

International Norms and Regional Commitments in Consumer Protection Law: A Critical Appraisal of Zambia's Alignment with the UN, EU, and SADC Legal Instruments

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Abstract

Globalisation has substantially transformed the regulatory context in which consumer protection norms are formulated and enforced, necessitating a coordinated international and regional approach. This article critically evaluates Zambia's alignment with key supranational legal instruments governing unfair commercial practices—specifically, the United Nations Guidelines for Consumer Protection (UNGCP), the European Union's Unfair Commercial Practices Directive (UCPD), and the Southern African Development Community (SADC) Declaration on Regional Cooperation in Competition and Consumer Policies. Drawing upon a doctrinal and comparative legal methodology, this review examines the normative content, legal status, and domestic incorporation of these instruments, and assesses their influence on Zambia's Competition and Consumer Protection Act No. 24 of 2010. It interrogates how Zambia has internalised global consumer protection principles—particularly the prohibition of misleading and aggressive commercial practices—and evaluates the jurisprudential sufficiency of these transplants within a local regulatory ecosystem characterised by enforcement deficits and legal fragmentation. The article argues that while Zambia's legal framework reflects a formal commitment to international best practices, significant normative gaps remain in achieving effective protection, especially in digital and cross-border consumer markets. Ultimately, the article recommends a purposive harmonisation strategy rooted in functional convergence and regulatory capacity building.

Keywords: Consumer Protection, Unfair Commercial Practices, United Nations Guidelines, European Union Directive, SADC Declaration, Zambia, International Legal Transplants, Comparative Consumer Law, Normative Harmonisation, Legal Transposition

1. Introduction

The intersection of international legal instruments and domestic regulatory frameworks is one of the defining features of contemporary consumer protection law. In the Zambian context, the globalisation of markets, coupled with digital commerce and regional integration, has heightened the need for robust consumer protection mechanisms capable of responding to evolving market abuses. Unfair commercial practices—defined to include misleading, deceptive, and coercive conduct—threaten not only the autonomy of consumers but also the fairness and transparency of market systems. As such, they demand a legal response that is not only locally effective but also globally consonant.

Zambia's statutory engagement with this legal imperative is embodied in the Competition and Consumer Protection Act No. 24 of 2010, which was enacted in part to give effect to regional and international obligations. However, the deeper question remains: To what extent has Zambia substantively internalised and operationalised the principles embodied in supranational legal frameworks such as the United Nations Guidelines for Consumer Protection (UNGCP), the European Union's Unfair Commercial Practices Directive (UCPD), and the SADC Declaration on Regional Cooperation in Competition and Consumer Policies?

The UNGCP, adopted by the UN General Assembly in 1985 and revised in 2015, sets out minimum standards for effective consumer protection regimes. Its provisions on fair business practices, disclosure, and dispute resolution have become normative benchmarks in developing countries. The European Union's UCPD, codified in Directive 2005/29/EC, articulates a highly integrated regime prohibiting both misleading and aggressive commercial conduct. Meanwhile, the SADC Declaration, though soft law in nature, reflects a commitment among member states to harmonise competition and consumer policies through regional coordination.

Zambia's legal framework appears to be normatively influenced by these instruments. However, the harmonisation process is not merely about legal mimicry. It involves careful transplantation, adaptive interpretation, and institutional embedding. Moreover, while these frameworks offer shared values—such as consumer dignity, information symmetry, and market fairness—their operationalisation depends on domestic political will, institutional capacity, and public legal awareness.

This article critically appraises Zambia's alignment with these international and regional standards. It explores the legal pathways of convergence and divergence, the challenges of doctrinal coherence, and the practical implications for consumer welfare. Through comparative analysis and doctrinal critique, the paper offers a legal cartography of Zambia's consumer protection regime in its global and regional context.

2. Literature Review: International and regional legislative framework for consumer protection

This section presents an overview and discussion of some of the international and regional legislative frameworks for consumer protection:

2.1. United Nations Guidelines on Consumer Protection (UNGCP)

It was not until 1985 that the United Nations General Assembly adopted the Guidelines for Consumer Protection by consensus on 9 April 1985 (General Assembly Resolution 39/248). The 1985 United Nations Guidelines for Consumer Protection provide a broad framework for UN Member States to develop and maintain strong consumer protection policies (Benöhr, 2020). The United Nations Guidelines for Consumer Protection are a valuable set of principles that serve to articulate the key features of effective consumer protection legislation, enforcement agencies and redress systems, and to assist interested UN Member States in developing and implementing domestic and regional laws, regulations and rules appropriate to their own economic, social and environmental conditions, as well as to promote international enforcement cooperation among Member States and encourage the sharing of experiences in consumer protection.¹

According to Article 2 of the Guidelines, UN Member States should develop or maintain strong consumer protection policies, taking into account the adopted Guidelines and relevant international agreements.² In doing so, each government is expected to set priorities for protecting consumer rights based on its own economic, social and environmental conditions and the needs of its population, taking into account the costs and benefits of any proposed measures.

