

# Consumer protection in e-commerce and the digital market

## 1. Introduction

Countries and markets are progressively transitioning from traditional brick-and-mortar setups to digital platforms. This shift demonstrates a keen interest in propelling e-commerce within economies to stimulate trade and broaden international reach, and is anticipated to contribute to economic diversification and the generation of employment opportunities. E-commerce holds particular significance for developing countries, as it enhances productivity, empowers small and medium-sized enterprises, and facilitates their integration into global value chains. Maximizing the positive effects and advantages of e-commerce on the economy entails prioritizing essential elements such as information and communications technology (ICT) infrastructure and services, payment solutions, trade logistics and facilitation, legal frameworks, and access to financial resources, as well as the development of e-commerce skills and consumer awareness.

The global internet user base has witnessed a remarkable surge from 54 per cent in 2019 to 66 per cent in 2022, encompassing a total of 5.3 billion users. Notably, the COVID-19 pandemic has significantly propelled the growth of e-commerce, especially in the field of online retail sales, as highlighted by the United Nations Conference on Trade and Development (UNCTAD). Statistics across 66 countries reveal that in 2019, 53 per cent of internet users engaged in online shopping, a figure which increased to 60 per cent following the onset of the pandemic. At the end of 2022, the collective value of the top seven digital platforms surpassed the \$11 trillion mark. These platforms have solidified robust market positions, exemplified by Google's dominance with over 90 per cent of the global market share for internet searches in 2022. Facebook claimed nearly 70 per cent of the global social media market. Alibaba's Taobao and Tmall emerged as the foremost online marketplaces based on gross merchandise volume in 2021, while Amazon maintained its leading status in the e-commerce realm.<sup>1</sup>

The substantial expansion of digital markets, particularly in e-commerce, calls for the establishment of frameworks that guarantee consumer protection within this realm to bolster consumer trust in e-commerce markets and foster increased consumer engagement. This involves the ongoing formulation and refinement of transparent and effective consumer protection policies specifically tailored to digital markets and e-commerce, mirroring the safeguards established in traditional forms of commerce.

## 2. Benefits and challenges of e-commerce

The surge in the use of the internet, the evolution of cloud computing, and the swift shift to digital platforms have broadened the consumer base in the e-commerce market and enhanced the capacity of businesses to provide services that reshape how consumers explore, access and utilize products from any location and at any time. In this sense, it is crucial to identify the benefits of digital markets and e-commerce and the challenges they pose to consumers.

Benefits of e-commerce:<sup>2</sup>

- **Enhanced accessibility:** E-commerce provides consumers with convenient access to a diverse array of goods and services through various devices, which fosters competitiveness in pricing and offers multiple payment options.
- **Dynamic marketplace:** The dynamic and innovative nature of the e-commerce space enables consumers to collect, compare, review and share information about products and services.
- **Convenience and speed:** E-commerce facilitates swift and hassle-free transactions at any time and from anywhere, including across borders.

Challenges of e-commerce:

While e-commerce offers numerous advantages, consumers encounter several challenges due to its distinct market structure compared to traditional markets. The consumer-business relationship is segmented into three phases: pre-purchase, purchase and post-purchase, with consumers primarily facing challenges across the three stages.<sup>3</sup>

### A. Pre-purchase phase.....

- **Information requirements:** Consumers have the right to contact the business easily, which necessitates the publication of the business's identity, legal name, website, location, address and all relevant details. A prevalent challenge for consumers lies in the complexities of discerning the identity and location of online product providers, often exacerbated by misleading information regarding actual and total prices.
- **Unfair commercial practices:** These practices stem from the absence of in-person interactions. They heighten consumer vulnerability and undermine the relationship between consumers and providers, thereby fostering trust issues in digital markets. They also pose significant challenges for consumers that impact their transactional decisions and hinder their ability to make well-informed choices. Deceptive tactics employed through marketing techniques, such as providing untruthful information, generating confusion between trademarks, and exaggerating the quality while misrepresenting features of products and services, contribute to the complexity of navigating the e-commerce landscape for consumers.

