

## Consumer Protection in Digital Age: A Comprehensive Study of Laws in Pakistan

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**Abstract:** This research explores emerging challenges and legal issues relevant to the e-commerce zone in Pakistan, including privacy concerns, digital fraud, deceptive marketing practices, and the regulation of online marketplaces. The study's initial phase is focused on empirical research on the significance, challenges, and chances of expansion of e-commerce. Secondly, this research deals with a comprehensive review of existing online consumer protection laws, regulations, and relevant judicial precedents in Pakistan. Special attention is given to laws governing e-commerce transactions, data protection, electronic payments, consumer rights, and dispute resolution mechanisms. Based on the findings, the study provides recommendations for strengthening the legislative and regulatory framework for online consumers in Pakistan. These recommendations include legislative amendments, regulatory enhancements, awareness campaigns, and capacity-building measures aimed at empowering consumers and promoting fair and transparent practices in the digital marketplace. To be Specific, this paper pursues the restructuring of consumer rights and digital trust in Pakistan, fostering a conducive environment for sustainable e-commerce growth and innovation.

### Keywords:

E-Commerce, Consumer Protection Laws, Online Consumer Protection, Importance of Consumer Protection, Consumer Courts, Legal Procedure of Filing a Complaint

### Introduction

The word "Consumer" is a generic term and so is of broad generalization (Kaduna, Nigeria, 2010). "Consumer" refers to an array of people, including all the end users of goods and services such as energy consumers, renters, hotel visitors, bank clients, and policyholders or insured parties, among others. "A person who buys goods or services for personal, family, or household use, without

intention of resale; a natural person who uses products for personal rather than business purposes." (Black's Law Dictionary) In the marketplace, the consumer reigns supreme. For the first time, in 1969, Austrian economist Ludwig von Mises proposed the concept of the consumer's sovereignty. According to the Author "*Let the consumer determine what the entrepreneurs should produce*".<sup>1</sup> Consumption serves as the driving force behind production because consumer's want for goods and services forms the foundation of the overall effective demand. The idea of consumer sovereignty seems mockery in a developing nation like Pakistan, where consumers are at the mercy of ruthless business owners and apathetic, dishonest government agencies that prey on ignorant consumers and lax law enforcement to further their own financial exploitation.<sup>2</sup>

In Pakistan, consumers in e-commerce are vulnerable to different types of fraud. This includes phishing scams, in which con artists pose as representatives of banks or reputable e-commerce companies and send phony emails or messages to fool consumers into divulging private information like credit card numbers and passwords. One prevalent fraudulent activity is the offering of fake goods, frequently at reduced costs but with direr quality. Furthermore, there exist fraudulent websites that mimic authentic e-commerce platforms in an attempt to deceive consumers into divulging confidential and financial data or completing transactions. There are several rules and regulations in Pakistan that set up the legal framework for combating e-commerce fraud. The Electronic Transactions Ordinance (ETO) of 2002, The Consumer Protection Act of 2019, The Federal Investigation Agency (FIA), The E-Commerce Consumer Court, The Copyright Ordinance 1962, and the Trademarks Ordinance 2001 establish a framework for the protection of e-commerce entrepreneurs' and consumers' rights. Nonetheless, it is still difficult to enforce these regulations. Pakistan is still in the early phases of e-commerce regulation, and there are a number of legal concerns pertaining to online transactions that require attention.<sup>3</sup>

### **Khyber Pakhtunkhwa Consumers Protection Act**

The Khyber Pakhtunkhwa Consumers Protection Act, 1997 defines a consumer under Section 2(c) as any individual or entity that purchases or hires goods and services for consideration, whether paid, promised or under a deferred payment system such as hire purchase or leasing. This definition extends to users and beneficiaries of such goods and services. However, it explicitly excludes individuals or businesses that acquire goods for resale or commercial purposes. This distinction ensures that consumer protection laws apply specifically to end-users, safeguarding their rights against unfair trade practices, defective goods, and substandard services. By establishing clear legal boundaries, the Act provides a robust framework for consumer rights and fair business practices in Khyber Pakhtunkhwa.

### **Consumers Can be Identify Using David Oughton's Criteria**

1. The consumer needs to be an individual.
2. The seller needs to operate in a business capacity.
3. The products or services must be meant for private use only business usage is permitted.

<sup>1</sup> Mises, M. v. *My Years with Ludwig von Mises*. New Rochelle, New York: Arlington House, 1976.

<sup>2</sup> "Dawn." "Status of Consumer Rights in Pakistan." *Dawn*, February 3, 2003.  
<https://www.dawn.com/news/80594/status-of-consumer-rights-in-pakistan>.

<sup>3</sup> Jabbar, A. "E-Commerce Laws and Their Challenges in Pakistan." *Pakistan Today*, February 5, 2023.  
<https://www.pakistantoday.com.pk/2023/02/05/e-commerce-laws-and-their-challenges-in-pakistan/>.

In summary, a consumer is any individual, whether natural or legal, who hires or purchases goods or services for their own consumption.<sup>4</sup>

## **E-Commerce**

As per the Organization for Economic Cooperation and Development (OECD), e-commerce does not have a universal definition.<sup>5</sup> The Oxford English Dictionary attempted to define e-commerce as “*e-commerce means commercial transactions conducted electronically on the Internet*”. E-commerce refers to the exchange of products, services, and information between buyers and sellers through electronic means i.e. online.<sup>6</sup>

The usage of the internet is growing steadily and swiftly, and because it is more widely available, more individuals may now readily use it.<sup>7</sup> According to a report published in 2023 about \$5.8 trillion in retail e-commerce transactions were made. Over the next several years, it is expected that this figure may expand by 39%, and by 2027, it is predicted to reach eight trillion dollars.<sup>8</sup> As a result of the internet's explosive growth and its impact on individuals living in the digital era, online shopping is currently becoming the most popular and convenient method of purchasing (Massad & Berardelli, 2016). When compared to traditional markets, online marketplaces provide consumers the convenience of making purchases from the comfort of their own homes<sup>9</sup>. Customers may purchase on the internet market from the comfort of their PC or tablet, compare prices more easily, and take advantage of the discounts that the online marketplace offers to its customers.<sup>10</sup>

