of resources prevents consumer protection and enforcement authorities from engaging in international enforcement co-operation. Authorities have reported that inadequate resources always (18%) or frequently (50%) prevent them from collaborating with their foreign counterparts.

In addition, international enforcement activities may be restricted due to legal limitations on, for instance, the type of information that may be shared with foreign authorities, the kind of enforcement actions to be taken against foreign businesses and the conditions under which such enforcement may take place. Issues associated with confidentiality, privacy and data protection can hinder cross-border information sharing (OECD, 2018^[36]). A lack of cross-sector co-operation can also be a barrier in enhancing international co-operation for consumer protection (see Chapter 1).

Questions for discussion

1. Are there examples of recent successful initiatives that have helped to address cross-border consumer complaints and that have resulted in successful enforcement actions?
2. How should cross-border enforcement co-operation be strengthened?
3. How can consumer authorities overcome key barriers to cross-border co-operation? How can sharing of information and best practices supplement formal cross-border co-operation, in particular where limited resources and legal limitation cause barriers?

3. Enhancing the impact of product recalls in the digital age

3.1. Objectives and scope

Every year, businesses recall millions of non-food products, ranging from complex automotive and electronic products to toys and childcare articles. Such recalls are both an important corrective action for mitigating the risks posed by unsafe products to consumers and a critical part of risk communication to consumers. This chapter explores the challenges faced by consumer product safety authorities, businesses and other stakeholders in enhancing the impact of non-food product recalls.

3.2. Continued rise in product recalls worldwide

According to OECD research, many national authorities have the legislative powers to recall products on a mandatory basis (OECD, 2008^[46]; OECD, 1981^[47]). Such regulatory oversight and transparency of consumer product recalls has not only helped enhance business and consumer awareness of product recalls, but has led to an increase in the volume of recalls over the past decade (OECD, 2018^[48]), and an interest by national authorities to contribute to global recall monitoring initiatives. Created in 2012, the OECD *GlobalRecalls* portal is one such initiative that aims to serve as a single window for sharing information about product recalls worldwide. This international database, which, in July 2019, contained more than 24 000 product recall notices, is available for governments, businesses and consumers alike and brings together publicly available information on mandatory and voluntary recalls of non-food consumer products issued by governments worldwide. Information on the portal integrates data from Australia, Canada, Colombia, Israel, Japan, Korea, the United States, the United Arab Emirates, the European Union's rapid alert system for dangerous non-food products (Safety Gate) and the product recalls portal of the Association of Southeast Asian Nations (ASEAN).

The OECD *GlobalRecalls* portal data shows that in recent years, toys, automobiles and electrical supplies continue to trigger the largest number of recalls, followed by clothing and sports equipment. These product categories account for approximately 70% of recalls each year. The result is mirrored in regional recall portals such as the European Union's Safety Gate, where the top five recalled product categories in 2018 also feature toys (31%), automobiles (19%), clothing (10%) and electrical supplies (8%).

In addition to a worldwide increase in regulatory measures for product recalls and a greater expectation of transparency, a 2018 OECD study on recall effectiveness (hereafter "2018 OECD study"), attributes the growth to a number of other factors (OECD, 2018^[48]), such as:

- the growing role played by online platforms to ensure that recalled products are not available for sale via their channel
- the growth in the number and type of communication channels, such as social media and online complaint forms, available to consumers to raise concerns about products posing possible safety risks
- complex and global supply chains, but a shrinking number of suppliers from which manufacturers can source components, ingredients and raw materials.

As a result, a single recall can now affect millions of consumers and impact numerous manufacturers and brands worldwide.

3.3. Measuring consumer response rates

Despite the growing number of product recalls worldwide, consumer responses to product recalls generally remain low in most jurisdictions. According to the 2018 OECD study, in Australia, the average return rate for voluntary product recalls (excluding motor vehicles) is 49%. In the United States, during the fiscal year of 2016, the consumer response rate of most product recalls remained under 30%. In France, this rate rarely exceeds 10% and in Switzerland it can vary between 3% and 95%. In some G20 economies, such as Canada, data on return rates is unavailable as suppliers do not share the performance of a recall with authorities (OECD, 2018^[48]). These figures imply that a large proportion of non-food products subject to a recall may still remain in the homes of consumers, potentially exposing them to threats of injury or even death.

Many authorities use specific target return rates, which are in some instances solely based on the units placed on the market. However, relying solely on the ratio between the number of units supplied and those returned, may not provide the most accurate picture of a recall's performance. Response rates depend on a variety of factors, ranging from product lifespan to consumer awareness and ease of participation in a recall process (Table 1).

Table 1. Factors affecting consumer response rates

	Impact
Product traceability	Once a product moves down the supply chain and into the hands of the consumer, its traceability tends to diminish, unless it is registered or trackable through new technologies.
Product lifespan and recall timing	Fewer units tend to remain in use when significant time has lapsed between when a product is sold and when it is recalled, especially if the product has a short lifespan.
Product price	Consumers may feel that disposing a low value product may be easier than responding to the recall notice.
Consumer awareness and understanding	Indirect and infrequent communication of a recall can often fail to reach affected consumers. Lack of brand recognition can also hinder response rates.
Ease of participation	Consumers are less likely to engage in a recall if participation is challenging and the compensation is inadequate.
Level of risk	Consumers are less likely to respond to a recall if the level of severity is perceived to be low and if the safety issue has not affected them, directly or indirectly.

Source: OECD (2018^[48]; 2018^[49]).

3.4. Understanding consumer behaviour

Some of the factors mentioned in the section above can be further explained by taking into account the insights of information and behavioural economics. Consumers' judgements and decisions are often subject to behavioural biases and heuristics (OECD, 2017^[50]; OECD, 2018^[51]). Research by the Consumer Product Safety Commission of the United States (US CPSC) (2003^[52]) and the Department for Business, Energy and Industrial Strategy of the United Kingdom (UK BEIS) (OECD, 2018^[49]) highlights that the following biases can influence consumers to remain at status-quo and consciously choose not to engage with recalls that impact them:

- **Information overload:** Consumers can experience recall fatigue if recalls contain too much information or if they receive information on too many recalls, which are irrelevant to them. A 2018 survey on consumer behaviour and product recall effectiveness (hereafter "2018 EC consumer survey"), commissioned by the European Commission, found that while 56.5% of respondents were exposed to information

about product recalls in the past two years, only 12.4% of them were exposed to recalls of products they actually owned.

- **Framing effects:** As consumers are influenced by how information is presented to them, they are less likely to respond to recalls if the potential harm or instructions on participating in the recall are not clearly stated. For automotive recalls in Australia, the ACCC found that a clear and short recall message from a company triggered a 72% consumer response rate, while a lengthy message resulted in only a 30% response rate (OECD, 2018^[48]).
- **Inertia:** With the inherent fear of the unknown, when consumers face complex decisions, they may ignore all possible choices and choose not to respond. Research by Kids In Danger (KID), a consumer organisation in the United States, found that while the average consumer response rate for recalls in the country is 30%, this figure drops to 10% in the case of children's products. One of the factors driving inaction is the lack of appealing or simple remedies on offer. For some recalls, consumers were being expected to apply a fix themselves (Kids In Danger, 2016^[53]).
- **Endowment effect:** As consumers tend to be loss averse, if the perceived inconvenience associated with returning a recalled product outweighs the compensation, they are less likely to return it. The Office for Product Safety and Standards at UK BEIS reported the example of a tumble dryer recall, which was announced 11 years after its manufacture. Despite concerted and sustained efforts by the recalling company, the recall only achieved a response rate of 37% of the 5.3 million units sold to consumers (OECD, 2018^[49]).
- **Over-optimism and time inconsistency:** Consumers tend to think that they are more likely to experience an outcome that is better than the average expected outcome. Coupled by the fact that consumers can make inconsistent choices due to conflicts between short-term urges and long-term interests, it is likely that they are more inclined to keep using unsafe products. The 2018 EC consumer survey confirmed this, with over one third of the survey respondents stating that they would continue using a product even after seeing a recall (EC, 2019^[54]).

