

EXAMINING THE REGULATION OF E-COMMERCE IN UGANDA: OPPORTUNITIES AND CHALLENGES

Evis Garunja*
Lutuuga James**
Kasumba Daniel**
Namata Jacqueline**
Malunda Jerry Patric**

ABSTRACT

E-commerce has emerged as a transformative force in global and regional trade, offering unparalleled convenience and efficiency. However, its rapid expansion presents regulatory, legal, and infrastructural challenges. This Article discusses the evolution of e-commerce, the legal frameworks governing it, and the challenges and opportunities it presents, with a particular focus on Uganda. Through a doctrinal method of study that relies on primary and secondary sources, the author explores the ongoing debate over regulation, consumer protection, taxation, and cybersecurity, questioning whether current laws are sufficient to balance innovation and control. The discussion also highlights potential solutions, such as strengthening cyber laws, fostering digital literacy, and harmonizing international regulations to create a more secure and efficient e-commerce environment.

Keywords: Regulation, E-commerce, Legal, Uganda

1. Introduction

E-commerce, often called electronic commerce, is the selling and buying of goods and services using the internet¹. E-commerce encompasses activities including online retail, electronic payments, and online marketing, among other related activities. E-commerce occurs through different models, including Business-to-Consumer (B2C), such as Amazon, Shein, Jumia, and Glovo; Business-to-Business (B2B) like wholesale on Alibaba; and Consumer-to-Consumer (C2C), which covers peer-to-peer transactions on eBay or OLX. A related concept is mobile commerce (m-commerce), which refers to commercial transactions conducted via a mobile device². E-commerce will typically consist of vendor websites where goods or services are sold directly to consumers. E-commerce vendors usually sell using an online shopping cart or basket system that lets consumers pay through credit cards, debit cards or electronic funds transfer (EFT)³.

The advent of e-commerce presents boundless opportunities for enhanced market access and economic growth⁴. Over the years, the global e-commerce market has experienced rapid growth. Despite its perennial challenges, Sub-Saharan Africa has joined the digital revolution⁵. Uganda, with its growing internet penetration and young population, has the potential to benefit

*University Aleksander Moisiu of Durres, Albania, evigarunja2000@yahoo.com

**LLM Student, School of Law, Kampala International University, Kampala Uganda

¹James NK Kinuthia and David M Akinnusi, 'The Magnitude of Barriers Facing E-Commerce Businesses in Kenya' (2014) 4(1) Journal of Internet and Information Systems 12–27.

² Ibid

³ Ibid

⁴ Pieter GJ Koornhof, 'A Legal Framework for E-Commerce in Africa: Progress and Prospects' in Abebe E. et al. (eds), *The Internet, Development, Human Rights and the Law in Africa* (2023) 127–154.

⁵ Joshua Kamoga, *E-Commerce and Consumer Protection in Uganda: A Case Study of Kampala* (LLB dissertation, Kampala International University 2017).

significantly from e-commerce.⁶ Like many other developing countries, Uganda has witnessed substantial growth in the use of the internet and mobile technologies in the past few years. According to the Uganda Communications Commission (2023) report, the total number of Ugandan internet subscribers stands at 27 million.⁷ Electronic Chart Database (ECDB) predicts that e-commerce in Uganda is expected to generate USD 74.0 million in revenue by 2024. The report noted that the Ugandan e-commerce market, with 18.9% in 2024, contributed to the worldwide growth rate of 10.4%. This growth was attributed to the increase in mobile device use⁸. These figures emphasize the growing connectivity and digital readiness of Ugandan consumers.

Hence, the study tends to examine the evolution of e-commerce in Uganda with the sole aim of exploring the regulatory framework, challenges, and opportunities.