As per the United Nations Conference on Trade and Development's (UNCTAD) Business to Consumer (B2C) E-Commerce Index, China ranks first among Asian countries, with Korea following closely after. It is apparent that Pakistan is among the least-rated Asian nations, especially when it comes to South Asian nations. The United Nations introduced a set of global consumer law principles for the first time in 1985 when it formed the United Nations Guidelines for Consumer Protection (UNGCP), which marked a critical turning point in the growth of consumer law. Since then, the environment has undergone significant changes with the advent of the digital era, and consumers are now confronting an increasing number of worldwide concerns, particularly in the financial services industry. The 1999 revision of the Guidelines incorporated additional measures to reflect this shifting terrain. The Guidelines were updated once more in 2015

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<sup>4</sup> Khan, A. S. "Understanding and Analysis of Consumer Protection Laws in Pakistan." *Journal of Applied Environmental and Biological Sciences* 4, no. 12 (2014): 92–98. ISSN: 2090-4274.

<sup>5</sup> OECD. *Report on Electronic Commerce: Opportunities and Challenges for Government*. Organization for Economic Cooperation and Development (OECD), 1997.

<sup>6</sup> Bashir, A., and . "Consumer Rights in E-Commerce and Digital Marketing: A Perspective from Pakistan." *International Journal of Advanced Computer Science and Applications* (2020): 471–477.

<sup>7</sup> Desai, M. S., T. C. Richards, and K. J. Desai. "E-Commerce Policies and Customer Privacy." *Information Management & Computer Security* 11, no. 1 (2003): 19–27. <https://doi.org/10.1108/09685220310463696>.

<sup>8</sup> Chevalier, S. "Retail E-Commerce Sales Worldwide from 2014 to 2027." *Statista*, February 6, 2024. <https://www.statista.com/statistics/379046/worldwide-retail-e-commerce-sales/>.

<sup>9</sup> Huseynov, F., and . "Internet Users' Attitude Toward Business-to-Consumer Online Shopping: A Survey." *Information Development* 32, no. 3 (2016): 452–465. <http://dx.doi.org/10.1177/0266666914554811>.

<sup>10</sup> Jadhav, V., and . "Factors Influencing Online Buying Behavior of College Students: A Qualitative Analysis." *The Qualitative Report* 21, no. 1 (2016): 1–15. <http://dx.doi.org/10.46743/2160-3715/2016.2445>.

to take into account significant shifts in the digital age and the state of the global economy. This revision contained suggestions for e-commerce, financial protection, and good business practices.  
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### **E-Commerce in Pakistan; its Advantages and Emerging Issues**

E-commerce refers to the online exchange of products, services, and information between buyers and sellers. With each passing year, the online market has expanded as a venue for business-to-business and business-to-consumer agreements. Numerous studies have been conducted that demonstrate how e-commerce has transformed the way businesses operate and grown to be the primary driver of economic growth in many nations. <sup>12</sup>Since e-commerce does not involve in-person interactions between sellers and buyers as traditional commerce does, it raises a number of issues related to technology, privacy, security, and trust as well as legal and technological concerns. Concerns about product safety are raised by the growth of the worldwide market and globalized supply chains, necessitating the need for different laws and standards.)<sup>13</sup>.

### **Emergence of E-commerce in Pakistan**

Pakistan started operating e-commerce transactions in 2001. Although, in Pakistan e-commerce is still in its nascent stages, but it is expanding quickly. According to a State Bank of Pakistan study, there were 1,516 registered online retailers in 2019 compared to 571 in 2015. In a similar vein, there were 29.7 million e-commerce transactions in 2019 compared to 3.4 million in 2015.<sup>14 15</sup>

The following are some factors contributing to Pakistan's e-commerce growth:

First off, individuals can now purchase online more easily because to the growing popularity of smartphones and the internet. According to a survey by We Are Social, Pakistan has 97 million internet users, or 38.7% of the country's total population. Similarly, a GSMA estimate projects that the nation's mobile phone user base would increase from 113.6 million in 2020 to 161 million by 2025. <sup>16</sup>

Secondly, the Covid-19 epidemic has sped up the expansion of e-commerce because more individuals are choosing to purchase online rather than in person. The first wave of the epidemic

<sup>11</sup> United Nations. *UNCTAD B2C E-Commerce Index 2019*. United Nations Conference on Trade and Development (UNCTAD), 2019. [https://unctad.org/system/files/official-document/tn\\_unctad\\_ict4d14\\_en.pdf](https://unctad.org/system/files/official-document/tn_unctad_ict4d14_en.pdf).

<sup>12</sup> Cheema, A. R. "Impact of E-Commerce on Consumer Protection in Pakistan: A Comparative Analysis." *International Journal of Research in Commerce and Management* 5, no. 4 (2014): 43-46.

<sup>13</sup> Chaudhry, T. R. "E-Commerce, Consumer Protection Laws, and the Judiciary in Pakistan." *Journal of Internet Commerce* 17, no. 1 (2018): 1-21.

<sup>14</sup> Chevalier, S. "Retail E-Commerce Sales Worldwide from 2014 to 2027." *Statista*, February 6, 2024. <https://www.statista.com/statistics/379046/worldwide-retail-e-commerce-sales/>.

<sup>15</sup> Desai, M. S., T. C. Richards, and K. J. Desai. "E-Commerce Policies and Customer Privacy." *Information Management & Computer Security* 11, no. 1 (2003): 19–27. <https://doi.org/10.1108/09685220310463696>.

