Baseline Report

On the

Protection of Consumer rights in the ICT Sector

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1. Introduction

Most African governments have now gone through two cycles of sector reform. The first cycle saw corporatisation and partial liberalisation based on privately controlled monopolies or limited competition. The second cycle is full liberalization, combined, in some cases, with a converged environment. The focus in the first cycle was increasing efficiency and penetration of services through the attraction of private investment. The second cycle, in addition to attracting more investment, also has the focus of offering the consumers more choice. The difference in focus necessarily makes a difference on the main focus of policy and regulation. In the first cycle, the policy and regulatory focus was on attracting and protecting investors. In the second cycle, it must be consumer protection and empowerment. The challenge is then to get this message across to regulators and to enable them to change to address the challenges in the new area of focus.

The research, for which this paper is the initial part, addresses the questions:

i. What has been implemented or initiated in terms of policy, laws, and regulation to address the need for consumer empowerment/protection?
ii. What consumer organizations are in place, and how effective are they in creating and sustaining the necessary changes in policy, laws, and regulation?
iii. How can regulators and consumer group’s work together to address the challenges of consumer empowerment and protection?
iv. What are the key issues that must be addressed to ensure equity of benefit through consumer protection and empowerment initiatives?

The objective of this initial part of the research is to define the baseline for Uganda: this is the status of policy, laws, institutions, regulation, and consumer associations that address the challenge of consumer empowerment/protection. The baseline information provides a basis for the identification of gaps and issues that need to be addressed. The intent is that regulators, working with consumer groups, can then usher in a new environment where there is greater sensitivity and a much higher focus on consumer empowerment and protection.

2. Policy, Laws, Regulation and Institutions

2.1 Policy

There is no overarching policy that deals with consumer protection in Uganda. Approaches to consumer protection, certainly in the ICT sector, tend to be ad-hoc rather than driven by policy. The closest to a formal approach would be the policy that established the Uganda National Bureau of Standards (UNBS) established by Act of Parliament in 1983\(^1\).

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\(^1\) See www.unbs.go.ug
2.2 Laws, Institutions and Regulations

The absence of formal policy is also reflected in the absence of formal laws. Consumer empowerment starts at the macro-level, and one important aspect of this is the continuing assurance of the availability of real choice to the consumers. This is assured only if there are no anti-competitive practices that eventually trap consumers into single choice circumstances. There is currently no law or set of laws in Uganda that addresses the exclusive subject of competition in business. It has been left to the different sectors to handle this as best as they can through their legislated laws and enabling regulations. Examples are the Patent Statute, 1991, that explicitly prohibits patent owners from making licensing conditional\(^2\); and the Uganda Communication Act\(^3\) sections 57 – 63 that contain the legal provisions for fair competition and equality of treatment.

The Uganda Communication Act has only three provisions specific to consumer protection and empowerment under Section 5, “The Functions of the Commission”:

(f) To establish a tariff system to protect consumers from excessive tariff increase and to avoid unfair competition;

(l) To receive and investigate complaints relating to communication services and to take necessary action upon them;

(m) To promote the interests of consumers and operators as regards quality of communication services and equipment.

It can be argued that these combined provisions provide sufficient legal basis for the regulators to take action that will ensure consumer empowerment and protection.

Within the IT sub-sector, the NITA Act became law during 2008\(^4\) and the institution to implement it is just under construction at the moment. This study provides opportunity for NITA to formulate regulations that will enable consumer protection and empowerment.

UNBS is the only institution that comes closest to being at the center of consumer protection. Their approach is a macro-approach that ensures that substandard and dangerous goods are kept off the shelves in order to protect consumers\(^5\): they do not extend to the enforcement of consumer rights. More importantly, they cover only goods, not services.