2. Conceptual Development and Issues of E-commerce in Uganda

This is Uganda's competitive and dynamic retail environment that has opened up potential but created a number of regulatory challenges⁹. Internet users in Uganda continue to go online, fuelled by the expanding reach and improved mobile technology, and participate in online trade, which would create the imperative for economic gains, market access, and movement toward digital business practice. However, each goes further, revealing the gaps in what existing laws and their frameworks provide for the various challenges that arise with this digital transformation¹⁰. Regulation surrounding e-commerce in Uganda indicates a very strong necessity for a regulatory framework that is agile, futuristic, and keeps pace with technological changes. Legal e-commerce is still in its infancy in Uganda, mainly because of the late onset of digital commerce in this country. The Electronic Transactions Act (2008) and the Data Protection and Privacy Act (2019) are the main e-commerce laws within Uganda¹¹. Nonetheless, these laws don't take into consideration some emerging challenges, such as those related to cyber threats, intellectual property in digital space, online payment systems, cross-border transactions, and the overlapping regulations. This existing regulatory framework also struggles with balancing the aspect of consumer protection on the one side with the facilitation of innovation and competition on the other side. This creates confusion for many businesses and consumers who now engage in e-commerce without specified protections or standards¹².

Uganda has various challenges to contend with in constructing a viable regulatory framework for e-commerce. One major aspect is the poor digital literacy on the consumer front and the lack of interest of policymakers in understanding digital transactions and making laws pertaining to them. Another issue arises from the dynamic character of technology, whereby the traditional legal

⁶Ibid

⁷ Warigia M. Bowman, "Uganda: Distribution in the Shadow of Surveillance," in *Digital Development in East Africa* (Cham: Springer International Publishing, 2023), 161–95,

⁸ Ashaba Barasha Duncan, *The Determinants of E-Commerce Adoption Amongst Firms in Uganda* (LLM dissertation, Uganda Christian University 2019).

⁹ Ibid

¹⁰ Musoke Nicholas and others, 'Taxing the Virtual Economy: Tax Implications of E-Commerce in Uganda' (2017) Uganda Revenue Authority Research Bulletin 2018.

¹¹ Mukasa Charles, *Electronic Banking in Uganda: The Modes, Risks and the Legal Challenges of Electronic Banking* (LLB dissertation, Kampala International University 2014).

¹² Reuben N Murabu, *Impact of Electronic Commerce on Retail Performance: Case Study Nakumatt Supermarket Kampala (Uganda)* (MSc dissertation, Kampala International University 2011).

machinery cannot keep abreast with the challenges of the day, including those relating to cryptocurrency, data privacy, and digital marketing¹³. Further, there are other challenges, such as infrastructure, for example, poor internet connectivity in rural areas, which would even restrict millions of potential participants from contributing to the digital economy. Conversely, the lack of cyber laws, including laws to regulate cybercrimes, creates another impediment to protecting consumers and businesses against online fraud¹⁴. Notwithstanding these challenges, there lies a tremendous potential for growth and innovation in Uganda's e-commerce sector. Most opportunities lie in the use of mobile money systems widely embraced in Uganda as the gateway for inclusive digital payments. That growth in mobile money gives regulators the opportunity to create a policy environment that enables safe, cost-effective, and efficient digital financial services. Besides, given the right regulatory backing, Uganda's youthful and technology-oriented population can drive the digital economy upwards. By encouraging public-private partnerships, giving incentives to tech startups, and nurturing digital literacy, Uganda can convert this challenge into opportunities¹⁵.

Concerning the above, examining the regulation of the evolution of e-commerce in Uganda reveals the complexities and potential rewards of a dynamic digital economy¹⁶. While regulatory frameworks are currently inadequate to fully capture the nuances of digital commerce, there are clear opportunities for improvement¹⁷. Through enhanced legal provisions, strategic investments in infrastructure, and the promotion of digital literacy, Uganda can create a regulatory environment that supports the growth of e-commerce, ensuring it contributes to sustainable economic development. Addressing these regulatory gaps will not only benefit businesses but also empower consumers, creating a more equitable and accessible digital economy for all Ugandans¹⁸.