<sup>16</sup> Huseynov, F., and . "Internet Users' Attitude Toward Business-to-Consumer Online Shopping: A Survey." *Information Development* 32, no. 3 (2016): 452–465. <http://dx.doi.org/10.1177/0266666914554811>.

saw a 35% spike in e-commerce purchases, according to the Pakistan Telecommunication Authority.<sup>17</sup>

Thirdly, efforts have been made by the Pakistani government to encourage online shopping. The goal of the government's 2019 E-commerce Policy Framework is to foster an atmosphere that will facilitate the expansion of e-commerce.<sup>18</sup>

The E-commerce market in Pakistan is expected to generate US\$5,076.00 million in sales by 2024. A projected market volume of US\$6,759.00 million by 2029 is predicted based on revenue growth at a compound annual growth rate (CAGR) of 5.89% from 2024 to 2029. By 2029, it is anticipated that there will be 14.0 million users in the e-commerce sector. The average revenue per user (ARPU) is projected to amount to US\$734.50.<sup>19</sup> Online enterprises have become increasingly prominent in the Pakistani market due to the growth of e-commerce. Since the playing field has been leveled, small and medium-sized businesses (SMEs) are expected to compete with brick-and-mortar stores. This has given consumers more options and given entrepreneurs additional business prospects.<sup>20</sup>

### **Benefits of E-commerce**

Over the past few decades, e-commerce has expanded dramatically, offering consumers more convenience and options. E-commerce presents enormous prospects to both industrialized and developing nations. These mainly consist of opening up access to far-off markets, quick trade in goods and services, safe payment methods, encouraging creativity, and generating jobs. It could give the less developed world the chance to catch up to the industrialized world during the industrial revolution and go a long way toward socioeconomic and technological advancement.<sup>21</sup>

E-commerce has the potential to significantly increase enterprise competitiveness, improve livelihoods, and increase a country's part of global trade in developing nations like Pakistan. Implementing policies that improve local capability both quantitatively and qualitatively is crucial for growing the region's share of global trade and closing the digital divide between developed and developing nations. Simultaneously, consumers encounter a multitude of obstacles with deceptive advertising, online payment security, unjust conditions, data security, and dispute resolution.

Consumers choose to purchase online rather than in traditional markets due to the many advantages of this platform. Among the advantages of the Internet market are convenience, better pricing, and comparison purchasing. When it comes to comparison shopping, consumers can compare models, pricing, and alternatives through the online market more quickly and readily

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<sup>17</sup> Jadhav, V., and . "Factors Influencing Online Buying Behavior of College Students: A Qualitative Analysis." *The Qualitative Report* 21, no. 1 (2016): 1–15. <http://dx.doi.org/10.46743/2160-3715/2016.2445>.

<sup>18</sup> Hayat, A. "Importance of E-Commerce for Pakistan's Growth." *The Express Tribune*, March 6, 2023. <https://tribune.com.pk/story/2404587/importance-of-e-commerce-for-pakistans-growth>.

<sup>19</sup> StatistaMarketInsights. "eCommerce - Pakistan." *Statista*, April 2024. <https://www.statista.com/outlook/emo/ecommerce/pakistan>.

<sup>20</sup> *Pakistanlawyer*. "Online Business and Role of Consumer Courts in Pakistan." *Pakistan Lawyer*, March 26, 2024. <https://pakistanlawyer.com/articles/story/online-business-and-role-of-consumer-courts-in-pakistan>.

<sup>21</sup> OECD. *Report on Electronic Commerce: Opportunities and Challenges for Government*. Organization for Economic Cooperation and Development (OECD), 1997.



instead in physical stores. <sup>22</sup>Thus, a lot of online marketplaces provide rebates and discount coupons that reduce prices, which makes consumers more interested in shopping online.<sup>23</sup> Contrary to traditional markets, online marketplaces provide customers with greater convenience by being accessible around-the-clock from their computers or smartphones for a whole week. The consumer has unrestricted access to conduct transactions from anywhere in the world. Customers are no longer limited to the models, goods, and choices offered by nearby retailers. <sup>24</sup>

### Emerging Issues and Trends

E-commerce offers many advantages, but it also poses a number of risks that call for appropriate consumer protection measures. As online business is becoming more and more competitive, with websites marketing their goods and drawing customers in one way or another by showcasing high-quality products and selling subpar or low-quality products, and by providing incorrect information about the product, payment options, delivery schedules, and company, among other things. Consumer International (CI), a global umbrella organization for consumer protection, states that many people do not trust internet purchasing, even though it offers numerous advantages and conveniences. The reason for not shopping online, according to half of those with internet access, is a lack of trust. The unanticipated and unnecessary expenses, illicit and fraudulent schemes, or unfair, ambiguous, and perplexing business practices can all erode trust in these platforms. <sup>25</sup>

Following are the challenges that a consumer may face in online shopping;

### Fraudulent Activity

In comparison to in-person transactions, consumers are more vulnerable to fraud when they are unable to check the goods before making a purchase. The primary threat is the possibility of fraudulent activity. As online transactions have increased, cases of fake goods, deceptive advertising, and even non-delivery of goods have increased. Furthermore, the dearth of a tracking system for customers ordering products online causes the vendor to deliver the goods at his discretion. Victims of these practices may experience financial losses and disappointment. However, by employing a warehouse rather than a retail location, customers are less vulnerable to physical theft. <sup>26</sup>

<sup>22</sup> Gupta, A., and B. R. "Online Shopping: A Shining Future." *International Journal of Techno-Management Research* 10 (2013).

<sup>23</sup> Atchariyachanvanich, K., Sonehara, N., & Okada, H. (2008). What are the Benefits of Continued Purchasing through the Internet? A Study of South Korean Consumers. *Journal of Service Science and Management*, 01(01), 101–110. <https://doi.org/10.4236/jssm.2008.11010>

<sup>24</sup> Khan, G. A. "Electronic Commerce: A Study on Benefits and Challenges in an Emerging Economy." *Global Journal of Management and Business Research: Economics and Commerce* (2016): 19–22. <https://journalofbusiness.org/index.php/GJMBR/article/view/1901>.

<sup>25</sup> *Pakistanlawyer*. "Online Business and Role of Consumer Courts in Pakistan." *Pakistan Lawyer*, March 26, 2024. <https://pakistanlawyer.com/articles/story/online-business-and-role-of-consumer-courts-in-pakistan>.

<sup>26</sup> Marques, C. L., and D. Wei. "Consumer Law and Socioeconomic Development." In *Springer eBooks*. <https://doi.org/10.1007/978-3-319-55624-6>.