3.5. Addressing low consumer response rates through digital transformation

Many authorities continue to explore ways in which above mentioned behavioural biases could be addressed to help increase consumer response rates. Some initiatives include (OECD, 2018^[48]):

- providing guidance to businesses on the main elements of a recall notice and advocating for notices to be simple and easy to understand
- encouraging businesses to: i) offer incentives to consumers to participate in a recall; ii) reach consumers through direct and personalised communication methods; and iii) connect with influencers (e.g. brand ambassadors) to help a recall alert resonate with affected consumers
- reviewing their domestic recall guidelines and recall communication programmes.

Consumer product safety authorities have also recognised that new technologies such as the IoT and AI, collaborations with online platforms, international digital tools such as the *GlobalRecalls* portal and a continued focus on raising public awareness of the importance of product recalls, may also enhance consumer responses to product recalls worldwide.

3.5.1. Embracing new technologies

With growing consumer use of connected devices, businesses today have many more tools at their disposal to achieve better outcomes for their product recalls. Table 2 provides a snapshot of some of these benefits.

Table 2. Impact of new technologies on product recalls

	Benefits
Track and trace	With the ability to track and trace the whereabouts of a product, potential hazards can be identified at any point in the supply chain.
Monitor and fix	By remotely monitoring the use of products, businesses can identify the need for a recall or fix product defects through software patches and possibly avoid the need for a recall altogether.
Alert consumers	If a product defect cannot be fixed remotely, a connected device provides businesses with a direct communication point to notify affected consumers in a timely and effective manner.
Deactivate device	In the case where consumers continue to use an unsafe product, despite being alerted of the risks, businesses can remotely deactivate part of the product or completely switch off the product.

Source: OECD (2018^[48]; 2018^[7]).

There have already been examples of products where businesses have harnessed the benefits of new technologies to achieve high consumer response rates during a recall. For example, in 2017, a worldwide recall of 4.6 million mobile phones that were overheating and exploding, achieved a 97% consumer response rate. The business involved implemented initiatives such as sending over 23 million push notifications to affected consumers, and pushing software updates to reduce battery capacity to up to 0%. In 2016, a recalled baby rocking seat was remotely disabled through its Bluetooth app when consumers failed to return the product (OECD, 2018^[49]).

3.5.2. Collaborating with online platforms

Products available through e-commerce including online platforms present numerous challenges for product safety authorities. In 2015, an OECD international online product safety sweep conducted across 25 jurisdictions revealed that of the 685 banned and recalled products inspected during the sweep, 68% of those products were available via e-commerce (OECD, 2016^[55]). In the European Union, in 2018, 16% of the 2 257 notifications reported on the EU Safety Gate were products sold online (EC, 2019^[56]). Market surveillance authorities continue to face growing difficulties to trace products online, identify responsible economic operators and conduct risk and safety assessments due to lack of access to the physical products or the inability to purchase products anonymously in some jurisdictions (OECD, 2018^[48]).

Online platforms and consumer product safety authorities are now actively working together to reduce the availability of recalled products via these online business models. Authorities from Australia, the European Union (in the form of a pledge signed by online platforms in June 2018 (EC, 2018^[57])), Japan, Korea and the United States, have established processes or formal agreements with major international online platforms, which include commitments such as removing listings of unsafe and recalled products, providing product safety training to third-party suppliers and strengthening internal product safety processes (OECD, 2018^[49]). Some online platforms trading across multiple jurisdictions have also ensured that information on the OECD *GlobalRecalls* portal is communicated to their third-party sellers (OECD, 2018^[48]).

3.5.3. Utilising the OECD GlobalRecalls portal

The OECD *GlobalRecalls* portal provides a bird's eye view of emerging global product safety trends and issues in other countries. Many G20 economies use the portal to inform their domestic market surveillance programmes and facilitate regulatory reform. Contributing to the OECD *GlobalRecalls* portal is open to all governments, not just to OECD countries. More governments that can share their domestic recalls via the *GlobalRecalls* portal will assist in this digital tool becoming a truly global database that provides governments with an even more accurate picture of recall trends worldwide.

3.5.4. Contributing to education and awareness initiatives

When product recalls have posed serious risks to consumers, some national authorities and businesses have run large-scale media campaigns or notified affected consumers through personalised and direct communication methods. Although the reach of government-related social media profiles may vary across countries, many consumer product safety authorities are using social media more actively to provide regular updates on product recalls (OECD, 2018_[48]).

Proactive collaboration among authorities and between authorities and businesses can help to raise the overall global awareness of the importance of product recalls. For example, in November 2018, the OECD, in partnership with the ACCC and the European Commission, led an international campaign on the safety of products online. The campaign, which also included a key message on product recalls, was implemented across 26 jurisdictions, reaching 25 million people through social media (OECD, 2019_[58]). Online marketplaces also joined the campaign to help spread the campaign messages. The 2019 OECD international product safety awareness campaign, to be launched in October 2019, will focus on product recalls. The campaign will aim to i) assist consumers in bridging the gap between being aware of a recall and reacting to it; and ii) enhance business understanding of how to effectively communicate about a product recall to consumers.

Questions for discussion

1. How can consumer product safety authorities and businesses work together to achieve better product recall outcomes?
2. How else can new technologies be harnessed to improve consumer response rates?
3. How can education and awareness campaigns improve product recall outcomes?

4. Dispute resolution and redress and new technologies

4.1. Objectives and scope

This chapter provides an overview of recent developments in dispute resolution and redress systems. Although there are a number of measures in place to provide effective dispute resolution and redress to consumers (including payment systems, such as charge-back or escrow mechanisms), this chapter focuses on ODR mechanisms and the use of new technologies to improve their effectiveness.

4.2. The role of consumer dispute resolution and redress systems

Consumer dispute resolution and redress systems play a vital role in enhancing consumer trust in the digital economy. They are important mechanisms for resolving disputes and compensating consumers for the harm experienced. They are particularly essential in domestic and cross-border e-commerce where goods and services are purchased untested, and at a distance.

Disputes involving consumers acting individually often concern low value products and transactions, which may discourage consumers from seeking redress. The design of ODR systems may also discourage consumers from seeking redress, and this concern can be exacerbated by the use of chatbots with absence of human interlocutors to deal with disputes. Cross-border disputes also raise challenges associated with legal complexity and uncertainties, including payment system integrity, hidden costs, fear of fraud and product quality, as well as a lack of transparency regarding the protections and avenues for redress offered to consumers. As the volume of cross-border e-commerce increases, the need to establish effective mechanisms for the resolution of cross-border disputes also grows in importance (OECD, 2018_[3]; OECD, 2007_[59]; OECD, 2016_[11]).