3. Examining the Legal Framework of E-Commerce in Uganda

Uganda has a rich legal framework concerning e-commerce. Although this legislation does not employ the term e-commerce, similar concepts like digital commerce are used, making this legislation applicable and relevant to online businesses. These enactments help protect vendors, consumers, and customers while transacting in the digital space¹⁹. The legal regime that regulates E-commerce emerged from 2011 and includes Electronic Transaction Act cap 99 which was enacted in 2011, the Computer Misuse Act cap 96 enacted in 2011, the Electronic Signatures Act of 98 enacted in 2011, the Data Protection Act and Privacy Act cap 97 and the National Payments Act cap 59 for 2022.

The Electronic Transaction Act Cap 99 is by far the most striking legal framework relevant to the domain of e-commerce. This opinion is based on the object of the Act, which is clearly stated in

¹³ Ibid

¹⁴ Annet Wanyana Oguttu, 'The Challenges that E-Commerce Poses to International Tax Laws: "Controlled Foreign Company Legislation" from a South African Perspective (Part 2)' (2008) 20(4) SA Mercantile Law Journal 462–478.

¹⁵ Ibid

¹⁶ Uchenna Jerome Orji, 'Towards the Regional Harmonization of E-Commerce Regulation in Africa' (2018) 19(1) Computer Law Review International 12–22.

¹⁷ Patricia Buckley and Sabrina Montes, 'The Promise and Challenge of E-Commerce' (2000) 1 Geo J Int'l Aff 29.

¹⁸ Ibid

¹⁹ Robinson N Munyalo, Legal and Regulatory Challenges Facing the Growth of E-Commerce in Kenya (MA dissertation, University of Nairobi 2016).

section 4(1) (a) - (j)²⁰To the effect that it validates, promotes, and facilitates electronic transactions, it states that one of the objects of the Act is to remove and eliminate the legal and operational barriers to electronic transactions. Commercial transactions typically include contracts and section 14²¹ stipulates that a contract shall not be denied legal effect merely because it is concluded partly or wholly using a data message (i.e., digitally). In the same line, Sections 11 and 12 of ETA provide for the means of notarization, acknowledgment, and certification of documents electronically, and when this is automated and Section 6 of the ETA also legalizes and validates the use of electronic signatures²². It is therefore important to note that this enactment made elaborate provisions for protecting consumers transacting business online. This ensures transparency in digital transactions.

Section 24 of the Electronic Transactions Act places a demand on the supplier or seller to supply consumers with certain information that may be relevant in their present and future decision-making process, whether to engage with the vendor or not, and how to seek redress, where there are issues. The information that must be provided by an online seller or supplier includes their full name and legal status, physical address, telephone number, and either a website or email address. Additionally, a clear description of the main features of the goods or services offered should be provided to enable consumers to make informed decisions about electronic transactions. Among these requirements, subsection (g) is particularly important because it mandates that sellers provide a physical address where they can be served legal documents. This provision is significant as it allows for the initiation of legal action in cases of contract breaches²³. Regarding cancellation, return, and refund policies, Section 24(2) of the Electronic Transactions Act grants consumers the right to review and correct any errors in their order before finalizing it. Once goods have been delivered, consumers can cancel the transaction within fourteen days of receipt, return the goods, and receive a refund. If the goods are delivered without prior examination by the buyer, acceptance is only deemed to occur after the buyer has had a reasonable opportunity to inspect the items to confirm they conform to the contract. Furthermore, Section 24(1)(n) requires that sellers clearly display their return, exchange, and refund policies on their online platforms.

The Computer Misuse Act (Cap 96) is another key legal framework relevant to e-commerce. It seeks to ensure the security and integrity of electronic transactions and information systems by preventing unauthorized access, abuse, or misuse of computer systems. A central concern addressed by the Act is data protection. Section 10 mandates that proper authorization must be obtained before disclosing data collected from any source. Disclosure of data for purposes such as criminal investigations or prosecutions requires a court order. This requirement ensures that transaction records cannot be accessed from any agency or service provider without judicial approval. Section 12 further clarifies that it is a criminal offense to intentionally access or intercept any program or data without lawful permission.