### Delay in Delivery

The primary drawback of Internet purchasing is that products are not delivered to customers right away. He needs to wait for the product to arrive. There are situations where having something promptly is preferable to waiting many days for it. Shipment delays are the result of improper inventory management. While the process of choosing, purchasing, and making payment for an online purchase might not take more than fifteen minutes, the product's delivery to the customer's door takes four to seven days. This frustrates the buyer and refrains him from making online purchases.

### Challenges in Payment

Customers may also encounter challenges when it comes to paying for the goods they have ordered as some merchants keep the option of advance payment, while some do not. Additionally, there is no system in place to verify the amount that customers have paid both in advance and after the goods are delivered, regardless of the method of payment. Customers find it difficult to distinguish between phony and legitimate websites while trying to buy products since many websites whether registered or unregistered used to sell the same-natured goods having the same price. Certain websites do not offer a complaint section or a feedback option, even in cases when the customer experiences any loss during the transaction.<sup>27</sup>

### Lack of Full Cost Disclosure

Another potential issue might be the incomplete cost disclosure. Shipping and other additional costs are frequently hidden until the very end of the checkout procedure. This is particularly problematic for cross-border transactions, as the price shown at the last checkout page could not include delivery-related costs like brokerage and customs.<sup>28</sup>

### Privacy of Consumer Identity

Some customers have significant concerns about the privacy of their personal information. Giving contact information to an online retailer may result in spam and telemarketing, which is something that many customers would want to avoid. Many retailers have responded by promising not to use customer information for these kinds of objectives; websites also monitor users' browsing patterns to propose products and online sites to check regularly. The physical retailers are also engaged in gathering data on consumers. Usually, retailers ask for personal details like the address and contact of the customers at the time of purchase. Larger retailers frequently use the address information that is encoded on credit cards, sometimes without the customer's knowledge.<sup>29</sup>

### Mechanism for Consumer Protection in the Digital Age in Pakistan

In Pakistan, five major consumer laws are operational such as the 1995, Islamabad Consumer

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<sup>27</sup> Kausar, S., Ali Raza Laghari, and Erum Iftikhar. "Critical Analysis of the Online Business and Consumer Protection Laws in Sindh, Pakistan." *Multicultural Education* (2024).

<sup>28</sup> Chaudhry, T. R. "E-Commerce, Consumer Protection Laws, and the Judiciary in Pakistan." *Journal of Internet Commerce* 17, no. 1 (2018): 1-21.

<sup>29</sup> Waller, W. S. "Consumer Protection in the United States: An Overview." *European Journal of Consumer Law* (2011): 120-135.

Protection Act, the Khyber Pakhtunkhwa Consumer Protection Act of 1997, the Balochistan Consumer Protection Act of 2003, the Punjab Consumer Protection Act of 2005, and the Sindh Consumer Protection Act of 2014. In addition, Consumer Protection Councils (CPCs) and Consumer Courts have also been established under the provision of these laws to safeguard the basic rights of consumers. On the one hand scope of the Consumer Protection Council at the district level varies in the province of Punjab on the other hand Islamabad and other provinces are still uninformed. The purpose of consumer protection committees is to provide policy recommendations to the government. In Khyber-Pakhtunkhwa, consumer courts are operational just in their districts, although being notified in ten of them.<sup>30</sup>

Baluchistan does not currently have a consumer court, and complaints from consumers are handled by the Sessions Court in Islamabad rather than a dedicated consumer court. Almost the Punjab government has taken the lead in maintaining consumer rights through the enactment and implementation of the Punjab Consumer Protection Act. In contrast a dynamic institutional framework enhanced by District Consumer Protection Councils and Consumer Courts is available to provide the public with prompt and efficient justice by addressing their complaints about subpar goods and services to other provinces in the nation. In this context, the current administration plans to open six additional consumer courts around the province. Because the process is no longer quick and easy, consumer courts are starting to resemble legal courts. It takes more time and effort than intended for the consumer redressal system to operate.<sup>31</sup>

### **Pakistan Electronic Crimes Act, 2016**

The Prevention of Electronic Crimes Act (PECA) mandates that companies put security measures in place to safeguard confidential data and thwart unauthorized access. Unauthorized data copying or transmission is covered in Section 4 of PECA. It provides that anybody found guilty of copying, transmitting, or causing to be transferred any data with malice and without authorization faces up to six months in prison, a fine of up to one hundred thousand rupees, or both. Section 14 addresses electronic fraud, it says, anyone who intentionally tampers with or uses any information system, device, or data for wrongful gain, or who coerces someone into starting a relationship or deceives someone else, keeping intent to cause harm or damage to that person or any other person, faces up to two years in prison, a fine of up to ten million rupees, or both.

Furthermore, Section 16 of the relevant law addresses the unauthorized use of identity information, imposing strict penalties to prevent identity theft and misuse. According to this provision, any individual who acquires, sells, holds, transmits, or uses another person's identifying information without their consent may face up to three years of imprisonment, a fine of up to five million rupees, or both. Furthermore, individuals whose identity information has been unlawfully acquired, sold, possessed, or transmitted have the right to seek intervention from the Authority to ensure the security of their data This may include measures such as preventing access, destruction, or further transmission of their identity information. The provision plays a critical role in safeguarding personal data, deterring cybercrimes, and ensuring that individuals have legal recourse in cases of identity misuse. Upon receipt of such an application, the Authority may take

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<sup>30</sup> Ahmed, A. "Consumer Protection in the Digital Marketplace." *Dawn*, October 24, 2016. <https://www.dawn.com/news/1291799>.

<sup>31</sup> Ahmed, N. "Consumer Protection Laws and Application: A Case Study of Pakistan." *Journal of Research Society of Pakistan* 57, no. 2 (2020). [https://pu.edu.pk/images/journal/history/PDF-FILES/10\\_57\\_3\\_20.pdf](https://pu.edu.pk/images/journal/history/PDF-FILES/10_57_3_20.pdf).



any appropriate action for securing, destroying, or impairing the transmission of such identity information (PECA, 2016)

### **Consumer Courts**

The "Authority," or the court of sessions, is designated under section 6 of the Islamabad Consumer Protection Act (ICPA) 1995, as the body with the authority to hear and resolve consumer complaints. However, a special magistrate has vested the power to deal in accordance with section 8A of the said Act to deal with to hear and address complaints under sec 8A. In cases where there is a concern about hoarding, black marketing, contaminated and damaged food items, charging higher prices for goods and services, or collecting greater profit, section 8A. The high court may consider an appeal under section 10 against the "Authority's" order, whereas the "Authority" shall hear an appeal under section 8A against the special magistrate's order (ICPA, 1995).