4.3. Trends in online transactions and consumer disputes

4.3.1. Growth of online transactions

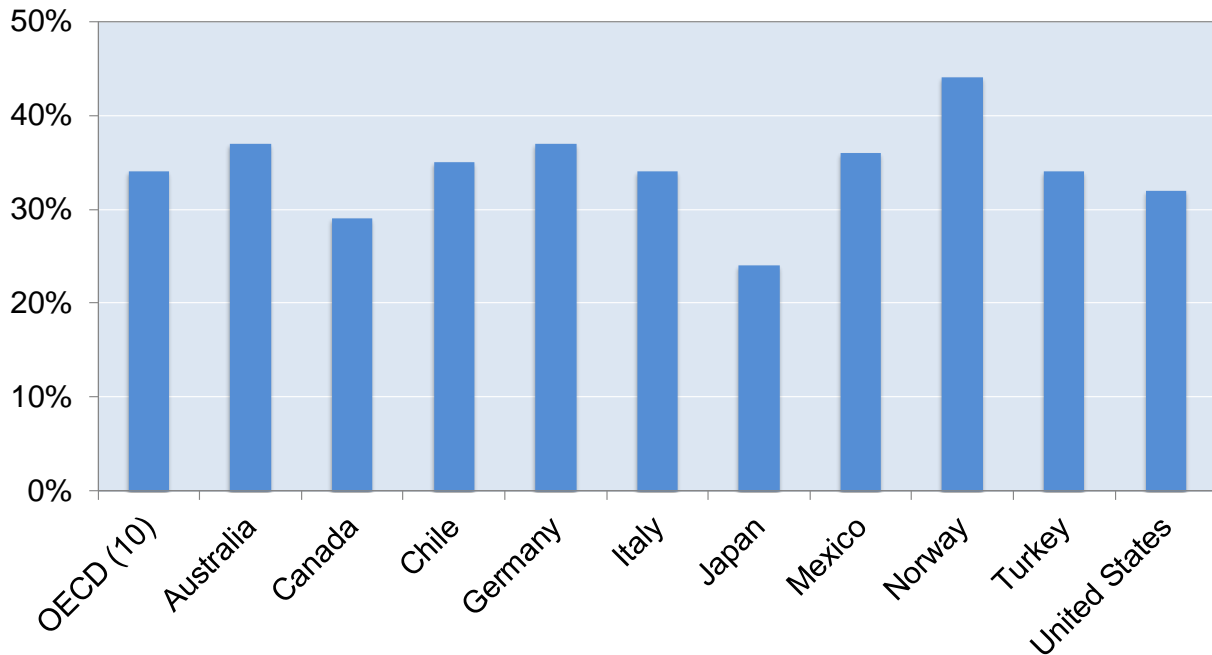
B2C and C2C e-commerce is growing rapidly, both at domestic and international levels. As also highlighted in Chapter 1, new business models and transactions, such as those offered by PPMs have emerged. They allow consumers to interact with markets and each other in new ways, including through, for example, the renting of unused assets or resources and the provision by peer providers of time-limited access to goods, skills and services (OECD, 2016_[10]).

4.3.2. Larger volumes of consumer disputes

While the growth of global B2C and C2C online transactions has brought various benefits to consumers, it has been coupled with an increase in the volume of consumer disputes. According to some estimates, approximately 1 to 3% of online transactions generate a dispute (Rule, 2014_[60]). An EU-wide study suggests that problems arise mainly from late or no delivery, and poor quality of products. The survey also shows that more than half of consumers have experienced problems in PPMs (EC, 2017_[61]). A consumer survey conducted in ten OECD countries⁹ in 2017 shows that approximately one third of peer platform users

have experienced problems in PPMs (Figure 2) (OECD, 2017_[15]). These consumer concerns are often exacerbated in the context of cross-border transactions (OECD, 2018_[3]). As seen in Chapter 2, the number of cross-border consumer disputes is also on the rise.

Figure 2. Proportion of consumers having experienced a problem in PPMs



Note: based on all peer platform consumers (9 075). Despite identifying problems, the survey also showed that consumers do not tend to disengage from the market as a result. The survey did not ask about the types of problems consumers experienced or the amount or type of detriment they suffered, which may have shed light on why consumers continue to use PPMs.
Source: OECD (2017_[15]).

An EU-wide survey conducted in 2017 shows that among EU consumers who had not shopped online in 2016, 16% were worried about not receiving or being able to return goods (eurostat, 2018_[62]). According to another consumer survey conducted in six G20 economies¹⁰ in 2016, consumers have mixed views on the effectiveness of existing dispute resolution systems. When asked whether they agreed with the statement “I am satisfied with the current complaint and replacement possibilities”, a majority of surveyed consumers responded that they neither agreed nor disagreed with the statement (Institute for Consumer Policy, 2017_[63]).

4.4. State of play in dispute resolution and redress systems

4.4.1. OECD recommendations and UN guidelines

Both the OECD and the United Nations (UN) have developed legal instruments providing a framework for effective and comprehensive dispute resolution and redress systems at domestic and cross-border levels, including ODRs (OECD, 2007_[59]; OECD, 2016_[1]; UN, 2015_[64]). In addition, in 2016 the United Nations’ Commission on International Trade Law (UNCITRAL) released its “Technical notes on online dispute resolution” aimed to foster the development of ODRs (UNCITRAL, 2016_[65]).

4.4.2. Growing use of ODRs

ODRs encompass a variety of activities and approaches, ranging from the mere use of online technology to facilitate the resolution of a dispute associated with an online and offline transaction, to the use of software to facilitate negotiations, through standardised communications, and settlement. Some ODR platforms now use algorithms that are fuelled by data from prior cases and complaints, and can suggest settlements (Schmitz, 2018^[66]). ODRs can also assist in identifying patterns of consumer behaviour in avoiding future consumer disputes (Cortés and Lodder, 2014^[67]).

In recent years, government authorities and the private sector have shown growing interests in using ODRs to resolve disputes. ODRs can indeed assist in resolving disputes in a simple, fast, flexible and secure manner, without the need for the parties concerned to participate physically a meeting or hearing. Affordability is another consumer benefit, as many ODR systems are available at no cost or subject to small fees. ODRs are also seen as well-suited for the resolution of cross-border disputes, as they can help to resolve disputes while avoiding complex legal issues such as conflicts of laws and the enforceability of judgements in other jurisdictions (Habuka and Rule, 2017^[68]).

Industry initiatives

ODRs were first developed by online platforms, such as eBay and PayPal. eBay launched its Resolution Center in 2004, which has since resolved hundreds of millions of disputes through online means for quickly and securely resolving purchase disputes. Since then, a growing number of businesses have been offering ODR services, including Alibaba, Modria, Resolver, Smartsettle, Virtual Courthouse and Youstice. Peer platforms, such as Airbnb and Upwork, have also integrated ODR systems into their marketplaces (UNCTAD, 2018^[69]).

Public initiatives

A number of public ODR systems have also been established in G20 economies, such as the People's Republic of China (hereafter "China"), Brazil, India, Japan, Korea, Mexico, and South Africa. In 2019, the National Directorate on Consumer Protection of Argentina developed a portal where consumer complaints are filed and processed online.¹¹ The Russian Federation is planning the creation of a public ODR platform by 2020, which is likely to be powered by AI.¹² At local level, the province of Québec in Canada launched in 2016 an online platform to assist merchants and consumers to resolve their disputes for free.¹³

At regional level, the European Commission launched an EU ODR platform in 2016. The platform aims to facilitate the online resolution of consumer disputes that have arisen from online transactions, whether domestic or EU-wide transactions. It serves as a gateway to link parties in a dispute to nationally certified alternative dispute resolution (ADR) entities. Between February 2017 and 2018, the number of consumer complaints submitted to the system resulted in over 36 000 cases, representing an increase of 50% from the previous year (EC, 2018^[70]). The ASEAN is likewise planning to establish a regional ODR platform by 2025 to facilitate the resolution of claims related to e-commerce transactions.¹⁴ *econsumer.gov*, an online cross-border complaint platform that is an initiative of the ICPEN, provides information on ADR (including on computerised "automated negotiation") on its public website. Today, consumer authorities in 39 countries participate in the platform.

4.5. Emerging risks and challenges

Dispute resolution and redress systems powered by new technologies may raise new issues, some of which are presented below.