### B. Purchase phase.....

- **Unfair contract terms:** These pertain to the clauses within a contract that outline the rights and responsibilities of the involved parties. Typically, these terms lack clarity, conciseness and simplicity, making them challenging for consumers to comprehend. They fail to provide accurate information about the goods and services, associated fees and final costs, thereby hindering consumers from making well-informed decisions.
- **Security concerns in online payments:** The growing prevalence of online payments in e-commerce and digital markets exposes consumers to security risks. When making online

payments, consumers face the potential threat of unauthorized access by third parties to the data they provide, without their consent. Consumers also encounter challenges such as irreversible payments, delayed confirmations and blocked transactions.

- Data protection and privacy concerns: The widespread use of credit and debit cards for online payments has increased the collection and trading of consumers' personal information by suppliers and intermediaries. Given the significant value of this personal data for online businesses, which enables individual consumer profiling, challenges arise in safeguarding privacy and ensuring data protection. Issues include a lack of awareness regarding online data usage, liability for data breaches, and the sharing of data among third parties.

### C. Post-purchase phase.....

- Dispute resolution: A persistent challenge, particularly in cross-border e-commerce, revolves around effectively addressing consumer complaints and disputes. To tackle this issue, businesses must establish complaint-handling mechanisms that offer consumers fair, transparent, accessible, speedy and cost-effective dispute resolution options.
- Redress: Issues related to redress involve uncertainties regarding liability, particularly in situations involving multiple providers, and the absence of straightforward access to efficient redress mechanisms. Consumers experience harm due to defective goods and services, failure to meet advertised quality standards, and complications in delivery. Advocating for policies that guarantee consumer redress in such instances becomes crucial to address these challenges.
- Cross-border e-commerce: Given its nature of connecting consumers and businesses from different jurisdictions, cross-border e-commerce poses several challenges for consumers. These challenges include navigating transactions with unfamiliar brands, uncertainty in receiving products as described during the order, potential hidden costs arising from customs and shipping, and a lack of clarity regarding protections provided by the seller's jurisdiction. Consumers may also face uncertainties about the available redress mechanisms in the event of a dispute.

Given the distinctive nature of e-commerce in comparison to traditional markets and the associated challenges faced by consumers, building trust in online transactions has become imperative. Concerted efforts are underway to formulate legal frameworks that address the complexities arising from e-commerce, with the aim of instilling confidence in online transactions, streamlining domestic and international online trade, and providing legal safeguards for both users and providers in the e-commerce sphere. Given the evolving landscape of digital technology and e-commerce, it is important for States to continuously update their legislation to adequately address emerging challenges. Promoting consumer confidence in e-commerce demands comprehensive consumer education and information programmes, through which consumers could gain a nuanced understanding of the challenges inherent in e-commerce, and be empowered to make informed decisions.

#### Box 1. Good business practices for consumer protection

Below is an overview of best practices and principles to be followed by businesses in conducting online commercial activities with consumers:

- Businesses should ensure fair treatment of consumers throughout the various stages of commercial activity. This involves refraining from engaging in practices that could be detrimental to consumers, especially those who are vulnerable or disadvantaged.
- Businesses should refrain from engaging in unlawful and unethical practices that might result in deceptive conduct towards consumers and pose potential risks that could be detrimental to them. It is essential for businesses to respect consumers' interests and uphold their rights.
- Businesses should establish transparent frameworks and refrain from providing consumers with inaccurate or misleading information regarding goods, services, terms and conditions, and other relevant aspects. It is crucial for

consumers to have access to comprehensive information and key terms and conditions that enable them to make well-informed decisions.