Section 19(1) specifically targets electronic fraud, a critical protection for consumers vulnerable to fraudsters impersonating vendors online. Anyone convicted of electronic fraud under this section may face a fine of up to 360 currency points, imprisonment for a term not exceeding fifteen years, or both. In addition, the Data Protection and Privacy Act, enacted in 2019, aims to safeguard

²⁰ Electronic Transactions Act Cap 99

²¹ Ibid

²² Denis Musasizi, *Electronic Banking in Uganda: A Review of the Legal and Regulatory Framework* (LLB dissertation, Kampala International University 2015).

²³ Ibid

individuals' privacy by regulating the collection and processing of personal information. The Act outlines the rights of individuals whose data is collected, as well as the responsibilities of data collectors, processors, and controllers. It also governs the use and disclosure of personal information, thereby addressing key privacy concerns related to electronic transactions²⁴. In the digital economy, data is currency. Every time a consumer shops online, their personal information names, contacts, addresses, and financial details, is collected, stored, and often shared. This makes data protection central to the regulation of e-commerce, and this is why the Data Protection and Privacy Act was enacted to cure. Section 3 of the act presents the principles of data protection to include accountability, fairness, lawfulness, retention period, quality information, transparency, and observance of security safe guards. Section 7 of the act provides for express consent to be obtained from the person from whom the data is being collected. In this sense, customers' consent is key while obtaining their personal information to put up on the shopping sites, where section 9 prohibits processing of special personal information to include financial information. The Act stipulates that data collectors, in this case, business owners, should only collect data necessary for a specific, lawful purpose. Under the Act, in part 5, provides that data subjects (consumers) have several rights, including the right to access their data, the right to request correction or deletion, right to withdraw consent at any time. The Data Protection and Privacy Act provides a solid legal foundation for regulating data use in e-commerce. It is designed to protect users, build digital trust, and ensure responsible data management

The other law regulating E- e-commerce is the National Payments Systems Act²⁵ which was enacted in 2020 to regulate payment systems, to provide for the safety and efficiency of payment systems, to prescribe the rules governing the oversight and protection of payment systems, and to regulate the issuance of electronic money²⁶. This regulation provides safety to customers and service providers paying for services through electronic means, for example, mobile money, bank-to-bank transfers, credit, and debit card payments. Having in mind that digital payments are the backbone of online transactions, the National Payment Systems Act regulates the electronic money service providers. For example, Section 6 of the Act is to the effect that a person shall not offer payment service, operate a payment system instrument without a license issued by the central bank. Section 47(3) provides that BOU shall make regulations to govern the issuance of electronic money to provide for, among others to include customer due diligence and handling of customers. This creates a more secure and trustworthy financial environment, reducing the risk of fraud and enabling smoother transactions. Furthermore, Section 65 of the Act provides for customer protection to include transparency, accountability, data protection, protection against unfair trade practices, and dispute resolution. This strengthens trust in digital transactions, which are an essential factor for encouraging the growth of e-commerce. While the National Payment Systems Act is not an e-commerce law per se, it directly influences the safety, accessibility, and efficiency of Uganda's digital commerce sector.

4. Challenges Faced by the Legal Framework and E-Commerce.

E-commerce has taken commerce to a new dimension by re-shaping it through digital technology. Uganda has also incorporated a legal framework to regulate the same. However, despite the legal mechanisms put in place for the regulation of e-commerce in Uganda, several challenges seem to

²⁴ Preamble of the Act, cap 97.

²⁵ Cap 59

²⁶ Section 2 of the National Payments Systems Act cap 59.

limit its viability and effectiveness. In this regard, it will be relevant to consider some of these challenges as follows²⁷. A fragmented legal framework whereby E-commerce regulation is spread across several laws without a unified digital commerce code. This confuses businesses and consumers. These cases of enforcement gaps in the laws like the Data Protection and Electronic Transactions Acts are often under-enforced, partly due to limited capacity in the judiciary and regulatory bodies. More so, the regulatory lag behind innovation, whereby emerging technologies such as crypto currency, smart contracts, and blockchain are unregulated, leaving a legal grey area that can be exploited. More so, cross-border legal uncertainty exists where many Ugandans shop from or sell to international platforms, but jurisdiction, contract enforcement, and consumer protection in cross-border transactions remain unclear.