### **Establishment of Consumer Courts Under the BCP Act, 2003**

Under Section 12 of the BCP Act, 2003, the government is mandated to establish consumer courts and appoint designated judges to oversee consumer-related disputes. Alternatively, it may authorize judicial magistrates to exercise the jurisdiction of consumer courts. These tribunals are essential for upholding fair trade standards, protecting consumer rights, and giving irate customers prompt access to the judicial system. Depending on the situation, a party may appeal to the High Court or the Court of Sessions if they are unhappy with a consumer court's ruling. By guaranteeing an easily accessible and efficient court process for addressing consumer complaints, this legal structure improves consumer protection (BCPA, 2003).

### **Establishment and Jurisdiction of Consumer Courts Under the KCP Act, 1997**

The government has the power to choose District and Session Judges or Additional District and Session Judges to sit over consumer courts in accordance with Section 11A of the Khyber Pakhtunkhwa Consumer Protection (KCP) Act, 1997. In order to guarantee the prompt settlement of consumer complaints, the government also has the authority to set up consumer tribunals in every district of the province. Section 17 of the Act establishes an appellate procedure that enables parties to appeal consumer court rulings to the High Court in order to preserve the values of justice. By guaranteeing a specialized judicial forum for resolving consumer complaints and preserving a path for legal appeal through higher courts, this structure improves consumer protection (KCPA, 1997).

According to Section 26 of the PCP Act of 2005, the province government will create consumer courts, designate district and session judges, or substitute them with other judges, and under Section 33, the high court may hear an appeal of the consumer court's decision (PCPA, 2005). Having established consumer courts and councils in eleven districts of the province, which are overseen by the Lahore High Court and the provincial consumer protection council, respectively, the Punjabi government has thus far done noticeably more.

The Sindh government will establish consumer courts in each district in accordance with section 27 of the SCP Act 2014, and each consumer court will have a judicial magistrate designated as its presiding officer. The person who was wronged may seek an appeal in the high court under section 34, which allows them to challenge the consumer court's ruling (SCPA, 2014).

## Responsibility on the part of Consumer Courts towards Online Consumers

The Government of Pakistan has granted the power to consumer courts to hear complaints and defend consumers' rights. These courts have been authorized to handle cases pertaining to online commercial transactions and guarantee equitable treatment for customers. A prompt and economical settlement of conflicts between customers and companies is the main goal of consumer courts. By serving as an impartial third party, consumer courts guarantee that firms and consumers alike have an equal chance to make their case. The judges can make well-informed decisions based on the information offered since they possess a thorough understanding of consumer laws and regulations. Their rulings are legally binding, and companies must abide by the court's decisions. Consumer courts play a function that goes beyond simply settling conflicts. They are also essential in educating the public about their rights and bringing attention to consumer rights. By doing this, consumer courts enable customers to hold businesses responsible for their actions and make educated decisions.<sup>32</sup>

### How to File a Case in Consumer Court?

There are two steps involved in filing a complaint with the consumer court. You must take the following actions if you want to use a consumer court to pursue justice.

#### Step 1: 15-day legal notice to the service provider

Give the supplier of a faulty good or service a 15-day legal notice that specifies the supplier must make good on the damage and pay damages within 15 days of receiving the legal notice. The customer may proceed to file a claim with the Consumer Court if the provider refuses to comply.

#### Step 2: Consumer Complaint

Within the next fifteen days, the consumer may, if the legal notice fails to address the matter, file a plain-paper lawsuit or claim with the Consumer Court. However, the complaint must be filed within 30 days of the cause of action being apparent; manufacturers, retailers, or service providers must get the legal notice served on them via registered mail or post with an acknowledgment. Customers can file a complaint on plain paper; there's no need to retain legal counsel. There is no fee associated with submitting a claim to the Consumer Court.<sup>33</sup>

### Procedure after Filing a Complaint

The procedure for handling consumer complaints varies under different consumer protection laws in Pakistan. Section 8 of the Islamabad Consumer Protection (ICP) Act, 1995, stipulates that the authority must reply to the respondent within seven days of receiving a complaint. The authority may decide to issue any necessary order to effectively settle the dispute after hearing from both sides. Similar to this, the responder has thirty days from the date of receipt of the complaint to submit a response under Section 15 of the Baluchistan Consumer Protection (BCP) Act, 2003. This legal framework guarantees a methodical yet prompt settlement of consumer complaints,

<sup>32</sup> *Pakistanlawyer*. "Online Business and Role of Consumer Courts in Pakistan." *Pakistan Lawyer*, March 26, 2024. <https://pakistanlawyer.com/articles/story/online-business-and-role-of-consumer-courts-in-pakistan>.

<sup>33</sup> Ashraf, T. "Consumer Courts in Pakistan." *OLX*, August 28, 2023. <https://blog.olx.com.pk/classified/consumer-courts-in-pakistan-your-most-frequently-asked-questions-answered/>.

giving the complainant and respondent a chance to argue their positions before a ruling is rendered. If a laboratory test is necessary in this case to assess the product's quality, the court will get the test result to find any flaws. The court will give the lab results a thirty-day timeframe, with the possibility of an extension. The expense of this test will be covered by the complainant. The respondent will compensate her for this expense if the complaint is successful in court. If there are any issues with the test report, the parties must submit written objections. Before making any decisions, the court will listen to both sides. The respondent shall have thirty days from the date of the complainant's complaint to file his reply, with the possibility of an additional fifteen days. This procedure is not mandatory in cases where the complaint concerns services. The complainant's evidence will be used by the court to make its decision if the respondent does not reply (BCPA, 2003).

### **Timeframe for Respondent's Reply Under Consumer Protection Laws**

The complaint will be handled using the aforesaid procedure in accordance with section 14 of the KCP Act 1997.

