



Event: The 6th University of Pretoria International Consumer Law Conference - UPICLC 2025

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Venue: Skukuza, Mpumalanga, South Africa

Topic: e-commerce and consumer protection

Keynote speech by the Acting Commissioner, Mr Hardin Ratshisusu

Programme director,

Academics and esteemed Professors,

Distinguished delegates,

Ladies and gentlemen,

Good morning.

Thank you for the invitation to address the 6th University of Pretoria International Consumer Law Conference.

To our co-hosts, the Mpumalanga Tourism and Parks Agency, it is always a pleasure visiting “the land of the rising sun.”

I appreciate this opportunity to discuss the evolving challenges of e-commerce and consumer protection, and to reflect on the urgent need to have these challenges addressed and also share the approach of the National Consumer Commission of South Africa on these issues.

Next year, in April 2026, the consumer protection authorities will be turning 15 years old. It will be an opportune moment to reflect on progress, and I look forward to continued partnership, particularly with the University of Pretoria, building on the Memorandum of Understanding concluded earlier this year, and the consumer protection ombuds, namely, the Consumer Goods and Services Ombud (represented here today by the CEO) and the Motor Industry Ombudsman of South Africa.

Today I shall reflect on global and continental frameworks including the United Nations Guidelines on Consumer Protection and the recently adopted African Continental Free Trade Area (AfCFTA) Digital Trade and Competition Policy Protocols as well as South Africa's recent regulatory initiatives, including the Competition Commission of South Africa's Online Platforms market inquiry and observations of the National Consumer Commission on e-commerce and consumer protection.

I shall also highlight key consumer challenges and the industrial impact of offshore e-commerce, draw lessons from recent developments, and offer concluding remarks.

Global consumer protection frameworks: UN Guidelines and e-commerce

The United Nations has long provided a foundational blueprint for consumer protection. Its Guidelines for Consumer Protection (UNGCP) were first adopted in 1985, expanded in 1999, and most recently revised in 2015.¹ These UN Guidelines are "a valuable set of principles" to help nations craft effective consumer protection laws and enforcement mechanisms.

Notably, the 2015 revisions² explicitly extended the scope of the Guidelines to address digital markets. The revisions introduced a new section on *Electronic Commerce* (Guidelines 63-65), reflecting recognition of e-commerce as a distinct area. For example, guidelines were added to ensure consumers in online transactions enjoy protections comparable to offline commerce, and to facilitate cross-border redress and global cooperation.

These Guidelines are clear. Consumers in e-commerce must be afforded a level of protection no less than in other forms of commerce, with transparent terms and conditions of sale, identity of the seller and fair rules, as key elements for fair trading.

¹ <https://unctad.org/topic/competition-and-consumer-protection/un-guidelines-for-consumer-protection>, accessed 26 September 2025.

² https://unctad.org/system/files/official-document/ditccplpmisc2016d1_en.pdf, accessed 26 September 2025.

It is a standard some e-commerce firms still fail to meet.

UNCTAD has since urged member states to implement the guidelines fully in the digital context. It promotes awareness and technical assistance so that “member States, businesses and civil society can promote consumer protection in the provision of public and private goods and services”, whether offline or online.³ In practice, this means clarifying that e-transactions fall under existing laws, updating legislation for digital contracts, and supporting international enforcement cooperation.

In short, the UN framework reminds us that rights to information, fairness, quality and redress must be upheld in digital markets just as in traditional commerce.

Continental integration: AfCFTA digital trade and competition protocols

AfCFTA digital trade protocol

At the continental level, the AfCFTA has entered a new phase with protocols that directly have a bearing on e-commerce. In February 2024, the African Union (AU) Heads of State adopted the AfCFTA Digital Trade Protocol.

This Digital Trade Protocol creates a harmonised framework for digital trade across member states. It covers issues from e-payments and electronic contracts to data governance and consumer trust. For instance, Part V (five) of the protocol explicitly addresses *business and consumer trust*, with provisions on online consumer protection, cybersecurity, and limiting spam.

Critically, it requires protection at least equivalent to offline shopping and calls for cooperation on cross-border redress.⁴ That is transformative in a marketplace where sellers, platforms and shoppers often operate in multiple countries at once.