4.1. Data Privacy Hacking

Compliance with data protection law is still a major issue that often deters most individuals from engaging in e-commerce activities. In the case of *Patrick Sentongo vs. Uganda* appellant was an employee of MTN Uganda. MTN Uganda operates as a telecommunications company that renders mobile money and communication services. However, given that the appellant has access to most customer data, he conspired with others to defraud money from the MTN mobile money computer system called FUNDAMO. Although he was convicted, however, this case highlighted the fact that data privacy compliance is a major challenge that tends to poses a challenge to e-commerce. In essence, this shows the level of vulnerability of data information in e-commerce activities²⁸.

4.2. Fraud on the Internet

This is a common phenomenon not experienced only in Uganda but by virtually all countries within the global terrain. Cyber fraud has become a major threat within the digital technology world, and customers and service providers don't consider it safe enough when transacting through electronic or digital technology media. Although the legal regime stipulates that it is a crime to engage in cyber fraud, cybercrime is still a major challenge in Uganda. In the case of *Stanbic Bank Uganda vs. Moses Rukidi Gabigigo*²⁹ also illustrates the rate of internet fraudsters hacking digital banking systems and stealing from customer accounts. Concerning this, it suffices to state that though there are laws that tend to curtail the incidence of internet fraud, however, it is still a major challenge rocking the e-commerce industry.

4.3. Delay in Delivery

In Section 24 (1)(q) of the Electronic Transactions Act, it states, if the Act applies, the minimum duration for agreements to sell, hire, exchange or supply of goods or services that are performed periodically or continuously must be identified including the expected delivery time for these products and/or services. Delay of delivery can further be attributed to factors, such as ineffective

²⁷ Ibid

²⁸ Dennis Ndonga, 'E-Commerce in Africa: Challenges and Solutions' (2012) 5(3) African Journal of Legal Studies 243–268.

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²⁹ Civil appeal 29 of 2023.

postal service, unclear or no physical addresses to most likely a residential or office location, and locations selected for deliveries not identified or clearly labelled.

4.4. Dispute Resolution

Under the Electronic Transactions Act, it references in Section 24 (1) references that online goods and services suppliers must provide consumers with the details of any alternative dispute resolution (ADR) they subscribe to, plus how consumers can electronically access any dispute resolution codes. Common ADR formats include mediation, arbitration, neutral evaluation, and collaborative law. ADR options are relatively more informal, confidential, and less stressful than the courts. Online Dispute Resolution (ODR) is an Internet technology with ADR to resolve disputes arising between the parties to an e-commerce transaction or non-Internet dispute ("offline"). While the Act mandates suppliers to offer some kind of ADR, there are no mandated guidelines or standards that have to be adhered to, nor does the Act present a formalized institutional platform for e-commerce disputes. Furthermore, the limited awareness of information and communication technologies (ICTs), along with additional digital literacies amongst several users, restricts effective use of these dispute resolutions.

5. Conclusion

Uganda's experience with regulating e-commerce reveals a mix of progress and persistent challenges. Foundational laws have been enacted, signaling recognition of the digital economy's importance, yet the current legal framework remains fragmented, inconsistently enforced, and poorly understood by many key stakeholders. These shortcomings hinder the development of a secure and trustworthy digital marketplace and limit the country's ability to fully leverage the benefits of online commerce. As e-commerce continues to reshape Uganda's economy, the focus must shift from questioning the need for regulation to determining how best to implement it. Legal reforms should aim not only to regulate but also to encourage innovation, protect consumer rights, and provide legal clarity for businesses operating online. A modern, inclusive, and adaptable regulatory framework is essential to ensure that Uganda's e-commerce ecosystem thrives in an increasingly digital and interconnected global economy.