3. Which consumer groups are active in the area?

3.1 Uganda Consumer Protection Association (UCPA)

UCPA was established in 1993 and has over 200 individual supporters and two institutional members. The association is engaged in policy advocacy for an

\(^2\) siteresources.worldbank.org/.../Resources/UgandaMonograph.pdf

\(^3\) http://www.itu.int/ITU-D/treg/Case_Studies/Licensing/UGANDA_CS.pdf

\(^4\) http://www.i-network.or.ug

\(^5\) http://www.unbs.org/
environment that enables consumers to exercise their rights by influencing business practices and regulatory activities. Its main activities are: food and nutrition rights; fair trade in goods and services and effective regulatory conduct. In the next three years UCPA will be focussing on food and nutrition campaigns and on consumer rights to access clean water and will lobby for the enactment of a consumer protection law. This group has also been active especially in the telecommunications sector, and was, for almost a decade, the only audible voice for consumers.

The UCPA is an Affiliate Member of Consumers International and has a membership of 365 with six very vibrant branches called chapters in Mbarara, Mbale, Busenyi, Fort Portal, Soroti and Gulu.6

The aims and objectives of the Uganda Consumers’ Protection Association (UCPA) are:

(a) To educate consumers on their rights, responsibilities and the environment through appropriate channels.

(b) To create a forum where consumers and other interested groups can meet and discuss matters of mutual concern relating to consumers and socio-economic welfare.

(c) To gather and disseminate information on consumer welfare, rights, and responsibilities and to defend consumer rights.

(d) To act as a watch-dog and pressure group on consumer rights, interests, welfare and protection directly or through representation.

(e) To facilitate the defence of consumer rights and welfare and undertake all possible actions and initiatives for the protection and establishment of such rights.

(f) To provide legal services in matters of consumer welfare and interests whether as consultancy work or legal aid as the matter may be.

(g) To establish close links between parties and individuals concerned with consumer protection that shall include among others scientists, doctors, lawyers, legal methodologists, environmental experts, engineers, journalists, etc.

(h) To do such other things as may be conducive to the attainment of the aims and objectives of the Association.

3.2 Uganda ICT Consumer protection Association (UICPA)

Following a series of discussions on various mailing lists and especially on the I-Network ICT Mailing list for the past 2 to 3 years in regard to ICT services and products in Uganda, a few individuals decided to explore the idea of bringing together dissatisfied ICT consumers. These individuals have now set up the Uganda ICT Consumer Protection Association. The association recognises the existing institutions

6 www.consumersinternational.org
and channels of dealing with consumer concerns and works collaboratively with these institutions with the aim of improving ICT services and goods for the consumers.

From Internet services to voice services and all the way to hardware products, the situation is running out of control, and the few bodies mandated to protect consumers like the Uganda Communications Commission and the Uganda National Bureau of Standards seem to be overwhelmed by their wide mandates, limited budgets and inadequate human resources.  

The association is membership based and membership is open to all ICT consumers and stakeholders. The association aims at achieving the following:-

Providing a collective platform / voice through which ICT consumers concerns can be addressed, for example billing complaints, Addressing poor quality of voice and data services, Addressing ICT goods and services pricing irregularities that result in loss of money by consumers, Evaluating performance of the universal service fund under the Uganda Communication Commission (UCC), Addressing the high failure rate of hardware, for example promotional mobile phones.

As a start, the association invited various stakeholders, informing them of the set up of the new association and these included Uganda Communications Commission, Ministry of ICT, Uganda National Bureau of Standards and Uganda Consumer Protection Association.

Uganda’s Information Communication Technology (ICT) lobby group is set to join international consumer rights organisations that protect non-commercial user’s rights in Internet governance. The lobby group Uganda ICT Consumer Protection Association (UICPA) has joined the US Corporation of Non-commercial Users Constituency (NCUC) and the African Information and Communication Technologies Consumers Network (AICN).

The move follows membership by the Kenyan ICT Consumer Society that joined NCUC and introduced UICPA to the recently formed international corporation that represents over 100 members from more than 40 countries. UICPA officials said the move would enable them to increase their advocacy and lobbying efforts to protect ICT consumers in Uganda and improve their role in Internet governance.