4.5.1. The role of online platforms

As described above, a number of online platforms have put in place various ODR mechanisms to facilitate consumer access to dispute resolution and redress mechanisms. However, access to such mechanisms remains limited worldwide. According to a survey by CI, over half of its member organisations have reported that ODR systems are not offered by online platforms in their country and that there is no legal obligation on platforms to do so (CI, 2018_[71]). While online platforms are subject to consumer protection responsibilities with respect to their own interactions with their users, the degree to which platforms should be legally required to play a role in the resolution of disputes arising from B2C or C2C transactions concluded via their channel, is unclear (OECD, 2019_[9]). A related question is how online platform's redress and dispute resolution mechanisms should be comparable to more formal types of self-regulation, which often involves codes of conduct, accountability measures and enforcement mechanisms. Going forward, policymakers may consider what, if any, policy actions would be needed to encourage online platforms to provide effective dispute resolution and redress mechanisms.

4.5.2. ODR effectiveness

To be effective, ODRs should cover a wide range of goods or services in relation to which consumers face problems, whether purchased off- or online. More importantly, effectiveness of ODRs depends on the participation of e-commerce businesses, and the enforceability of their decisions. This is often challenging, especially in a cross-border context. There is currently limited information¹⁵ on the degree to which: i) businesses engage in ODR processes; and ii) ODRs are effective mechanisms for settling consumer disputes.

4.5.3. Inadequate consumer information and limited awareness

Despite the development of ODRs, consumers often face difficulties in finding information about how and where to make complaints, and to identify who is responsible for addressing disputes, especially when several parties are involved in a transaction. This may be partly due to a lack of ODR platforms that can be trusted to resolve consumer disputes (Cortés, 2017_[72]). In addition, consumers may not have easy access to information about their procedural and substantive rights in the ODR process (UNCTAD, 2018_[69]). In addition, consumers may not be able to fully understand information on how to use dispute resolution systems.

4.5.4. Concerns over algorithmic dispute resolution systems

Algorithms are increasingly used to improve ODR systems and facilitate settlements through the study of similar patterns. The degree to which such algorithmic dispute resolution systems provide fair outcomes has however been questioned. At least one academic argued that algorithmic ODRs may be based on wrong or faulty data, or may not capture the complexity of consumer behaviour. In addition, consumers may not have access to adequate information about the parameters that underpin an algorithm based on which a decision is made (Schmitz, 2018_[66]).

Moreover, the same academic pointed out that algorithmic ODR systems may require a significant amount of data about precedents, which may raise issues, such as unauthorised

access to, and use of, consumer data (Schmitz, 2018_[66]). There may also be a risk of data manipulation by businesses to enable them to provide targeted ads to consumers in disputes (OECD, 2018_[3]).

Questions for discussion

1. What roles should online sellers (including peer providers in C2C transactions) and platforms play in dispute resolution and redress?
2. How can governments facilitate effective dispute resolution and redress in the digital economy?
3. What are the challenges that consumers may face in relation to ODR systems using new technologies, such as AI?

5. The role of consumer protection agencies in attaining the Sustainable Development Goals

5.1. Objectives and scope

This chapter examines ways for consumer authorities to contribute to achieving the SDGs adopted by the UN in 2015, with a particular focus on sustainable consumption.

5.2. SDGs and consumer policy

Consumer policy (including law enforcement) can contribute to achieving a wide range of SDGs (UNCTAD, 2017^[73]; CI, 2015^[74]). For instance, effective dispute resolution and redress systems can help to promote Goal 16 on Peace, Justice and Strong Institutions, while consumer product safety can contribute to achieving Goal 3 on Good Health and Well-Being.

Goal 12 on Sustainable Consumption and Production is particularly relevant to the work of consumer authorities (UNCTAD, 2019^[75]; UNCTAD, 2017^[73]). Sustainable consumption¹⁶ is about promoting resource and energy efficiency, sustainable infrastructure, and providing access to basic services, green and decent jobs, and a better quality of life (UN, 2019^[76]).

More specifically, Goal 12 calls for the following (UNCTAD, 2017^[73]):

- Enhancing access to basic requirements needed to improve quality of life.
- Improving efficiency in resource use, including:
 - minimising emissions of wastes taking into consideration the carrying capacity of the Earth to assimilate them
 - adopting equitable consumption patterns that will not jeopardise the needs of current and future generations while
 - ensuring equity in consumption within countries and between countries.

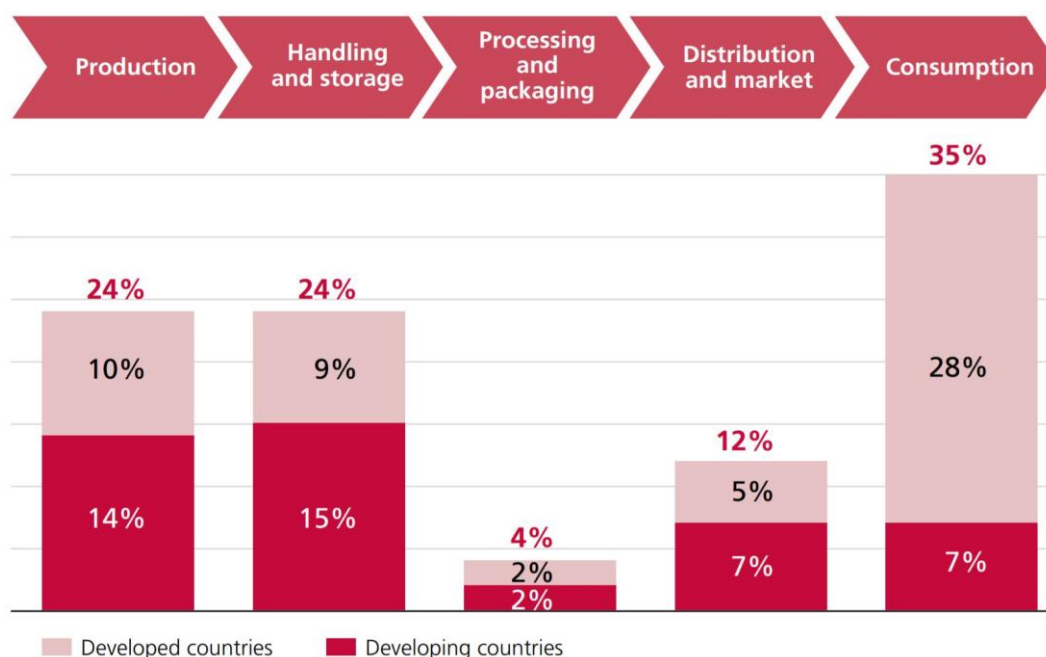
5.3. Consumer attitudes towards sustainable consumption

5.3.1. Impact of consumer behaviour

The G20 Consumer Summit held in Argentina on 15 and 16 May 2018 recognised the efficient management of shared natural resources and encouraged industries, businesses and consumers to recycle and reduce waste, including food waste (Argentinian Directorate for Consumer Protection; CI, 2018^[41]). Indeed, an estimated one third of all food produced globally is either lost or wasted, which amounts to about 1.3 billion tonnes per year. In medium and high-income countries, food is wasted and lost mainly at the consumption stage (Figure 3).

Ways in which natural resources are consumed by individual consumers also have implications for sustainable consumption. For example, around the world, one million plastic drinking bottles are purchased each minute. Up to 5 trillion single-use plastic bags are used worldwide every year. In total, half of all plastic produced is designed for a single use for consumers, and then thrown away (UN Environment, 2018^[78]).

Figure 3. Distribution of food losses and waste along the food value chain



Source: Food and Agriculture Organization of the UN (2018^[77]).