- Businesses should implement initiatives and mechanisms aimed at increasing consumers' awareness of their rights. These programmes should also facilitate consumers' acquisition of essential knowledge to comprehend the potential risks they might encounter in digital markets.
- Businesses should adopt mechanisms for protecting consumers' privacy, particularly in relation to the collection and use of personal data.
- Businesses should guarantee access to efficient complaint-handling mechanisms, and to fair, transparent, cost-effective and expeditious dispute resolution processes.

### Box 2. E-commerce retailer Fashion Interactive ordered to cease unfair trade practices and stop using "subscription traps"

The Competition and Consumer Commission of Singapore (CCCS) sought an injunction from the State Courts on 28 November 2019 against Fashion Interactive, aiming to halt their involvement in an unfair practice identified as a "subscription trap" on their shoes e-commerce platform, myglamorous.sg. A "subscription trap" involves misleading consumers into subscribing to a recurring service by giving the impression of a one-time purchase. Failure to cancel such subscriptions within a grace period typically results in recurring charges. The Consumers Association of Singapore (CASE) had previously stepped in to assist affected consumers in obtaining refunds for charges made by Fashion Interactive. However, CASE continued to receive new complaints about automatic recurring monthly membership fees without consumers' knowledge or consent.

Upon investigation, CCCS found that Fashion Interactive had inadequately disclosed crucial information, misleading consumers into purchasing a membership subscription with undisclosed recurring fees. The design of advertisements and the myglamorous.sg website emphasized discounts and shoes rather than the membership subscription and its associated recurring fees.

The Court Order prohibits Fashion Interactive, including directors, agents and employees, from misleading consumers into signing up or continuing with a subscription service requiring payment or recurring payment.

Source: Competition and Consumer Commission of Singapore, [E-commerce retailer Fashion Interactive ordered to cease unfair trade practices and stop using "subscription traps"](#), 2020.

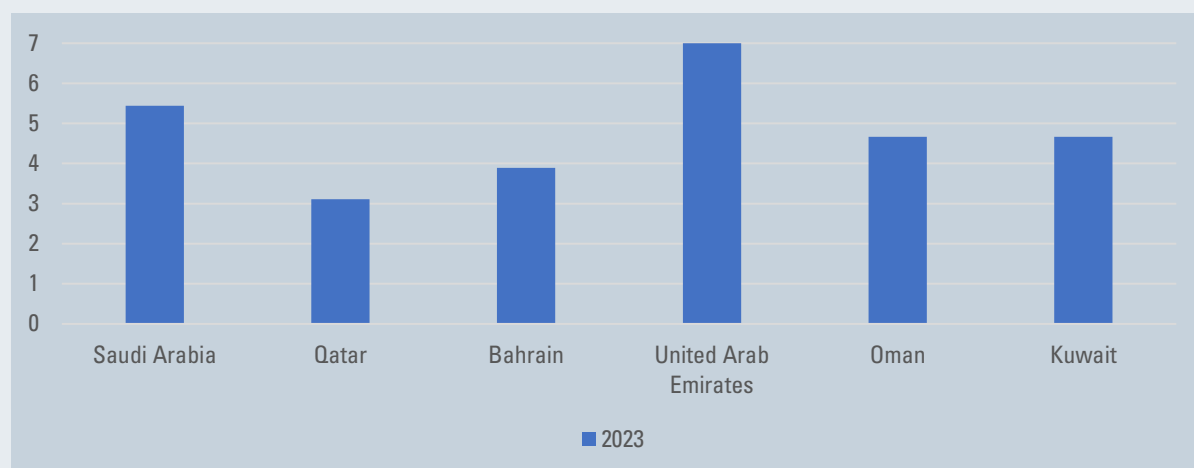
## 3. Status of consumer protection in e-commerce in the Arab region

Despite the considerable strides made by many Arab countries in establishing consumer protection laws, the rapidly evolving digital era carries various challenges in terms of implementing and enforcing these regulations. The 2023 Arab Business Legislative Frameworks (ABLF) report,<sup>4</sup> prepared by the Economic and Social Commission for Western Asia (ESCWA), underscores the preliminary status of the region in relation to e-commerce and consumer protection, identifies significant challenges and highlights the potential for substantial growth to align with international standards. The ESCWA assessment categorizes the region into four sub-regions, namely Gulf Cooperation Council (GCC) countries, middle-income countries (MICs), conflict-affected countries (CACs), and least developed countries (LDCs). The subsequent sections address the status of consumer protection in the field of e-commerce within each of the four subregions.