### **Penalties for Violating Consumer Rights**

Pakistan's consumer protection laws ensure accountability and discourage unfair practices by enforcing severe penalties for infringement of consumer rights. Consumer rights violations are But according to the statute, the lab has two months to complete the process. After receiving a complaint from the complainant, the court must give the respondent fifteen days to make a reply, as stipulated by Section 30 of the Punjab Consumer Protection (PCP) Act, 2005, and Section 31 of the Sindh Consumer Protection (SCP) Act, 2014. This clause preserves an effective dispute resolution procedure while guaranteeing responders a fair chance to raise their defense. These consumer protection rules seek to protect consumer rights through prompt adjudication and avoid needless delays in judicial proceedings by establishing a specified timetable. You can extend this time by another fifteen days. The remaining phases adhere to the same procedure as described in the regulations of Baluchistan and Khyber Pakhtunkhwa. Punishable by up to two years in prison, a fine of up to Rs. 40,000, or both under Section 9 of the Islamabad Consumer Protection (ICP) Act, 1995. Under this Act, deceptive advertising is punishable by up to Rs. 30,000, two years in jail, or both. Similarly, Section 16 of the Khyber Pakhtunkhwa Consumer Protection (KCP) Act, 1997 prescribes a minimum seven-day rigorous imprisonment, a fine ranging from Rs.10,000 to Rs.500,000, or both for consumer rights violations. Spreading false information can lead to a fine of up to Rs.200,000 (not less than Rs. 10,000) a seven-day hard jail sentence, or both. (KCPA, 1997).

Under Section 17 of the Balochistan Consumer Protection (BCP) Act, 2003, violating consumer rights may result in a maximum two-year prison sentence, a fine of up to Rs. 50,000, or both. False advertising carries a fine of up to Rs. 25,000 or imprisonment for up to two years, or both Furthermore, Section 32 of the Punjab Consumer Protection (PCP) Act, 2005, and Section 33 of the Sindh Consumer Protection (SCP) Act, 2014, impose a maximum penalty of two years of imprisonment, a penalty of up to Rs. 100,000, or both, for violations of consumer rights. A comprehensive legislative framework designed to shield consumers from deception, false information, and unfair business activities is reflected in these strict safeguards implemented in several provinces (SCPA, 2014).

## **Consumer Protection Council**

The creation of provincial consumer protection committees, whose job it is to develop plans to safeguard consumers from unfair trade practices, is stipulated in every state consumer protection statute. Section 3 of the ICP Act of 1995 grants the federal government the power to establish the Consumer Protection Council of Islamabad. The Islamabad Consumers Association (ICA) was established by the Consumer Protection Council of Islamabad in accordance with Rule 4 of the Islamabad Capital Territory (Consumer Protection) Rules 2011 in order to protect consumer rights and advance fair trade practices. Following its formation and in compliance with Rule 7, the ICA will work with the Islamabad Consumer Protection Council to create Area Consumers Associations (ACA). At the municipal and local levels, these associations will be essential in resolving consumer complaints, increasing awareness, and guaranteeing the efficient application of consumer protection legislation. This methodical strategy improves consumer advocacy and fortifies the protection of consumer rights throughout Islamabad (ICPA, 1995).

Section 8 of the BCP Act 2003 requires the government to create district and provincial consumer protection committees (BCPA, 2003). The government will establish a provincial consumer protection council in accordance with section 8 of the KCP Act 1997 (KCPA, 1997). The PCP Act of 2005's section 24 grants the government the authority to create a consumer protection council within the province. (PCPA, 2005). The government of the province is required to establish a consumer protection council in accordance with section 25 of the SCP Act 2014. Additionally, the government is able to create consumer protection councils in each of the province's districts (SCPA, 2014).

## **The Khyber Pakhtunkhwa Consumer Protection Rules, 2021**

According to Section 2(d) of the Act, a "complaint" is defined as a written, verbal, or electronic complaint that is submitted to the Court, the Director, or an authorized officer in accordance with the Act.

## **E-Commerce**

Rule 43 of KCPR 2021 pertains to e-commerce and states that; All online enterprises operating through an official vendor website or an online marketplace are subject to the terms of this rule. It further provides that screenshots of the data shown concerning a transaction are sufficient to qualify as a transaction for the purposes of these regulations. Every seller using an online platform is required to provide pertinent information about their goods and services. For the convenience of the customers, the exchange or buyback policy must be posted on the website of the active mobile phone numbers. All companies and vendors must abide by Pakistan's 2017 e-commerce policy (KCPR 2021)

## **Procedure Provided under KCPR, 2021**

Section 3 provides that any aggrieved Consumer or His representative may bring a complaint before the Director, the Consumer Court, or any designated official. The Director or an authorized officer will then carry out an investigation to identify any flaws, deficiencies, or unfair business practices. According to Section 8 of the act, the Director or an authorized officer must investigate any deficiencies in the goods to determine whether the manufacturer's choice of materials is harmful to the consumers' lives and health, whether the product meets safety, hygienic, and cleanliness regulations, how well-made the product is, and whether the seller has engaged in any

other fraudulent activity. In the event that a product has a flaw or defect, or if a trader, manufacturer, or supplier of goods or services engages in unfair trade practices, or if the standard, price, quality, quantity, weight, measures, and purity of any food items, or any other item of use, is unfit or financially or health-harming for the consumer, or if it contravenes or violates any other law.

The director has the authority to lock down the location, seize and hold any commodities or products that are being sold or caused to be sold, and confiscate the license. In order to reopen the premises, the manufacturer, trader, or provider of products or services must pay the fine set by the Director or an authorized Officer. Moreover, films and photos that were used as evidence were approved by Section 12 of the Act. Following an investigation, the Director or an authorized official shall issue a written order to this effect. It must be properly signed and dated, and it will be known as the "Consumer Protection Order." Nonetheless, if someone feels wronged by a Director's ruling, they have the opportunity to challenge it in court under Section 14 within the allotted time.

### **Draft OF 2023 “The Personal Data Protection Bill”**

“Personal Data Protection Bill of 2023” is designed to control the gathering, handling, utilizing, revealing, and transferring of personal data. It also offers a framework for data protection, including penalties for violating the right of an individual to data privacy. The Pakistani government is presently debating the "Personal Data Protection Bill (PDPB)," which, if passed, would place more restrictions on companies with regard to data privacy and protection.