5.3.2. Understanding consumer behaviour

To date, data on consumer sentiment and behaviour towards sustainable consumption is scarce and lacks comparability worldwide. A 2013 study by the Brazilian Institute of Consumer Protection found that, when asked about a salient factor in product labels, 53% of consumers pointed to environmental messages as the most important information (Brazilian National Consumer School, 2013^[79]). According to a 2011 OECD survey of consumers across 11 countries (including five G20 members),¹⁷ most respondents are engaged in some form of energy-saving behaviour. However, 40% of respondents reported that they “occasionally” or “never” completely turn off appliances with stand-by functions (OECD, 2014^[80]).

5.4. The role of consumer authorities

5.4.1. Policy initiatives and law enforcement

To date, many G20 economies have policies in place to protect consumers against unfair or deceptive commercial practices. Such frameworks cover false or misleading marketing environmental claims and labelling and advertising issues. In some jurisdictions, environmental labelling is legally required for certain appliances and goods, as well as for fuel efficiency and carbon emissions labels for motor vehicles (OECD, 2011^[81]).

Some consumer authorities, such as the Competition Bureau Canada, have produced guidance for businesses (Canadian Standards Association, 2008^[82]) to ensure that claims made about the environmental attributes of their products are truthful, non-deceptive and substantiated, and continue to support businesses (Competition Bureau Canada, 2017^[83]). Similarly, the US FTC Guides for the Use of Environmental Marketing Claims (issued in 1992, last revised in 2012) describe the types of environmental claims that the US FTC may find

deceptive (US FTC, 2012_[84]). The ACCC has also released guidance on Green Marketing and the Australian Consumer Law (ACCC, 2011_[85]).

A number of consumer authorities have taken enforcement actions against misleading marketing claims in relation to sustainable consumption, and environmental claims in particular¹⁸ (OECD, 2011_[81]). For example, in 2018, the US FTC sued a company selling light-emitting diode (LED) bulbs and other individuals for violating the US FTC Act by making deceptive claims about the light output and life expectancy of their LED bulbs (US FTC, 2018_[86]). In addition, in 2016, the US FTC obtained more than USD 14 billion in consumer redress for consumers who were deceived by Volkswagen's advertising campaign for its "clean diesel" VWs and Audis, which falsely claimed that the cars were low-emission, environmentally friendly, met emissions standards and would maintain a high resale value (US FTC, 2016_[87]).

In April 2018, the Federal Court of Australia ordered a company to pay penalties totalling AUD 700 000, for making false and misleading environmental representations about products such as "flushable" toilet and bathroom cleaning wipes (ACCC, 2018_[88]). In 2019, however, the Federal Court of Australia found that a different company Kimberly-Clark did not mislead consumers with its "flushable" claims (ACCC, 2019_[89]).

5.4.2. Education and awareness raising activities

A number of consumer authorities have for example implemented consumer education and awareness programmes to help consumers make informed green purchasing decisions, and avoid energy-saving scams. In some cases, such education programmes have been incorporated into school curricula or have targeted a specific demographic group, such as children (OECD, 2009_[90]). For example, the CAA, in co-operation with other relevant national authorities, has conducted an educational campaign to raise consumer awareness about the importance of reducing food loss and waste (CAA, 2019_[91]). In 2016, the National Consumer Protection Agency of Chile (SERNAC) developed "Mi Código Verde", an online platform which provides information regarding the environmental impact of consumer goods (e.g. amount of waste, energy and water use), enabling consumers to make informed and sustainable choices (SERNAC, 2019_[92]).

Some consumer authorities have engaged actively with stakeholders to promote sustainable consumption and develop policies in this area. For instance, in 2018, the European Commission set up a Multi-stakeholder Group on Environmental Claims to build a common understanding among consumers and businesses of the use of environmental claims, and to assess the scope and scale of issues associated with misleading environmental claims (EC, 2018_[93]).

The CAA has run, since 2016, a platform composed of industries, consumer groups and the government, to encourage businesses to develop sustainable management practices and share information on their implementation with stakeholders. In addition, in 2018, the CAA set up an annual award programme aimed to share good business practices promoting sustainable management (CAA, 2019_[94]).

In 2017, the National Directorate of Consumer Protection of Argentina established, in co-operation with the United Nations Conference on Trade and Development (UNCTAD), a stakeholder dialogue to discuss ways to promote sustainable food consumption. The discussion highlighted the need to deepen understanding of the causes of food loss in the production and consumption stages. It also called for engaging with both businesses and consumers, and conducting international awareness raising initiatives (National Directorate of Consumer Protection of Argentina and UNCTAD, 2017_[95]).

5.4.3. Using behavioural insights

A 2017 study by the European Commission provides an example of the use of behavioural insights in understanding consumer behaviour towards sustainable consumption. The study found that while consumers are generally willing to engage in sustainable consumption, a number of consumers have not repaired products in the past (36%), and/or have no experience renting/leasing or buying second hand products (90%). A lack of information regarding product durability and reparability and of developed markets for second hand goods, renting and leasing may however explain consumers' low engagement in sustainable consumption (EC, 2018^[96]). Such sustainable consumption paradox has been pointed out in a 2015 OECD report, which noted a difference between stated preferences about the importance of sustainable consumption and government intervention on the one hand, and actual consumer behaviour and support on the other (OECD, 2015^[97]).

The study also revealed that improved information disclosure and the use of nudges pointing to relevant social norms and showing the benefits of buying durable/repairable products are highly effective at shifting consumer purchasing decisions towards these types of products (EC, 2018^[96]).

Furthermore, a study by the UN Environment (2017^[98]) identified a number of behavioural biases that may prevent consumers from engaging in sustainable consumption. Such biases include the following:

- time inconsistency, which can lead consumers to put off more sustainable choices in preference of more immediate benefits (e.g. a consumer may buy a less energy efficient stove because it is cheaper even though the running costs are much higher)
- following default options, which are not always the more sustainable option (e.g. default-printing settings may lead people to print on one page rather than two)
- following social norms and the behaviour of peers (e.g. a person is more likely to litter if there is already litter on the ground)
- failing to engage in sustainable consumption because it is not “salient” (i.e. because consumers cannot see the impact of their actions).

According to a behavioural study released in 2013, social norms and herd behaviour may help to increase consumer engagement in sustainable consumption. The study shows that some groups of consumers made more sustainable choices when they had information that their peers had made sustainable choices (as opposed to decisions made in the absence of such information) (Arce Salazar, Oerlemans and van Stroe-Biezen, 2013^[99]).

Questions for discussion

1. To what degree have consumer authorities developed policy initiatives in this area and/or taken enforcement actions?
2. How effective are business and consumer education programmes on sustainable consumption?
3. What remains to be done to deepen the understanding of consumers' attitudes towards sustainable consumption, and to address related behavioural biases?

6. Protecting vulnerable consumers in the digital age

6.1. Objectives and scope

With the increasing complexity of the online environment, consumers may be vulnerable to actual or potential risks and challenges, which may affect their ability to participate effectively in the digital transformation.

This chapter looks at what is meant by vulnerable consumers in the digital age, which groups may be particularly at risk, and what can potentially be done to reduce consumer vulnerability in the digital transformation.

6.2. Defining vulnerable consumers

As noted by the OECD (2014, p. 4_[100]):

Vulnerable consumers” are consumers who are susceptible to detriment at a particular point in time, owing to the characteristics of the market for a particular product, the product’s qualities, the nature of a transaction or the consumer’s attributes or circumstances.

Personal dimensions of vulnerability include characteristics that place a consumer at a significant risk of detriment when engaging in markets (UNCTAD, 2018_[101]). For example, a consumer may be more vulnerable due to their age, race, ethnicity or gender; low education or literacy; limitations with the native language; mental health problems; physical disabilities; geographical remoteness/living in a low-density region; unemployment or low income (OECD, 2010_[14]). Personal characteristics such as being credulous, impulsive, risk averse, having poor computational skills, and being less trusting of people can also make a consumer more vulnerable (EC, 2016_[102]). Vulnerability may also be due to personal circumstances such as going through a bereavement, a divorce, or a period of illness (UK CMA, 2019_[103]).