### A. Gulf Cooperation Council countries.....

According to the ESCWA assessment in the framework of the ABLF report (2023), the e-commerce and consumer protection legislative framework in GCC countries is classified as "developed".

Figure 1. E-commerce and consumer protection score for GCC countries



Source: ESCWA assessment in 2023.

The graph of figure 1 illustrates a notable strength in the United Arab Emirates with a score of 7, underlining the robustness of its legal framework approach to e-commerce. This can be attributed to a deliberate decision by the country's policymakers to prioritize oversight of e-commerce transactions, particularly in response to the challenges posed by the COVID-19 pandemic. In 2020, the United Arab Emirates reformed its legislation to reflect the escalating significance and centrality of e-commerce. These updates focused on safeguarding consumers' rights by emphasizing the protection of personal data, instituting disclosure requirements for online businesses, implementing provisions that uphold consumers' rights, and establishing a sanction regime for e-commerce transactions.

Bahrain received a "moderate" classification. While certain aspects of the consumer protection law in Bahrain address e-commerce and transactions on digital platforms, the coverage is limited. For instance, provisions related to misinformation practices extend to include activities on digital platforms. Other laws in Bahrain, such as Law No. 30/2018 on personal data protection and Legislative Decree No. 54/2018 on electronic communications and transactions, encompass specific facets of e-commerce, including personal data protection, electronic communication, and information and technology crimes. It is worth noting that Bahrain is actively progressing in this domain, as evidenced by its ongoing efforts to develop a dedicated law exclusively focused on e-commerce, indicating a commitment to enhancing regulatory frameworks in alignment with contemporary digital commerce challenges.

Kuwait is classified as "developed", although its consumer protection law lacks a specific chapter dedicated to e-commerce. Decision No. 27 of 2015 issuing the executive regulations of Law No. 39/2014 on consumer protection contains several articles specifically addressing e-commerce transactions. These articles within the consumer protection law govern various aspects of e-commerce, delineating the rights of both online businesses and consumers. Additionally, Kuwait has a robust framework for consumer protection, including provisions for consumer rights and a sanction regime for potential violations, detailed in articles 27 to 32 of the consumer protection law.

Qatar has received a "moderate" classification in relation to addressing e-commerce within the consumer protection framework. Law No. 16/2010, promulgating the electronic transactions and commerce law, provides a clear definition for electronic transactions and commerce, ensuring a solid

foundation for regulating online activities. Notably, the legislation also focuses on protecting consumer rights in the context of online transactions.

