

Comments on the Internet Transactions Act (Senate Bills Nos. 154 and 612)

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E-commerce has become increasingly vital to businesses, particularly to Small and Medium Enterprises (SMEs), as it enables them to scale up and expand their market. Other gains for SMEs include reputation building since online transactions create a verifiable track record of a firm's performance and trustworthiness. Moreover, due to network effects inherent to online platforms, the marginal cost of attracting new customers is significantly reduced. Big data generated from online transactions also help businesses understand customer profiles and better target consumer groups, decreasing market search cost as well. Online platforms likewise create an ecosystem of services for SMEs facilitating online transactions, which includes logistics solutions, payment options, promos and packages, market information and analysis, B2B matchmaking services, and legal and financial advisory services (ITC 2016).

Encourage the growth of MSMEs

The "Ease of Doing Business and Efficient Government Service Delivery Act of 2018" (RA 11032), which amended the "Anti-Red Tape Act of 2007" (RA 9485), seeks to further simplify and expedite transactions with the government as well as promote good regulatory management practices. According to Sec 11. of RA 11032: "Streamlined procedures for the issuance of local business licenses, clearances, permits, certifications, and authorizations", a single or unified business application form consolidates all information about the applicant and a one-stop business facilitation service shall ease the process of business applications. With this, the requirement of OBR should not be redundant in terms of registration and record-keeping.

Businesses nowadays employ both physical and electronic means of transactions. It would be redundant if these stores would also need to register as e-commerce. Instead, the current business application form can include tagging businesses as also engaging in e-commerce transactions. Existing businesses can also modify the nature of their businesses (i.e., also tagging themselves as engaging in e-commerce) using the one-stop business facilitation service. The E-commerce Bureau can then extract information from the already existing data, including the list of businesses that also engage in e-commerce and other relevant information.

In pursuing consumer protection regulations, the government must consider the limitations and needs of online-based small enterprises and those pursuing multi-channel strategies (i.e., selling in a brick-and-mortar store, e-commerce marketplaces, and social media platforms) so as not to stifle entrepreneurship and encourage more SMEs to participate in e-commerce.

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Cross-border trade

With digital trade, which covers cross-border e-commerce, the opportunities for SMEs will rise, but consumer protection challenges are likely to grow as well. The internet is a great enabler where size is no longer an impediment to greater market access, domestically and globally. How will the government through the E-commerce Bureau enforce consumer protection regulations in the case of cross-border transactions or when one party (e.g., buyer, seller, platform) is based in another country?

Role of consumer education, consumer groups, and industry

Consumer education should also be intensified so buyers can protect themselves against fraudulent merchants and products and deceptive marketing strategies. The effectiveness of campaigns for consumer empowerment and engagement with consumer groups must be regularly assessed. According to Lianos et al. (2019), consumer protection need not solely be the government's responsibility. Online consumer protection rules can be created and enforced by public, private, or mixed governance systems. Online platforms can implement grievance redress and guarantee mechanisms such as return, refund, and cancellation policies. Customer feedback and evaluation mechanisms inform prospective buyers and reward reputable sellers. Supervision of consumer associations and self-regulation of industries are also helpful.

Feasibility of rules and enforcement

Many online businesses use social media (regular Instagram and Facebook accounts) to access a network of consumers (which is not specifically built for businesses). From the study of Tabuga and Cabaero (2021) using the National ICT Household Survey (NICTHS) data, 72 percent of individuals who engage in online selling utilize social media for selling their products, while only 11 percent use e-commerce platforms like Lazada and Shopee and only 3 percent have their own websites to sell their products/services online. This raises some concerns regarding the definition of terms and feasibility of implementation. Are the social media platforms also obligated to comply with the rules imposed on "digital platforms"? Does the contract include agreements between businesses and consumers through the "chat messages"? Lastly, how can the government ensure the feasibility of monitoring online transactions via social media platforms?

References

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