This means that once ratified, the Protocol will require parties to ensure measures such as secure payment, transparency, and consumer redress are in place in digital markets. It also includes commitments on cross-border data flows and other facilitators of e-commerce, for example, recognising electronic signatures and records.

³ <https://unctad.org/topic/competition-and-consumer-protection/un-guidelines-for-consumer-protection>, accessed 26 September 2025.

⁴ https://au.int/sites/default/files/treaties/44963-treaty-EN_-_Protocol_to_AfCFTA_Agreement_on_Digital_Trade.pdf, accessed 27 September 2025.

Importantly, the AU Assembly likewise adopted a set of *annexes* (including on rules of origin and cross-border payments) in February 2025, and all these instruments must be ratified by member states before entry into force.⁵

AfCFTA competition policy protocol

The AfCFTA Protocol on Competition Policy complements this, signalling continental intent to curb platform abuses such as self-preferencing, exploitation of sellers' data, discriminatory fees that lock small firms out, and restrictions on data portability. This is Africa's answer to "gatekeeper" power concerns, with rules taking into account Africa's realities.

Adopted in February 2023, this new competition regime aims to harmonise rules on anti-competitive practices across Africa. It targets cross-border cartels and "mega-mergers" with continent-wide impact, and it explicitly covers digital markets. For example, the Competition Policy Protocol's objectives note the need to address "abuse of dominance by large multinational firms in key sectors, including in e-commerce."

In practice, this means African competition authorities will have a continent-wide mandate to tackle abuses by global platforms or market-concentrating deals that harm African consumers and businesses.

Taken together, the AfCFTA protocols create a continental framework.

The main task for member states is to finalise national ratification and align domestic laws with these commitments.

These continental frameworks complement what South Africa is doing domestically.

South African actions: online platforms inquiry and NCC observations

South African regulators have already begun responding to digital markets issues. A landmark example is the Competition Commission's Online Intermediation Platforms Market Inquiry. Launched in 2021, this inquiry examined whether features of major online platforms such as search engines, app stores and e-marketplaces were inhibiting competition in local business-

⁵ For further details, see the DTIC's presentation to the Select Committee on Economic Development and Trade dated 3 September 2025, available at <https://www.thedtic.gov.za/wp-content/uploads/Ratification-AfCFTA-Protocols.pdf>, accessed 28 September 2025.

to-consumer (B2C) markets. In July 2023, the Commission released its *final report* of the inquiry.⁶

The report documented serious competition concerns. For instance, it found that Google Search algorithms favoured dominant platforms and Booking.com's pricing clauses stifled smaller hotel sellers. It also identified problems in app distribution, such as Apple's and Google's app stores imposing unrestrained commission fees and blocking off-platform payments, and food-delivery apps lacking transparency on commissions.

Crucially, the Competition Commission recommended remedial actions to level the playing field. These included algorithmic changes to Google Search, the removal of Booking.com's restrictive pricing clauses, the structural separation of Takealot's retail and marketplace operations, and requirements for app stores to allow alternative payment routes.

Uber Eats and Mr D Food must also disclose commission fees and menu-price differences to consumers. In summary, the inquiry's findings identified features that adversely affect competition in these markets and imposed specific obligations on the platforms to remedy them.⁷ By focusing on transparency, interoperability and non-discrimination, the inquiry charted a course for more competitive digital markets in South Africa.

However, there is still more to be done.

What South African consumers are actually facing, from the NCC's perspective

From our assessment at the National Consumer Commission, the consumer journey online is punctuated by 5 (five) recurring pain points. These revolve around delivery failures and refund frictions, data privacy and misuse, marketplace opacity, e-vouchers, and ultra-fast fashion platforms and dark patterns.

The recent research conducted by the NCC in collaboration with the Consumer Goods and Services Ombud Scheme highlights pervasive consumer challenges. For example, South African consumers experience extremely high return rates when shopping online. Statistics show that roughly 30% of goods bought online are returned, compared to only 8.9% in brick-and-mortar retail.

⁶ https://www.compcom.co.za/wp-content/uploads/2023/07/CC_OIPMI-Final-Report.pdf, accessed 28 September 2025.