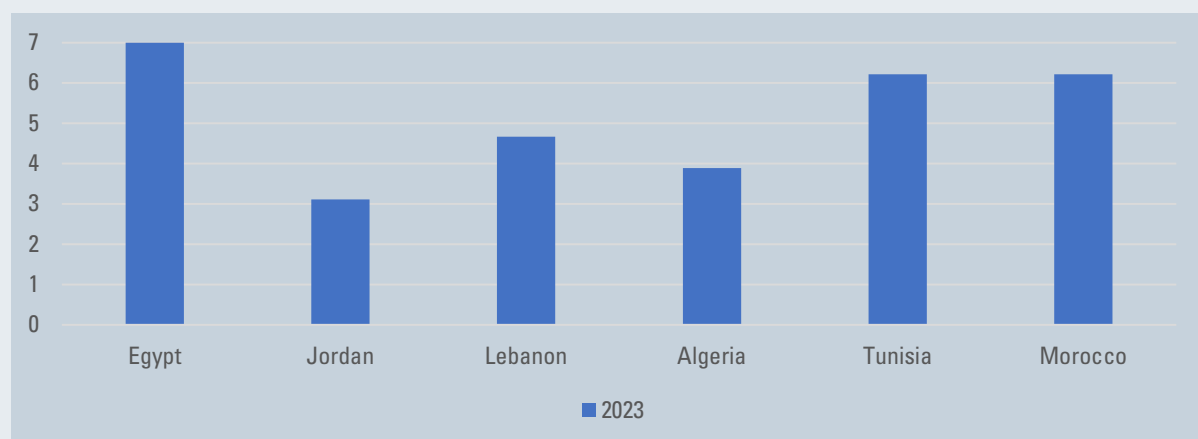
Oman is classified as “developed” in the regulation of e-commerce. This is because the country has included various provisions related to e-commerce within its consumer protection law and implementing regulations. Several clauses within these legal frameworks are specifically applicable to e-transactions conducted by consumers.

Saudi Arabia is classified as “strong” since it has promulgated an e-commerce law through Royal Decree No. M/126 (Cabinet Decision No. 628/1440). The law aims to increase confidence in e-commerce transactions, provide consumers with the necessary protection against fraud and misinformation, enhance and develop e-commerce activities in Saudi Arabia, and have extra-territorial reach.

## B. Middle-income countries.....

Middle-income countries (MICs) have presented different levels of classification and regulations regarding e-commerce and consumer protection.

Figure 2. E-commerce and consumer protection score for MICs



Source: ESCWA assessment in 2023.

Egypt, Morocco and Tunisia have demonstrated significant strengths in the field of e-commerce, earning a “very strong” classification according to the ESCWA assessment, primarily owing to their comprehensive regulatory frameworks. In Egypt, for instance, Article 37 of the Consumer Protection Law imposes obligations on suppliers to provide consumers with clear and explicit information, enabling informed decision-making. This information encompasses product data, origin, essential specifications, total cost, usage risks, guarantees, recourse provisions and more, with the aim of upholding consumer protection in the e-commerce market. Similarly, Tunisia has enacted Law 83/2000, which addresses exchanges and e-commerce. Article 25 of that law places duties on sellers to provide consumers with necessary information, and Article 30 grants consumers the right to cancel a purchase within ten working days under specified conditions. Law 63/2004 in Tunisia on the protection of personal data also ensures data privacy for consumers. Meanwhile, Morocco has incorporated various provisions within its consumer protection law targeting e-commerce. Article 29 outlines the rights of consumers to purchase products online and stipulates duties for suppliers. These concerted efforts by Egypt, Morocco and Tunisia underscore their commitment to develop robust frameworks that effectively protect consumers in the dynamic landscape of e-commerce.

Algeria and Jordan received a "moderate" classification according to the ESCWA assessment, indicating that while both countries have established regulations for e-commerce, further development and reinforcement may be needed to align consumer protection standards with international standards. In Algeria, E-commerce Law No. 18-04 aims at ensuring compliance with competition rules among operators. The law covers various elements of e-transactions, prohibits specific e-commerce transactions, and imposes obligations related to electronic offers and contracts. Both suppliers and consumers are subject to duties outlined in the law. Similarly, the Consumer Protection Law of Jordan, which was enacted in 2017 and includes provisions related to online transactions, has outlined the rights of consumers in Article 3. It has also specified sanctions for misinformation and imposed duties on suppliers.