Certain market characteristics, such as a lack of competition, asymmetric information and/or complexity, may make consumers more vulnerable in specific markets (Consumer Affairs Victoria, 2004_[104]; UNCTAD, 2018_[101]; UK CMA, 2019_[103]). In highly complex markets, such as financial services markets, even the most sophisticated consumer may feel vulnerable (UK CMA, 2019_[103]). In such markets, consumers often apply simple “rules of thumb” or “heuristics”, ignore certain possibilities, or simply choose not to make a choice (OECD, 2010_[14]).

Certain product qualities can also lend themselves to greater consumer vulnerability. This may be the case for more complex products, such as those incorporating IoT and AI technologies (OECD, 2018_[11]). Likewise, a lack of experience with online services that collect and use consumer data, coupled with the complexity of privacy notices, and the lack of user-friendly privacy controls, make many consumers vulnerable to risks associated with privacy when online.

Finally, consumers may be vulnerable due to the nature of the transaction. This may be the case, for example, in respect of mobile payments and in-app transactions, which are often made “on the go”, via small screens, and may involve limited authentication controls (OECD, 2012_[105]; OECD, 2014_[106]). There have also been instances where unauthorised purchases have been made through voice-controlled digital assistants (OECD, 2018_[11]; OECD, 2019_[13]).

6.3. What does consumer vulnerability look like in the digital age?

A number of factors mean that consumer vulnerability may be somewhat different in the digital age. In particular, there are circumstances where all consumers may be more vulnerable. Similarly, some groups of consumers, such as children and young people, and older consumers, may be particularly vulnerable when online due to lack of critical judgement, literacy, or comprehension skills. Consumers with less access to, and experience with, the digital environment may also be more vulnerable.

6.3.1. Are all consumers more vulnerable online?

According to a study on consumer vulnerability by the European Commission (2013, p. 12_[107]), consumers may be more vulnerable to unfair commercial practices online as sellers may “take advantage of the limits and restrictions of this means of communication and convey misleading advertising and pre-contractual information”.

The online environment also provides new ways in which businesses can prey on behavioural biases, such as framing effects, loss aversion and overconfidence (OECD, 2017_[50]). For example, when shopping online, consumers may be more prone to harm arising from misleading reference pricing, drip pricing, baiting, time-limited offers, scarcity cues and default settings (EC, 2016_[108]; OECD, 2018_[51]).

Further, to the extent that businesses are able to collect consumer data and personalise offers and prices based on consumer profiling, some argue that all consumers are potentially vulnerable to “digital market manipulation” (Calo, 2014_[109]). In particular, businesses may be able to identify a consumer’s behavioural biases and provide information in ways that target these biases to the detriment of the consumer (Consumer Policy Research Centre, 2019_[19]). Further, businesses may be able to identify and target consumers at times when they are particularly vulnerable, and design online choice architectures to leverage their control over consumer decision making (Calo, 2014_[109]). In relation to online profiling, the European Commission (2013, p. 13_[107]) noted:

Lack of control over personal data, lack of transparency on their use, price discrimination and reduced choice could be the detrimental results of such practices.

6.3.2. Children and young people

Despite their relative experience in going online, children and young people are likely to remain vulnerable in the digital environment as they do not have the critical judgement required to identify the circumstances in which they may be prone to detriment (EC, 2013_[107]). This lack of critical judgement could leave them vulnerable to detriment in respect of identifying online advertising and marketing, especially when the commercial nature of the content is undisclosed or masked as in “advergaming”, native advertising and influencer advertising (UNICEF, 2018_[110]; OECD, 2019_[111]). They may also be less able to resist targeted behavioural advertising. Children and young people may likewise find it difficult to identify questionable online conduct, such as negative options marketing and subscription traps, especially when using apps and online games.

In addition, many children and young people do not have sufficient literacy and/or comprehension skills to understand many of the disclosures they encounter online, especially in respect of privacy and the use of personal data. The European Commission (2013, p. 13_[107]) noted:

[T]he practice of making children agree to the use of their data for marketing purposes before they can access and use a service should be forbidden. Children and young people cannot give informed consent as they cannot be required to read and understand the highly complex terms of condition/privacy notices.

The increasing use of smartphones, digital assistants and other mobile devices by children and young people raises further issues. In particular, it is more difficult for parents or guardians to supervise children and young people on these devices. Where, for example, adequate payment authentication and control tools are lacking, children may be able to make purchases without the consent or knowledge of their parents or guardians (OECD, 2014_[106]). A lack of supervision could also lead them to view inappropriate commercial content, such as advertising of restricted items (UK Council for Child Internet Safety, 2017_[112]).

6.3.3. Elderly consumers

Compared to younger people, elderly consumers tend to be less experienced in going online and to have poorer information and communication technology (ICT) skills (OECD, 2017_[22]). As a result, they may be less confident and proficient online, and more likely to encounter security risks (OECD, 2017_[113]). In the United Kingdom, for example, consumers aged 65 years and older are the least likely to check if an Internet site is secure before sharing credit card details (UK CMA, 2019_[103]).

The elderly may also be more susceptible to misleading and deceptive marketing practices and to being victims of online scams and fraud (UK CMA, 2019_[103]; EC, 2016_[102]). In particular, the elderly tend to be more isolated, more trusting and more likely to suffer from other vulnerabilities (e.g. health conditions, physical disabilities, mental illness or impaired cognitive function), making them more vulnerable to scams (UK CMA, 2019_[103]). Common online fraud schemes include dating and romance scams, investment scams, tech support scams, prize and lottery scams, inheritance scams, and rebate scams (ACCC, n.d._[114]; Puig, 2018_[115]; US FTC, 2018_[116]).

Research undertaken by the UK CMA (2019_[103]) also suggests that the elderly are more prone to vulnerability in essential service markets (such as energy, water, telecommunications and financial services) and for services relevant to later life (e.g. care homes, funerals and retirement funds). While these markets are not new to the digital age, digital innovations such as comparison services have transformed many of these markets, but consumer can only obtain these benefits by going online. In addition, given that some elderly consumers may have limited access and ability to use online services, business policies that make access to essential services such as banking, energy and water services (or favourable pricing for such services), dependent on consumers being online, may disadvantage elderly consumers (AgeUK, 2018_[117]).

6.3.4. A lack of ICT access and skills may impact vulnerability

To effectively engage in e-commerce, consumers need access to affordable and quality communications infrastructures, and the necessary skills to navigate the online environment.

In 2016, around 83% of the adult population in the OECD accessed the Internet, and 73% used it daily (OECD, 2017, p. 167_[22]). However, there is a significant rural-urban divide in terms of Internet access, with rural areas tending to lag behind other areas in terms of broadband access at reasonable speeds (OECD, 2019_[118]).

There is also a disparity between the number of men and women online. On average across the OECD, slightly fewer women than men use the Internet. However, the gap is much

greater in some countries (OECD, 2018_[119]). The disparity is due to a range of factors including access, affordability, (lack of) education, skills and technological literacy, and inherent gender biases and socio-cultural norms (OECD, 2018_[119]).

A lack of access and/or ICT skills can result in a “digital divide” (OECD, 2019_[120]), which tends to penalise people in rural areas, the elderly, women, people in emerging economies, less educated people, as well as disabled and poorer people (G20, 2017_[121]; UK CMA, 2019_[103]; OECD, 2017_[22]; OECD, 2018_[119]; OECD, 2019_[118]). Further, these groups may also be disadvantaged to the extent that businesses do not always design digital goods and services that consider the specific needs and requirements of minority groups.