⁷ <https://www.compcom.co.za/wp-content/uploads/2023/07/Media-Statement-Final-digital-markets-report-released-31-July-2023.pdf>, accessed 28 September 2025.

Payment fraud and privacy breaches are also common concerns. The NCC's research further reveals that many online shoppers abandon purchases if they are not confident that their banking details and personal information will be kept secure.

South African consumers have reported receiving knockoffs or unsafe items from some offshore platforms, with no recourse when sellers vanish or relist under new accounts.

In the European Union, for example, these platforms face scrutiny under EU consumer law and the Digital Services Act for deceptive interfaces, fake discounts and pressure-selling.

South African consumers deserve equal protection and swift remedies when those tactics harm them locally.

Finally, challenges like opaque seller identity (in the form of a lack of traceable supplier addresses) and unregulated cross-border purchases (when a foreign vendor ignores the domestic laws, including the Consumer Protection Act) erode confidence.

In short, the NCC's own data confirms that dynamic, cross-border e-commerce poses novel consumer risks. Beyond the technological learning curve, issues of return policy, supplier credibility, data security, and redress in foreign transactions dominate the concerns.

These are the practical gaps that enforcement and policy must address.

Industrial impact of offshore e-commerce

Distinguished delegates, ladies and gentlemen, beyond consumer interests, the effect of offshore e-tail on the local economy must also be considered. If consumer harms feel abstract, the effects on the domestic industrial capacity are visible.

A recent study (June 2025) commissioned by the Localisation Support Fund (LSF)⁸ analysed the impact of fast-growing foreign e-retailers such as Shein and Temu on South African manufacturing and retail jobs. It found that by 2024, these platforms captured approximately R7.3 billion (ca. US\$422.4 million)⁹ in the South African clothing, textiles and footwear (CTFL) market. This market share "loss" translated into a direct opportunity cost of about R960 million (ca. US \$55.6 million) in domestic CTFL manufacturing revenue, amounting to roughly 2,818 manufacturing jobs and 5,282 retail jobs not materialising (in a country where the unemployment rate in the second quarter of 2025 stands at 33,2%).¹⁰

⁸ https://proudlysa.co.za/wp-content/uploads/2025/08/E-commerce-report_final_19-06-2025-002.pdf, accessed 30 September 2025.

⁹ As per the US dollar/Rand exchange rate on 30 September 2025.

¹⁰ <https://www.statssa.gov.za/publications/P0211/Media%20Release%20QLFS%20Q2%202025.pdf>, accessed 30 September 2025.

In other words, every rand of offshore online sales can mean lost output and jobs at home when local sourcing remains low. Protecting consumers must therefore go hand-in-hand with supporting local producers.

The same study shows how other countries have responded, by tightening low-value parcel rules, mandating local representation, imposing extended producer responsibility (EPR) obligations and even capping advertising spend for dominant platforms (Türkiye), and removing VAT/*de minimis* advantages that tilt the field. There is experience to draw from for South Africa.

On closer examination of the study, it is evident that every policy and/or enforcement failure not only injures consumers, but also factories and workers.

It is therefore an area the National Consumer Commission has prioritised in the 2025-2030 strategy, as one sector that may warrant an investigation to assess possible effects on consumers in South Africa.

International case studies and emerging trends

Ladies and gentlemen, at this point, it is important to consider what the world is doing, lessons that South Africa and the continent should not ignore.

Globally, regulators are already acting to curb malpractices on online platforms.

France has moved decisively. In July 2025, authorities fined Shein €40 million for deceptive discount practices, and in September 2025, the data authority (CNIL) imposed €150 million for unlawful cookie tracking even when users refused consent. These are consumer and data cases that speak directly to design choices seen across platforms.

Nigeria has raised the stakes on data responsibility in the Global South, fining Meta \$220 million after findings of violations of local consumer/data laws.¹¹

In 2022, European Union antitrust authorities¹² extracted structural commitments from Amazon to curb the misuse of sellers' data and fix the Buy Box. In July this year, the EU authorities issued Temu with preliminary findings of violations under the Digital Services Act related to risk assessments, illegal goods, among other concerns.¹³

¹¹ The FCCPC's final order is available at: <https://fccpc.gov.ng/wp-content/uploads/2024/07/Final-orderFCCPC-Meta-18072024.pdf>, accessed 30 September 2025.