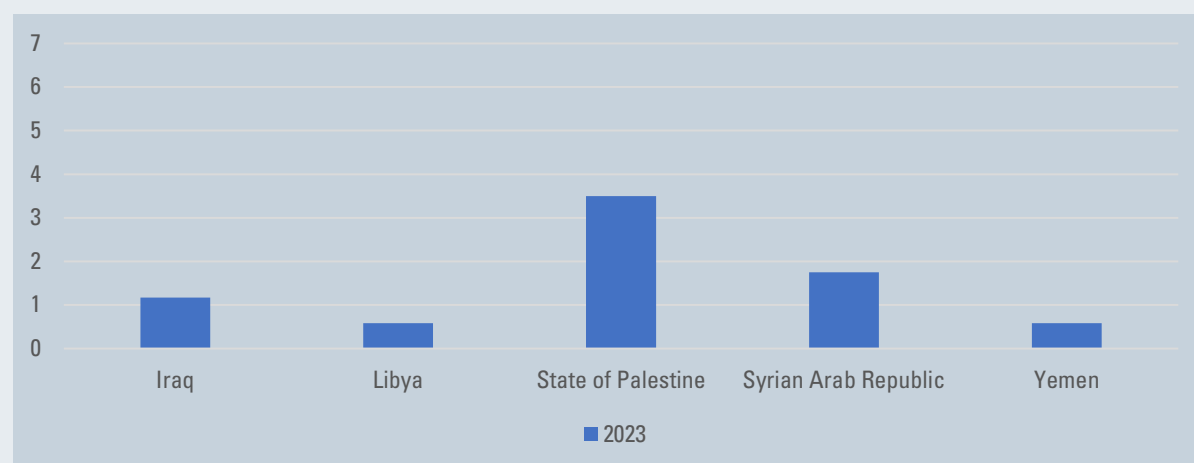
Lebanon received a "developed" classification despite having numerous consumer protection provisions pertaining to e-commerce and online transactions outlined in Chapter 10 of its consumer protection law, as well as in Law 81/2018 relating to electronic transactions and personal data and Decree No. 3380 dated 5/5/2016, which determines the general principles governing advertisements of goods and services. All of these provisions are aimed at safeguarding consumer rights, imposing obligations on suppliers, and ensuring consumer privacy. This suggests that despite these existing measures, additional steps are required to align them with international standards and further enhance the country's consumer protection framework.

MICs exhibit a robust classification concerning e-commerce and consumer protection, underscoring a substantial commitment to safeguarding consumers in the field of online transactions. Nevertheless, MICs exhibit diverse classifications, emphasizing the need for continued efforts to align the measures taken in these countries with international standards.

### C. Conflict-affected countries.....

Conflict-affected countries (CACs) in the Arab region face significant challenges when it comes to consumer protection in the field of e-commerce.

Figure 3. E-commerce and consumer protection score for CACs



Source: ESCWA assessment in 2023.

Arab CACs face significant obstacles in the field of e-commerce and consumer protection. These challenges stem from various factors, including ongoing conflicts, limited internet connectivity, socioeconomic constraints, and other operational difficulties. Consequently, CACs received a "weak"

classification in the ESCWA assessment for e-commerce and consumer protection. Libya, for instance, is classified as "very weak" due to the absence of a consumer protection law with provisions specifically addressing e-commerce. In Libya, only Article 1319 of the commercial law offers limited protection to consumers engaging in electronic purchase contracts.

Although Yemen is making some progress, it is also classified as "very weak". Article 4(a) of Law No. 46/2008 applies to transactions on digital platforms and outlines suppliers' duties in online markets, incorporating a sanction regime for breaches. Meanwhile, Iraq and the State of Palestine lack provisions within their consumer protection laws that specifically address e-commerce in the context of consumer transactions, contributing to their weak classification in this area.

The Syrian Arab Republic received a "weak" classification concerning its approach to e-commerce, primarily attributed to the absence of specific e-commerce provisions within its consumer protection law. However, Article 1 of the law imposes duties on suppliers and ensures the rights of consumers, with applicability extending to both electronic and traditional transactions.

Consumer protection in e-commerce is notably absent in many CACs, creating a void in their consumer protection frameworks. This underscores the pressing need to establish comprehensive e-commerce provisions in these countries in line with international standards.