6.4. Ways to reduce consumer vulnerability in the digital age

Targeted policies, investment in ICT access and competencies, and education and awareness campaigns can all help to protect and empower vulnerable consumers in the digital age. There is also likely to be a role for businesses and consumer protection authorities in promoting better business practices.

6.4.1. Enabling policies

Some countries have developed specific policies targeting vulnerable consumers, such as children, to protect them in the online environment. For example, in relation to the protection of children from online advertising, the United States Children’s Online Privacy Protection Act (COPPA) and the US FTC’s COPPA Rule prohibit the collection, use, and disclosure of personal information from and about children on the Internet without appropriate parental consent. The law applies to operators of commercial websites and online services (including online advertising) targeted at children under 13.

The UK CMA has also suggested that adopting policies allowing for data portability could improve switching outcomes in relation to essential service markets, which it found were particularly problematic markets for the elderly (UK CMA, 2019_[103]). In addition, as part of its *Smart Data Review*, the UK Government is planning to establish a *Vulnerable Consumer Challenge* to encourage data-driven innovation to improve outcomes for vulnerable consumers (UK Government, 2019_[28]).

Consumer vulnerability takes many forms and can change according to circumstance, and over time. With this in mind, the UK CMA (2019_[103]) highlighted the importance of trialling and testing any policy interventions, especially those aimed to address vulnerable consumer behavioural biases. In relation to its contribution programme for non-profit consumer and voluntary organisations, Canada’s Office of Consumer Affairs (OCA) developed in 2019 guidance encouraging consumer organisations to take into account unique issues faced by vulnerable consumers in their proposals on consumer research for the programme (OCA, 2019_[122]).

In addition, there is a need for improved market monitoring and law enforcement to detect and tackle against unfair commercial practices concerning consumer vulnerability in the digital economy.

6.4.2. Improved ICT access and digital competencies

While not within the remit of consumer authorities, the first precursor to empowered digital consumers is adequate skills and ICT literacy, and affordable ICT access (OECD, 2019_[123]).

In relation to children and young people, the need for ICT literacy is recognised globally, with more and more countries teaching ICT literacy in schools. While enhancing digital competencies is largely the responsibility of education departments, consumer authorities may have a role in developing targeted education and awareness programs.

6.4.3. Targeted education and awareness campaigns

Some consumer authorities have developed education and awareness campaigns for elderly consumers. For example, the US FTC has a “Pass it on” initiative to encourage the elderly to share knowledge and start dialogues with family and friends, to protect against scams and fraud (US FTC, n.d._[124]; US FTC, 2018_[116]). While the initiative is not limited to online scams and fraud, it does include many examples of common online scams. The ACCC also has online guidance for older people on how to avoid scams, including online scams (ACCC, n.d._[114]).

Other campaigns target children and younger people. For example, the US FTC has a number of educational resources for children and young people online, including two publications (*Living Life Online* and *Net cetera*) and two online resources (*Admongo* and *You Are Here*) (US FTC, n.d._[125]; US FTC, 2014_[126]; US FTC, n.d._[127]; US FTC, 2014_[128]; US FTC, n.d._[129]). Similarly, the European Commission has developed a *Better Internet for Kids* portal with numerous resources for children and young people in the digital age (EC, n.d._[130]).

When developing education and awareness campaigns, governments should keep in mind the importance of making them accessible in formats that meet the needs of vulnerable consumers. For example, the Competition Bureau Canada published in 2018 the second edition of its educational guide to avoid scams and offered it in eight different languages spoken by new Canadians, including Arabic, Spanish and Tagalog (Competition Bureau Canada, 2018_[131]).

6.4.4. Improved business practices

Where specific consumer issues arise in a particular market or for a particular group of vulnerable consumers, there is likely to be benefits from consumer authorities working with businesses to improve business practices.

A number of self-regulatory initiatives on online marketing directed at children or vulnerable consumers have been implemented in recent years (OECD, 2019_[111]). These include:

- guidance from the Committee of Advertising Practice of the United Kingdom (CAP) on advertising and marketing to children
- guidance by the CAP and the Broadcast Committee of Advertising Practice of the United Kingdom on vulnerable consumers
- guidance by the US Toy Association on marketing toys to children
- more general guidance on marketing and advertising by the International Chamber of Commerce, which includes provisions specific to children.

Businesses can also offer tools to help vulnerable consumers. For example, in the United Kingdom, a number of banks have allowed consumers to block gambling transactions (UK CMA, 2019_[103]). In addition, there are a number of free online tools that consumers can use to manage online spending (for example, by blocking access to certain sites) (Money and Mental Health Policy Institute, 2017_[132]). Businesses can also develop tools to ensure

that children do not make unauthorised purchases, or do not view inappropriate content. Such tools can facilitate proper authorisation and/or test the age of the user in respect of restricted content (OECD, 2012_[105]).

Businesses may also take the lead in respect of “inclusive” or “universal” design to ensure that goods and services are accessible to, and useable by, as many people as possible (UK CMA, 2019_[103]). Given the wealth of consumer data that many businesses hold, businesses should also consider the idea of “personalisation for good”, especially in relation to online disclosures (OECD, 2018_[51]). In particular, to the extent that a business becomes aware of a consumer having a particular vulnerability, it could tailor its online disclosures (or its service more generally) to better suit the consumer. For example, if a business identifies that it is dealing with a child, it could present the child with more simple information.

Consumer authorities also have the option to undertake enforcement action (Box 1).

Box 1. Enforcement regarding online advertising and marketing concerning children

- The Norwegian Consumer Authority took action against a modelling agency that was allegedly marketing modelling courses to children through social media.
- The Italian Competition Authority took action against an app operator for alleged misleading information regarding the costs of a videogame for children.
- The Consumer Directorate of Portugal took action against a company for using an image of a child alongside aggressive language to promote an online game.
- The US FTC obtained a USD 5.7 million settlement against TikTok, an operator of the video networking app known as Music.ly, for failing to notify parents about the app’s collection and use of personal information from users under 13 years of age.

Source: (OECD, 2019_[111]).

Questions for discussion

1. Who are more prone to vulnerability in the digital age (for example, children and the elderly)? What factors could make consumers more vulnerable?
2. What can consumer protection authorities do to tackle consumer vulnerability in the digital age?

Annex A. Selected provisions of key OECD Recommendations

2019 Recommendation on Artificial Intelligence

1.5. Accountability

AI actors should be accountable for the proper functioning of AI systems and for the respect of the above principles, based on their roles, the context, and consistent with the state of art.

2016 E-commerce Recommendation

PART ONE: GENERAL PRINCIPLES

A. Transparent and Effective Protection

2. Governments and stakeholders should work together to achieve such protection and determine what changes may be necessary to address the special circumstances of e-commerce, including for children and vulnerable or disadvantaged consumers. In so doing, they should take into account the insights from information and behavioural economics.

B. Fair Business, Advertising and Marketing Practices

18. Businesses should take special care in advertising or marketing that is targeted to children, vulnerable or disadvantaged consumers, and others who may not have the capacity to fully understand the information with which they are presented.

F. Dispute Resolution and Redress

45. Consumers should have access to ADR mechanisms, including ODR systems, to facilitate the resolution of claims over e-commerce transactions, with special attention to low value or cross-border transactions.

H. Education, Awareness and Digital Competence

50. Governments and stakeholders should work together to educate consumers, government officials and businesses about e-commerce to foster informed decision making. They should work towards increasing business and consumer awareness of the consumer protection framework that applies to their online activities, including their respective rights and obligations, at domestic and cross-border levels.