United Nations Global Control Program³ Consumer Protection International has taken the lead in developing international legal principles for consumer protection. Member States should develop, strengthen or maintain strong consumer protection policies, taking into account the guidelines and relevant international agreements listed below. To this end, each Member State must determine its own priorities for consumer protection, taking into account its economic, social and environmental situation and the needs of its population, and taking into account the costs and benefits of proposed measures.^{4,5}

From the international legal principles for consumer protection, consumer protection guidelines were developed (Benöhr, 2020). The United Nations General Assembly believes that a strong consumer protection legal and regulatory framework serves an important public interest, helps promote economic dynamism, and is beneficial to consumer welfare (Cipriano & Santana, 2017). Research shows that the joint efforts of the International Consumers Union led to the United Nations adopting the United Nations Convention on Consumer Protection.

Although the United Nations Global Policy on Consumer Protection was adopted in 1985, it has been revised twice, in 1999 and 2015, to reflect global changes affecting consumers. (Benöhr, 2020). After its adoption, the UNEP guidelines were revised twice: in 1999 and in 2015. The first revision in 1999 made a small but very important addition: the UNEP guidelines were expanded to include the principle of sustainable consumption as one of the main principles.⁶ This revised

¹Same as above

²Same as above

³United Nations Guidelines for Consumer Protection

⁴United Nations Guidelines for Consumer Protection (2015 Revised Edition)

⁵Same as above

⁶United Nations Guidelines for Consumer Protection (expanded 1999).

version of the United Nations Earth Protection Policy was proposed by Argentina at the Rio Earth Summit.⁷ Although sustainable consumption was advocated by the United Nations consumer protection policy more than two decades ago, it has only become one of the goals of consumer policy in recent years, such as attempts to link consumer protection with the circular economy.

The second revision of the Guidelines in 2015 was more extensive than the 1999 revision. These changes were approved by the United Nations General Assembly on 22 December 2015. The 2015 changes reflect the growing interest and relevance of consumer law worldwide. The second revision was intended to adapt the Guidelines to changes in society, the economy, advertising techniques, technology and consumer needs, while also preparing for future changes in consumer law in the United Nations. The 2015 amendments recognise the global need for stronger consumer protection and focus specifically on cross-border consumer transactions.

The reformed guidelines incorporate some new fundamental principles of consumer law: e-commerce, financial services, data protection, misleading energy advertising, cross-border trade, transport, access to universal services, access to knowledge, tourism, consumer remedies. Clearly, the guidelines are designed to address some of the most relevant consumer law topics. For example, consumer protection in the financial services sector became extremely important in the context of the 2008 global financial crisis. As Hilton (2010) points out, for most of its history the International Organization of Consumers Unions (IOCU) simply accumulated ideas about consumer rights rather than reflecting on the nature of these rights and what might be an appropriate basis for developing consumer rights. "A just and equitable society". The following are thematic areas of guidance, presented in summary form.

The details are available in the UNCTAD publication.

- a) The need for development of national policies for consumer protection
- b) Physical safety
- c) Promotion and protection of the economic interests of consumers
- d) Standards for the safety and quality of consumer goods and services
- e) Distribution facilities for essential consumer goods and services
- f) Dispute resolution and redress
- g) Education and information programmes
- h) Promotion of sustainable consumption
- i) Electronic commerce
- j) Financial Services
- k) Measures relating to specific areas (Food, pharmaceuticals, water, energy, public utilities and tourism)

As the name implies, UN guidelines are only guidelines; therefore, they are not legally binding in the strict sense. UN guidelines are only soft law, a model that states can follow but are not legally obliged to follow. As soft law, guidelines are an effective way for all states in the UN to reach a consensus. The effectiveness of non-legally binding instruments is also highly questionable. However, guidelines are intended to meet the following legitimate needs:

- a) Protect consumers from health and safety hazards;
- b) Promote and protect the economic interests of consumers;
- c) Consumers have access to sufficient information to make informed choices based on their personal wishes and needs
- d) Consumer education, including education on the environmental, social and economic impacts of consumer choices;
- e) provide effective consumer remedies;
- f) Freedom to form consumer and other interested groups or organizations and to give such organizations the opportunity to voice their views in decisions that affect them.

In summary, the UN Guidelines identify legitimate consumer demands that appear to derive from fundamental human rights. These rights include the right to be heard, the right to be informed, the right to be safe, the right to choose, the right to consumer education, and the right to promote the economic interests of consumers.

2.2. European Unfair Commercial Practice Directive

Directive 2005/29/EC, also known as the European Unfair Commercial Practices Directive (ECPD), promotes consumer protection across Europe against unfair commercial practices, including misleading advertising.⁸ The main legislation for consumer protection in the EU is also set out in Article 38 of the Charter of Fundamental Rights of the European Union and Articles 4, 12, 114(3) and 169 of the Treaty on the Functioning of the European Union (TFEU). The UCPD is a comprehensive piece of legislation that aims to regulate consumer markets throughout the EU. The overall purpose and principles of the ECPD are to create a general statutory obligation to deal fairly in consumer transactions (Howells, Twigg-Flesner, & Wilhelmsson, 2017). The ECPD aims to eliminate international market distortions caused by different unfair trading laws (Piras *et al.*, 2018).