### **Requirements for Data Retention.**

(1) No personal information processed for any reason may be retained for longer than is necessary to achieve that objective or as long as is mandated by law.

(2) When personal data is no longer needed for the purposes for which it was intended to be processed or as required by subsection, a data controller must take all the steps to destroy or permanently delete the data, as it is his sole responsibility.

### **Formation of the Commission.**

Provisions for the formation of National Commission for Personal Data Protection (NCPDP) of Pakistan within Six months by Federal government after commencement of Act has been provided.

### **The Role and Responsibilities of the Commission**

Enforcing personal data protection, stopping illegal activity, and increasing public knowledge of data security are all vital tasks for the Commission in order to preserve the rights of data subjects. It also resolves complaints brought under this Act and makes sure that its terms are followed.

### **Handling Complaints and Legal Compliance**

The Commission is in charge of receiving and handling complaints about Act violations, especially those involving the improper use of personal information. It also reviews existing statutes, regulations, and policies on data protection and may propose amendments to align them with the Act's provisions.



### **Raising Public Awareness and Ensuring Compliance**

A key function of the Commission is to proactively increase public awareness about data protection rights. It also encourages, assists, and trains data controllers and processors to comply with data protection regulations. Moreover, the Commission ensures that its decisions follow well-established principles to promote transparency and accountability.

### **Monitoring and Enforcement**

The Commission actively monitors the implementation of the Act, ensuring that businesses and technological developments adhere to its provisions. It takes timely and appropriate action in response to data security breaches and oversees international data transfers to maintain compliance.

### **Promoting Innovation and Policy Recommendations**

In addition to monitoring business practices, the Commission advocates for policies and conducts research to drive innovation in personal data protection. It provides guidance to the Federal Government and other statutory authorities on implementing uniform data protection measures. Furthermore, the Commission is authorized to seek professional expertise from both private and public entities to effectively fulfill its responsibilities under the Act.

### **Penalties for Unauthorized Processing of Personal Data**

Unauthorized processing, distribution, or disclosure of personal data is a serious violation under this Act. Any individual or entity found guilty of such an offense may face a fine of up to \$125,000 (or its equivalent in Pakistani Rupees). In cases where the same personal data is unlawfully processed again, the penalty may be increased to \$250,000 (or its equivalent in Pakistani Rupees). These strict penalties serve as a deterrent against data breaches and emphasize the importance of compliance with data protection laws.

### **“Case Laws”**

#### **“Indus Motor Company Ltd. & another Vs Malik Ishfaq Ahmad & others (2014)”**

##### **Facts**

Malik Ishfaq Ahmad (contesting respondent), who is Consumer1, bought a new Toyota Corolla XLI2 on January 15, 2010, from Indus Motor Company Limited, etc. (appellants), via its authorized dealer, New Multan Motors (respondent No.2). However, he lost it on February 1, 2010, just 17 days later, when it caught fire and burned to the ground because of a fuse box defect. Therefore, on March 29, 2014, the learned Consumer Court Dera Ghazi Khan camp at Muzaffargarh (Consumer court) issued an order declaring the product defective in response to a claim made by contesting respondent against appellants and respondent No. 2 under Section 25 of the Punjab Consumer Protection Act, (II of 2005) Act.

##### **Held**

The Lahore High Court overturned the Consumer Court's judgment, which called for the replacement of the car with a brand-new 2008 model, and mandated that the buyer return the vehicle to the manufacturer, who would then promptly reimburse the buyer for the entire purchase.

price. Since there is insufficient evidence to support interfering with a properly argued challenged order, the appeal is denied.<sup>34</sup>

### **Recommendations**

After a thorough examination, it was discovered that the e-commerce sector in Pakistan has numerous difficulties in addition to its advantages. The biggest problems include money fraud, poor product quality, missing or delayed deliveries, identity theft risk, and other forms of cybercrime. Cyberattacks can compromise e-commerce sites, resulting in client distrust and data breaches. Concerns regarding the security of personal and financial data are increasing as more and more sensitive data is being transferred online. Because online sales have increased demand for delivery services, e-commerce has also put pressure on infrastructure and delivery systems. Delays and other issues could result from this, which would be detrimental to the customer experience. E-commerce may also suffer from the absence of face-to-face product engagement, especially in terms of customer happiness. Consumers may have trouble evaluating the products' quality and have issues with returns and reimbursements. This may result in unsatisfactory client experiences, which could damage e-commerce businesses' reputations and deter future business. The following suggestions are made in light of this thesis's findings and conclusions:

### **Legislative Reforms**

The Pakistani government should consider enacting or amending legislation specifically addressing electronic contracts and e-commerce transactions, providing legal clarity, and establishing a robust legal framework for their formation, performance, and enforcement. Legislation pertaining to consumers has to be modified on a regular basis to address emerging market realities. The provincial governments must act promptly to ensure that consumer laws keep up with the evolving real and virtual dynamics and the ever-changing challenges that consumers face as their economies grow and become more globalized, even after they have fulfilled the long-overdue statutory requirements. For instance, since internet-related services have grown in popularity, users now have to deal with new threats including online fraud, data breaches, and other security issues.

### **Data Protection and Privacy**

Enhancing data protection and privacy laws is crucial for building trust and confidence in e-commerce. It is recommended that the government strengthen the existing laws and pass new legislation. For this purpose the legislation "Personal Data Protection Bill, 2023 " must be passed as quickly as possible. An additional section on financial services ought to be added in order to encourage legislative action and enforcement. This includes a broad range of financial services themes, including disclosure, fair treatment, data protection, supervisory bodies, and instructional programs. In order to prevent fraud and abuse and to increase customer confidence in the digital economy, providers of financial services must guarantee that consumers have sufficient data protection. To safeguard internet users and hold businesses responsible for their carelessness, data protection legislation must be put into place.

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<sup>34</sup> *Indus Motor Company Ltd. & Another v. Malik Ishfaq Ahmad & Another*, First Appeal Against Order No. 128 of 2014 (Lahore High Court, February 24, 2022).