#### **D. Least developed countries.....**

Arab least developed countries (LDCs) are underdeveloped and classified as "very weak" in the field of e-commerce and consumer protection.

Arab LDCs did not adopt any provisions addressing consumer protection in the online market and e-commerce. They also lack concrete government policies that specifically safeguard consumers, enforce their rights in online markets, and establish obligations for suppliers engaged in e-commerce. The absence of a sanction system further exacerbates the risk consumers face in online markets, especially within the expanding digital landscape, leaving them vulnerable to potential manipulation.

It is crucial to prioritize and address the specific challenges posed by e-commerce in these countries by introducing legislative measures aimed at protecting consumers. With the global growth of e-commerce, the absence of a strong legislative and policy framework in these countries could expose consumers to deceptive practices and manipulations in online markets.

## **4. Conclusion and policy recommendations**

The present background paper provides an overview of consumer protection in digital markets, with a specific focus on e-commerce. It highlights the benefits gained by consumers and the challenges they face in this evolving market. The regulatory landscape of e-commerce in the Arab region is also discussed. The paper recognizes the surging prominence of online markets, underscoring the need to establish a robust consumer protection framework. Despite the progress witnessed in some Arab countries in this regard, the region still lags in meeting international standards for consumer protection in digital markets, with many countries displaying gaps in regulatory frameworks and enforcement mechanisms, and leaving consumers susceptible to fraud and deceptive practices.

To address these challenges, ESCWA is actively involved in initiatives aimed at strengthening the consumer protection framework in the Arab region. This includes providing technical support and establishing platforms for the exchange of knowledge, such as the Arab Consumer Protection Forum. ESCWA is also in the process of launching the Arab Business Legislative Frameworks report. One of the series of this report aims to identify gaps in the Arab consumer protection regulatory framework and offers recommendations to policymakers to enhance consumer protection in the region.

In the light of the considerable challenges posed by the digital market and e-commerce to consumers, and in line with the United Nations Guidelines for Consumer Protection, it is imperative for Governments, especially consumer protection authorities and other relevant agencies, to undertake the following:

- Enact a legal framework that safeguards consumers' rights in e-commerce, and develop transparent and effective consumer protection policies, ensuring a level of protection that is not less than that afforded in other forms of commerce. Key challenges include insufficient information and education provided to online consumers, misleading advertising, unsafe products and payments systems, unauthorized collection and use of customers' personal data, and inadequate dispute resolution and redress mechanisms.<sup>5</sup>
- Review current legislation and implement new laws and regulations that can adeptly address the swiftly expanding digital markets, and ensure that consumers and businesses are informed and aware of their rights and obligations in the digital marketplace.
- Improve consumers' digital skills by implementing educational initiatives and awareness and information programmes. These efforts aim to equip consumers with the necessary knowledge and abilities to effectively navigate and benefit from the digital economy, with a specific focus on e-commerce.
- Ensure user-friendly, fair, effective, transparent and impartial mechanisms for consumers to solve their disputes with businesses, while minimizing additional burdens on society and businesses.
- Establish frameworks and agreements at the national, regional and international levels to collaboratively address consumer protection cases. This involves coordinating investigations and enforcement activities through mechanisms such as notifications and the sharing of information.

## Endnotes

- 1 United Nations Conference on Trade and Development (UNCTAD), [Building trust in digital markets through enhanced consumer protection on online platforms](#), 2023.
- 2 Organisation for Economic Cooperation and Development (OECD), [Recommendation of the Council on Consumer Protection in E-commerce](#), 2016.
- 3 UNCTAD, [Consumer protection in electronic commerce](#), 2017.
- 4 Economic and Social Commission for Western Asia (ESCWA), Arab Business Legislative Frameworks 2023 – Consumer protection series (forthcoming).
- 5 World Trade Organization and others, [Digital trade for development](#), 2023.