51. Governments and stakeholders should work together to improve consumers' digital competence through education and awareness programmes aimed at providing them with relevant knowledge and skills to access and use digital technology to participate in e-commerce. Such programmes should be designed to meet the needs of different groups, taking into account factors such as age, income, and literacy.

PART TWO: IMPLEMENTATION PRINCIPLES

53. To achieve the purpose of this Recommendation, governments should, in co-operation with stakeholders:

- ii) Review and, if necessary, adopt and adapt laws protecting consumers in e-commerce, having in mind the principle of technology neutrality;
- iii) Establish and maintain consumer protection enforcement authorities that have the authority and powers to investigate and take action to protect consumers against

fraudulent, misleading or unfair commercial practices and the resources and technical expertise to exercise their powers effectively;

iv) Work towards enabling their consumer protection enforcement authorities to take action against domestic businesses engaged in fraudulent and deceptive commercial practices against foreign consumers, and to take action against foreign businesses engaged in fraudulent and deceptive commercial practices against domestic consumers;

vi) Encourage the continued development of technology as a tool to protect and empower consumers;

PART THREE: GLOBAL CO-OPERATION PRINCIPLES

54. In order to provide effective consumer protection in the context of global e-commerce, governments should:

i) Facilitate communication, co-operation, and, where appropriate, the development and enforcement of joint initiatives at the international level among governments and stakeholders;

ii) Improve the ability of consumer protection enforcement authorities and other relevant authorities, as appropriate, to co-operate and co-ordinate their investigations and enforcement activities, through notification, information sharing, investigative assistance and joint actions.

2014 Recommendation on Consumer Policy Decision Making

RECOGNISING that all consumers, regardless of education or experience, may at times be vulnerable to detriment, and that disadvantaged consumers may be vulnerable on a persistent basis;

Part I

5. “Vulnerable consumers” are consumers who are susceptible to detriment at a particular point in time, owing to the characteristics of the market for a particular product, the product’s qualities, the nature of a transaction or the consumer’s attributes or circumstances.

Part II

6. iii) Determining whether an action is warranted. Such a determination should consider the level of consumer detriment, any disproportionate impacts on certain types of consumers (including those who are vulnerable or disadvantaged); the anticipated duration of the consumer detriment; and the likely consequences of no action being taken.

The 2009 Recommendations from the Committee on Consumer Policy on Consumer Education

pp. 5-6. Consumer education programmes need to be varied so that they have elements that address the needs of different groups, their socio-economic environments, and demographic factors. The special needs of consumers who may be particularly vulnerable (such as children, the elderly, immigrants, and the disabled) need to be taken into account.

p. 11. Education for digital competence should be designed to meet the needs of different age groups. It is important to educate parents along with their children about their responsibilities online, as well as the techniques that are frequently used online to market products. Tips for securing personal information when making purchases using digital technologies should be shared. Education targeting seniors should help to make them aware

of how emerging technologies and online services can be used to carry out transactions more effectively and efficiently.

2007 Recommendation on Consumer Dispute Resolution and Redress

Recognising that the availability of effective dispute resolution and redress mechanisms can increase consumer confidence and trust in the online and offline marketplace, encourage fair business practices, and promote cross-border commerce, including electronic and mobile commerce.

2003 Guidelines for Protecting Consumers from Fraudulent and Deceptive Commercial Practices across Borders

II. Domestic frameworks for combating cross-border fraudulent and deceptive commercial practices

D. Member countries should develop mechanisms for co-operation and information sharing between and among their own consumer protection enforcement agencies and their other law enforcement authorities, for the purpose of combating fraudulent and deceptive commercial practices.

III. Principles for international co-operation

A. Member countries should improve their ability to co-operate in combating cross-border fraudulent and deceptive commercial practices recognising that co-operation on particular investigations or cases under these Guidelines remains within the discretion of the consumer protection enforcement agency being asked to co-operate.

D. Member countries and their consumer protection enforcement agencies should make use of existing international networks and enter into appropriate bilateral or multilateral arrangements or other initiatives to implement these Guidelines.

IV. Notification, information sharing, assistance with investigations, and confidentiality

A. Member countries and their consumer protection enforcement agencies should develop ways to promptly, systematically and efficiently notify consumer protection enforcement agencies in other Member countries of investigations that affect those countries, so as to alert them of possible wrongdoing in their jurisdiction, simplify assistance and co-operation under these Guidelines and avoid duplication of efforts and potential disputes.

1981 Recommendation Concerning Recall Procedures for Unsafe Products Sold to the Public

Considering that, if hazardous products reach the market, consumers have a right to expect that they be warned as quickly as possible of hazards presented by these products, and that these products be modified or replaced or that they be offered adequate compensation for their losses by manufacturers and/or suppliers...

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Notes

¹ The E-commerce Recommendation is an OECD legal instrument, which was developed in 1999 and revised in 2016 to address key new developments for consumers engaging in e-commerce.

² See: <http://www.g20.utoronto.ca/2017/170407-digitalization.html>.

³ See: https://www.bmfv.de/G20/EN/ConsumerSummit/G20_node.html.

⁴ See: https://www.caa.go.jp/en/about_us/topics/g20/.

⁵ The econsumer.gov website is available at: <https://www.econsumer.gov/en/News/News/3#crnt>.

⁶ In addition to the formal co-operation schemes, in some jurisdictions, cross-border co-operation can also take place more informally through, for example: technical assistance, staff training, guidance, as well as information exchange on general or specific topics.

⁷ Remarks made on 25 March 2019 by Joseph Simons, US FTC Commissioner, available at: https://www.ftc.gov/system/files/documents/public_statements/1508536/oia_hearing_march_25_remarks_chmn_simons.pdf.

⁸ The European Consumer Centres Network is a network of consumer centres in the European Union, Iceland and Norway.

⁹ Australia, Canada, Chile, Germany, Italy, Japan, Mexico, Norway, Turkey and the United States.

¹⁰ The G20 members in the survey include Argentina, China, France, Germany, South Africa, and the United States.

¹¹ More information may be available at: <https://www.argentina.gob.ar/defensadelconsumidor/estadisticas-de>.

¹² Source: presentation made at the OECD Committee on Consumer Policy in April 2019 by the representatives from the Federal Service for Surveillance on Consumer Rights Protection and Human Well-being, the Russian Federation.

¹³ On average, disputes are settled within 30 business days and the dispute settlement rate for those using the platform is nearly 70%, with an overall satisfaction rate of 90%. See more information from: <https://www.opc.gouv.qc.ca/en/opc/parle/>.

¹⁴ See more information available at: <https://asean.org/storage/2012/05/ASAPCP-UPLOADING-11Nov16-Final.pdf>.

¹⁵ Analysis of complaints submitted to the EU ODR system reveals that 81% of complaints were automatically closed after the 30-day legal deadline, suggesting a consumer and a trader fail to agree on a competent ADR body by the deadline. However, additional survey found that that 37% of consumers whose case was automatically closed were successfully contacted directly by the trader.

¹⁶ The term “sustainable consumption” derives from the term “sustainable development,” which refers to “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (World Commission on Environment and Development, 1987_[133]).

¹⁷ Countries surveyed in the study include Australia, Canada, Chile, France, Israel, Japan, Korea, the Netherlands, Spain, Sweden and Switzerland.

¹⁸ Environmental claims, also termed “green claims”, are assertions made by firms about the environmentally beneficial qualities or characteristics of their goods and services, referring to the manner in which products are produced, packaged, distributed, used, consumed and/or disposed of (OECD, 2011_[81]).

www.oecd.org/sti/consumer

www.oecd.org/going-digital

<http://oe.cd/digital-economy-papers>

 [@OECDInnovation](https://twitter.com/OECDInnovation)