The UCPD contributes to the proper functioning of the internal market and aims to achieve a high level of consumer

⁷United Nations General Assembly, decision 54/449.

⁸Ruggiero, Maria Antonietta. Unfair Commercial Practices, Consumers and Internal Market Protection: A Comparative Study. Master's Thesis), Wageningen University & Research, Law and Governance Group, 2017. Available at: <http://edepot.wur.nl/414071>, 2017.

protection by coordinating the laws, regulations and administrative provisions of the EU Member States on unfair commercial practices that harm the economic interests of consumers (Burger, 2017). However, according to Ruggiero (2017), the UCPD is based on the principle of maximum coordination. Ruggiero's (2017) analysis further shows that the ECPD has some weaknesses in terms of coordinating laws on unfair practices and promoting the proper functioning of the internal market. The framework of the ECPD can be briefly described as a "three-tier system". First, there is a general prohibition of unfair commercial practices (Article 5 of the ECPD), second, there is a specific prohibition of misleading acts and omissions and aggressive conduct (Articles 6-9), and third, the last tier of prohibitions, which lists practices that are unfair in any case.⁹

Furthermore, according to Article 4(2)(f) TFEU, consumer protection in the EU is a "shared" area of competence between the EU and its Member States.¹⁰ Furthermore, according to Article 12 TFEU, consumer protection must be taken into account when formulating and implementing European policies. Ensuring a high level of consumer protection is also provided for in Article 169 TFEU, which sets out the objectives of European policy as protecting "the health, safety and economic interests of consumers" while promoting their right to "be informed, educated and organised to defend their interests".¹¹ At the same time, Article 114(3) of the TFEU stipulates that the European Commission will make "a high level of protection" a core element of its proposals related to safety, health, the environment and consumer protection.¹² Likewise, the Charter of Fundamental Rights (Article 38) stipulates that European policy must ensure high levels of consumer protection.

2.3. Declaration on Regional Cooperation in Competition and Consumer Policies

At the regional level, there is the Declaration on Regional Cooperation on Competition and Consumer Policies which applies to the Southern African Development Community (SADC) region.¹³ The Declaration calls for the establishment of a permanent Committee on Competition and Consumer Policies and Law (CCOPOLC) within the SADC Secretariat to promote cooperation and dialogue in the area of consumer policy.¹⁴ In addition, the SADC Secretariat is mandated to promote capacity building and technical assistance to support SADC member States in implementing consumer law.¹⁵

Article 25 of the SADC Trade Protocol also provides that member States shall implement measures to prohibit unfair business practices and promote competition in Southern Africa.¹⁶ The declaration stems from Article 25 of the Trade Protocol, which requires SADC member countries to implement measures to promote competition and prohibit unfair business practices.¹⁷

3. Conclusion

The incorporation of supranational legal standards into Zambia's consumer protection framework reflects both aspiration and obligation. The United Nations Guidelines for Consumer Protection, the European Union's Unfair Commercial Practices Directive, and the SADC Declaration on Regional Cooperation in Competition and Consumer Policies collectively represent a normative tapestry aimed at shielding consumers from unfair commercial conduct. Zambia's Competition and Consumer Protection Act No. 24 of 2010 displays a discernible effort to mirror these international instruments, especially in its recognition of misleading and aggressive practices, consumer education, and institutional oversight.

Nonetheless, the convergence is far from complete. The divergence lies not in the absence of formal legal transposition, but in the substantive and procedural lacunae that compromise enforcement effectiveness. Zambia lacks explicit regulatory provisions on certain aspects of digital commerce, cross-border redress, and algorithmic manipulation—areas now considered critical in international consumer protection discourse. Furthermore, the local regulatory culture is still developing the reflexes needed to translate abstract rights into practical remedies.

This article submits that Zambia's future progress lies in a purposive and context-sensitive harmonisation strategy—one that transcends formalistic legal transplantation and embraces functional convergence. This includes adopting regulatory impact assessments, strengthening inter-agency cooperation, and building consumer legal literacy. International norms are only as effective as the institutions that enforce them and the citizens who invoke them. A truly harmonised regime must therefore integrate global legal ideals with local enforcement realities.

⁹Same as above

¹⁰Article 4.2 TFEU

¹¹Article 169 TFEU

¹²Article 114(3) TFEU

¹³https://finmark.org.za/system/documents/files/000/000/476/original/ConsumerProtectionSADC_2016.pdf?

¹⁴https://www.sadc.int/sites/default/files/2021-08/SADC_Declaration_on_Competition_and_Consumer_Policy.pdf

¹⁵Same as above

¹⁶https://www.sadc.int/sites/default/files/2021-08/SADC_Declaration_on_Competition_and_Consumer_Policy.pdf

¹⁷ <https://www.sadc.int/pillars/competition-policy>

Conflict of Interest

The authors declare that they have no conflicting interests

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Ethical considerations

The article followed all ethical standards appropriate for this kind of research.

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