### **Awareness and Education**

The sellers are required to provide clear and significant disclosures of the conditions of the sale, including the total price that the buyer would pay (including any applicable taxes, hidden fees, and other costs). Consumers must also be made aware of the procedures they can follow to receive a complete refund and any possible issues that might occur when they make payments online. Sellers are accountable for safeguarding user privacy by installing a firewall to protect consumers' payment, location, and personal information. In the event that the goods come damaged, different from what was ordered, malfunction, or arrive later than anticipated, customers must have quick remedies, including refunds.

### **Consumer Protection Organizations**

The government should set up financial monitoring organizations and consumer protection laws. They should support disclosure and education to increase financial literacy. In particular, using written policies more frequently is suggested in order to reveal and help uncover any possible conflicts of interest with the service provider. The emphasis on treating customers fairly and on ethical business practices has become more important now that the financial crisis has passed. When taken as a whole, these have come to dominate discussions surrounding new regional reforms, which are backed by the financial inclusion principle. Consumer protection councils must be established in every province in order to effectively safeguard and advance consumer rights, fair and honest trade practices by producers, suppliers, and manufacturers of goods and services in relation to the interests of consumers, and their effective implementation. Likewise, consumer courts' capacity must be improved and modernized in order to handle the demands of the digital economy.

### **Providing Consumers with Clear Information**

Businesses must go above and beyond by helping clients acquire the knowledge and skills needed to identify risks and base decisions on professional advice and support. Companies ought to abstain from actions that cause injuries to customers and "account fairly and honestly with customers throughout the entirety of their relationship." "Illegal, unethical, discriminatory or deceptive practices, such as abusive marketing tactics," in particular, should be avoided as they may mislead or place clients in needless danger. Additionally, companies must provide clients with accurate, thorough, and truthful information about their goods and services, terms and conditions, related fees, and total expenses so that they can make informed decisions.

### **Dispute Resolution and Restitution Mechanisms**

They should include protocols for handling complaints and protecting consumers' privacy in addition to swiftly resolving issues. The government should continuously create concise and efficient consumer protection rules, guaranteeing a degree of protection equivalent to that provided in other business contexts, in an effort to boost customer confidence in e-commerce. In the digital economy, the government also needs to make sure that consumers and companies are aware of their rights and responsibilities. Furthermore, changes must be made to the federal and provincial consumer protection legislation now in place. Customers currently have the burden of proving any personal injury or damage. It's not fair. The vendor, who has far more resources than the consumer, must prove any injury or loss of advantage from the commercial relationship.

### **Policies for Consumers Concerning Financial Inclusion**

It is also advised that the government take action to integrate and enhance consumer policies with regard to financial inclusion in order to avoid the exclusion of those who are vulnerable. In addition, the idea of a conscientious individual as a customer adds to the difficulties faced by Pakistani consumers. Additionally, there is a need to unify all provincial laws due to differences in the original and appellate jurisdictions, as well as differences in the extent of rights and liabilities, which lead to confusion and an increase in violations. Some crucial components of consumer protection in the financial services industry are left out of the legislation. Specifically, they don't include any clauses about insurance goods, debt management, or creditworthiness assessments in that particular section. These factors are becoming more and more important in a world where household over-indebtedness and dishonest sales tactics are on the rise. Future iterations of the Guidelines ought to take these considerations into consideration.

### **Cross-Border Transactions**

The weak point in consumer protection is the national systems, whose function may become more constrained as cross-border transactions via the Internet increase. Still, there is a great deal of risk for customers in these circumstances. First, people often find that there are few effective procedures for resolving disputes. Second, they may have to decide which enforcement tactic is best and comprehend a number of relevant laws. Therefore, the government should encourage financial service providers to utilize responsible lending methods and ensure that sales are suitable for clients' needs and budgets.

By putting these suggestions into practice, Pakistan may create a consumer-friendly atmosphere, guarantee legal clarity, stimulate economic expansion, and capitalize on the advantages of consumer rights in the digital era.

### **Conclusion**

E-commerce has grown significantly over the last few decades, giving customers greater choices and convenience. E-commerce offers both developed and developing countries a plethora of opportunities. These primarily include creating jobs, facilitating safe payment methods, facilitating rapid commerce in products and services, facilitating access to distant markets, and fostering creativity. It might significantly promote socioeconomic and technological development and offer the less developed world the opportunity to catch up to the industrialized world during the Industrial Revolution. In developing countries like Pakistan, e-commerce has the potential to greatly raise living standards, increase a country's share in international trade, and strengthen economic competitiveness. Although there are many advantages to e-commerce, there are also significant concerns that call for the adoption of appropriate consumer protection legislation. The primary threat is the possibility of fraudulent activity. As online transactions have increased, there have been more cases of fake goods, deceptive advertising, and even non-delivery of goods. Victims of these operations may experience disappointment and financial losses. Other concerns are privacy and data security. Sensitive financial and personal information is frequently revealed by customers when they shop online. This data must be protected in order to stop identity theft and financial crime.

Pakistan's laws pertaining to consumer protection include the Pakistan Electronic Crimes Act of 2016, the Khyber Pakhtunkhwa Consumer Protection Rules of 2021, the Baluchistan Consumer Protection Act of 2003, the Islamabad Consumer Protection Act of 1995, the Punjab Consumer

Protection Act of 2005, and the Sindh Consumer Protection Act of 2014. The creation of Consumer Protection Councils (CPCs) and Consumer Courts protects consumer rights under these legislation. Although Punjab province has district-level Consumer Protection Councils, Islamabad, and other provinces are unaware of their existence.

State is required to advance these practices by the adoption of new consumer legislation that support ethical business conduct and the pertinent education of both consumers and businesses.

It is imperative that consumer rules are revised on a regular basis to address the emerging realities in the Market. Companies are required to go beyond by assisting customers in gaining the necessary information and abilities to recognize risks and make decisions based on expert guidance and assistance. The government should keep creating transparent and strong consumer protection regulations that guarantee a degree of protection on par with that provided in other business contexts in order to boost consumer confidence in e-commerce. In the digital economy, the government also needs to make sure that consumers and companies are aware of their rights and responsibilities.