The Uganda lobby group is also joining the African Information and Communication Technologies Consumers Network (AICN), which brings together consumer ICT Associations in Africa. UICPA officials said the development is welcome since everyone is a non-commercial user of the Internet at one point of the day and should be protected regardless of use of the Internet for commercial purposes.

### 3.3 Consumer Education Trust (CONSENT)

CONSENT works for a socially informed and just society, through empowering consumers, by offering advisory services, promoting ethical practices among

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businesses and engaging policy makers to enact people-friendly policies for present and future generations. In partnership with MS Uganda CONSENT is implementing the Consumer Empowerment for Active Citizenship project which includes five Consumer Advice points in Arua, Gulu, Kampala, Mbale and Mbarara. It will also conduct consumer awareness sessions and publish regular consumer guides. CONSENT participates in Trade Empowerment.

4. Specific Examples of Consumer Protection Failure

4.1 Mobile telephone services
For a long time, tariffs in the mobile sector have remained unregulated despite the fact that operators had been permitted to use mobile subscriber count as a substitute for universal access rollout obligations. When competition increased in the mobile sector, especially after UTL operationalised its mobile license as Mango (2001), price wars also started with dominant operators reducing call tariffs significantly in a development that bore the hallmarks of a combination of predatory pricing and setting more realistic levels. Again the regulator played the safe role of simply observing because prices were on a downward trend. Research establishes rates in Uganda as being currently the most expensive. While operators blame this on the excise duty on airtime – itself imposed in total disregard of consumer rights, the underlying causes of high tariffs need to be addressed.

4.2 Internet services
Price wars also broke out among Internet service providers between 2001 and 2002 leading to the collapse of several Internet cafes in Kampala. However, the matter was “resolved” by the Association of Internet Cafes that decided that nettime (per-minute charges) should not be reduced below Ush 25 (US$ 0.013). It could be argued that this was cartel pricing that worked to the detriment of the consumers. In 2002, the UCC waived license fees to Internet cafes as a step to encourage proliferation of communications services. The move also removed some financial pressure off Internet cafes, which could have contributed towards stability of prices and dampened the price wars. Key challenges that the regulator failed to deal with during this period were this cartel pricing approach; and the fact that the national operators that were enjoying protection through the duopoly provisions were also operating as retailers, leading to the closure of many operators who relied on the national operators for upstream connectivity.

5. Major Tasks for consumer protection in Uganda

The following major tasks have been identified as requiring attention to move the consumer protection and empowerment agenda forward in Uganda:

1. Protecting and Promoting the interests of the Consumer
2. Fostering Competition and a Fair Marketplace
3. Monitoring Trade Practices

http://www.ms.dk/sw19200.asp?cardId=376

ibid
4. Lobbying for Better Legal Protection to Consumers  
5. Collecting Marketing Information on Goods and Services  
6. Educating Consumers about their Rights and Responsibilities  
7. Resolving Disputes Between Consumers and Businesses  
8. Improving Product Quality and Safety  
9. Promoting Environmental Protection and Consumer Health  
10. Disseminating Consumer Information  
11. Working together with Government and outside Parties to Promote Consumer Interests.

6. Conclusion

The findings in the baseline report shows us that while there are some activities in regards to consumer protection in Uganda, major gaps still remain at the levels of policy, laws, and regulation. Given the right policy and legal environment, there are enough institutions to translate these to regulations that will lead to the objectives. The consumer activists, despite their well stated intentions, remain generally weak and need to be educated in ways that will make them more effective. A positive note is that UCC has woken up to the need for consumer empowerment and protection as demonstrated by the establishment of a new department responsible for consumer affairs. This needs to be followed through to create the kind of cooperative effort that would have regulators, consumers, and indeed the private sector pulling in the same direction.
i) Online references

1. Quality infrastructure in the east African community


2. Consumers International


3. Consumer Protection Law

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4. Consumer protection in Ugandas ICT sector

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5. Money gram Uganda-Consumer protection in Uganda


6. Consumer protection scenario in Uganda


7. Uganda National Bureau of Standards


8. Uganda ICT Lobby Group

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