¹² https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7777, accessed 30 September 2025.

¹³ https://ec.europa.eu/commission/presscorner/detail/en/ip_25_1913, accessed 30 September 2025.

In June this year, the UK CMA likewise secured undertakings from Amazon on fake reviews.¹⁴ These are not “Europe-only” norms. They are templates any jurisdiction can adapt.

Just a week ago (25 September 2025), the United States Federal Trade Commission (US FTC) secured a \$2.5 billion settlement with Amazon over “dark pattern” Prime signups and cancellation frictions, allegations first filed in 2023.

Asia adopts a relatively different approach. For example, Indonesia lowered its *de minimis* threshold to US\$3 and later moved to block Temu from app stores in 2024, a measure seen to protect local SMEs. India originally banned Shein in 2020 and has since permitted re-entry only through a local partnership model tying the brand to domestic value chains and compliance.

International policy bodies are also raising red flags. The OECD (2024) reports that nine in ten consumers have experienced “dark commercial patterns” in the form of countdown timers, hidden fees, and subscription traps.¹⁵ UNCTAD is calling for cross-border online dispute resolution as part of building consumer trust in cross-border e-commerce, especially for developing markets.¹⁶ These are signposts we should follow.

Taken together, these cases illustrate that the issues we face domestically are recognised worldwide, and a wave of new regulations is emerging to protect online consumers. Whether we worry about extraterritorial reach or not, the path seems clear: global platforms must comply with local laws in the market they trade in.

In August this year, the Constitutional Court heard a matter involving the Competition Commission versus various local and international banks, raising similar questions on jurisdiction amongst other issues, in the long-running forex rigging case. The Constitutional Court will soon provide much-needed clarity on the jurisdiction question, particularly with respect to firms based offshore whose conduct has an effect in South Africa, as this not only affects competition regulation but also extends to other areas of regulation, including consumer protection.

Concluding remarks

¹⁴ <https://www.gov.uk/government/news/amazon-gives-undertakings-to-cma-to-curb-fake-reviews>, accessed 29 September 2025.

¹⁵ <https://www.oecd.org/en/about/news/press-releases/2024/10/stronger-consumer-protections-needed-to-address-current-and-emerging-harms-consumers-face-online.html>, accessed 29 September 2025.

¹⁶ <https://unctad.org/news/un-trade-and-development-online-dispute-resolution-key-boosting-consumer-trust>, accessed 29 September 2025.

All these factors, such as the data breaches, the race for market leadership in digital markets and the hollowing out of local manufacturing, make it clear that South Africa cannot afford to be idle. E-commerce is unfortunately reshaping trade faster than our laws.

It is therefore important for there to be coordinated action on the enforcement of existing laws and continent-wide cooperation on consumer rights protection. Regulatory agencies, legislatures, industry and civil society ought to collaborate to close loopholes, share best practices, and ensure that e-commerce growth is fair and inclusive for all stakeholders.

Distinguished guests, ladies and gentlemen, the momentum is building. As illustrated earlier, regulators globally are already taking enforcement measures.

This conference is therefore timely and can propose actionable solutions for South Africa.

There are areas of the Consumer Protection Act, as scholars have identified in this conference, that require review and strengthening.

There is an opportunity to amend the Consumer Protection Act through the envisaged Omnibus Bill being considered by the Department of Trade, Industry and Competition. The Omnibus Bill, as the Minister of Trade, Industry and Competition outlined in the 2025/2026 Budget Vote, would primarily be aimed at reducing the cost of doing business, for job creation, industrial expansion and export growth.

Carefully identified and impactful areas of amendment of the Consumer Protection Act could contribute to red tape reduction by simplifying and expediting access for consumers to redress, as well as measures to curb illicit goods, in a manner that directly or indirectly contributes to this objective.

In closing, let me again emphasise, in keeping with the theme of this conference, the urgent need for collaboration, particularly as there is a clear intersection between consumer protection laws and other laws that affect consumer rights.

All these efforts rightly put the consumer at the centre.

The cost of lax consumer protection and inaction will be too high to bear.

Thank you.