

TRACKING CAMEROON'S POLICY AND REGULATORY FRAMEWORKS FOR EFFECTIVE CONSUMER PROTECTION IN A DIGITAL CONVERGENT ENVIRONMENT

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ABSTRACT

The expansion of digital technologies has dramatically changed the way in which electronic communication services are delivered to and accessed by consumers in Cameroon. Driven by technology innovation, consumers in the convergent environment enjoy greater variety of e services but are also faced with a constant change in the range, type and impact of consumer rights. Since ICTs are recognized as the foundation for economic and social development, regulators in Cameroon must create an enabling environment for the new digital economy. However, this new phenomenon is posing insurmountable challenges to traditional regulatory tools which are no longer effective in the converging environment. This has called for a rethink of traditional approaches, creating opportunities to lift some legacy requirements and to build, as much as possible, more technologically neutral and regulatory and policy frameworks that will prove serviceable in the future. The exigency on efficiency, respect for consumer data and privacy and ensuring quality of service are the key guiding principles for protecting e-consumers. In this article we investigate into the legislative and regulatory frameworks that protect consumers in a digital convergent environment. The reading of books, articles as well as internet search reveal that the evolving nature of technology vis a vis the slow growth of regulatory capacity due to budget shortages and insufficient human resources are amongst hinderances to effective protection. Based on these findings, and from exchanges with some

ICTs experts and observation, we were able to reach the conclusion that this new phenomenon is posing insurmountable challenges to traditional regulatory tools which are no longer effective in the converging environment. Consequently, among the recommendations proposed, we hold high the enactment of a legislation with provisions that would provide a holistic protection to consumers in a convergent environment.

Keywords: Consumers Protection, Converging Environment, Legislative and Regulatory Instruments, Cameroon

INTRODUCTION

Convergence between traditional telecommunication operators and content providers, has introduced an increasing number of new products and services in Cameroon, which can be delivered online or offline.ⁱ The ecosystem has expanded, and now includes ICT/telecommunication operators and service providers, as well as partners from other sectors, including health, education, transport, finance, commerce, environment etc.ⁱⁱ The digital convergent environment has put the consumerⁱⁱⁱ at the centre of digital service delivery, and they now have greater control over what they want to access, when and where.^{iv} Otherwise stated, digital consumers^v are taking on an entrepreneurial role, creating their own content and services. Policy and regulation and best practices to guide national regulatory agencies and measures have been enacted to protect the rights of digital convergent consumers without stifling innovation that will enhance consumer's experience of living in a competitive, safe and trustworthy digital environment, including redefining consumer protection needs along the value chain, from ICT networks to apps and services, identifying priorities and responsibilities of ICT stakeholders (government, industry and consumers) in a digital environment.^{vi} However, digitization has blurred the distinctions between different sectors of policy and regulatory frameworks, reducing regulators' ability to impose and enforce regulations and requiring that government departments and regulators cooperate on addressing cross-cutting issues.^{vii} Jurisdictional issues are also becoming more relevant. This poses new challenges to

the traditional policy and regulatory framework that calls for policy and legislative responses geared towards enhancing protection of consumers in a convergent environment. These responses must be done with emphasis on ensuring the variability of Quality of Service (QoS), guarantee of responsibility and burden of proof, the complexity of security linked to user's terminals or connections, as well as to services or content offered by equipment manufacturers, network operators, content providers or service providers.^{ix} In this article we highlight the legislative trends in protection in Cameroon, we examine the trends we discuss the various aspects of protection of consumers of e-services in Cameroon, the impact and the hindrances, the article ends with some recommendations for a way forward.

“the term ‘consumer’ generally refers to a natural person, regardless of nationality, acting primarily for personal, family or household purposes, while Cameroon

TRENDS IN CAMEROON’S POLICY AND LEGISLATIVE MEASURES IN THE PROTECTION OF CONSUMERS IN A CONVERGENT DIGITAL ENVIRONMENT

Consumers in a monopolistic Telecommunication Environment

The administration in charge of telecommunications in Cameroon is the Ministry of Posts and Telecommunications was established at independence. But seeing that communications is the knot which ties both the national and international business community together and that such an activity must only be run by a structure with a business outlook, the government in law n°82-539 of 28 October 1982 created the international telecommunications corporation of Cameroon, commonly known and called by its French acronym INTEL CAM.^x While this state corporation managed international telecommunications activities, the agency for the commercialisation of telecommunications (ACTEL) was created alongside to take care of the internal telecommunications network.^{xi} This institution had the responsibility of providing telecommunication services in Cameroon. With this monopoly in place, consumers of e-services were to lose their kingship for more than one and one half decades until 1998.

Consumers in a Competitive Telecom Environment

Between 1998 and 2000, Cameroon moved from a government monopolistic controlled base to a competitive telecom environment that allowed strong internet and mobile telecom network providers to operate. This was as a result of the deregulation of Cameroon's telecommunications sector. The movement to e-government in general and telecommunication in particular was triggered by the 1998 laws (Telecommunications Law No.98/014 of 13 July 1998 and Telecommunications Law No.98/014 of 14 July 1998). The competitive nature of the 1998 Telecommunications Law is encapsulated in the general provisions of the law in its section 1 which states that *the law aims to encourage and facilitate private sector involvement in telecommunications development within a competitive environment*.^{xii} Section 5 of the 1998 Law is more elaborate as far as the promotion of competition is concerned. It provides section 5 (1) thus "Actions and practices which aim to, or may-prevent, restrict or compromise competition in the telecommunications market shall be prohibited, especially when they tend to limit access to the market or free competition from other enterprises; obstruct price fixing through the free intervention of market forces by artificially hiking or lowering them; limit or control production investments or technological progress; cut off markets or supply sources or create regional monopolies.

The hitherto monopolistic control in the telecommunications sector was brought to end through these laws by the liberalization and privatization of the sector. This ushered in new players in the provision of e-services and the encouragement of investments^{xiii}.

Protecting Consumer in a Digital Convergent Digital Ecosystem in Cameroon

With the rapid development of technology, the world has quickly become an information society built upon a foundation of telecommunication networks. Through the innovation of information technologies, such as mobile communication, internet, and multimedia, time and space have become compressed as well. The ecosystem has expanded, and now includes ICT/telecommunication operators and service providers, as well as partners from others sectors, including health, education, transport, finance, etc.^{xiv} Regulators across the sectors must create the enabling environment for the new converged digital economy, and consumers

increasingly need to understand how they can benefit from the opportunities the converged digital economy presents. The definition of telecommunication consumers has evolved to include telephone users, mobile phone users and Internet users, with boundaries^{xv} between “traditional” telecommunications users and Internet users becoming increasingly blurred.

Accordingly, digital consumers today include all users of consumer products under Cameroon’s 2011 Consumer Protection Law, consumers under the 1998 traditional Telecom Laws as well as the electronic legislations and deregulations since 2010. These consumers in a digital confluence environment are experiencing the following: expanding products and services, changing uses and applications; users changing from people to everything; change of behaviour from individual use to shared use more coordination taking place between investors, operators, service providers and consumers as well as between regulators across the sectors.

Aian response to this, regulators and policy makers are adapting to these changes, through policy and regulation, to meet the exigence of e- consumers.

THE LEGAL AND REGULATORY FRAMEWORKS ON THE PROTECTION OF CONSUMERS IN THE CONVERGENT ENVIRONMENT

Framed from the international level by international guiding principles (PDPC) laid down by the United Nations for digital consumer protection^{xvi}, regional^{xvii} and subregional frameworks^{xviii}, national legislations within this sphere are further strongly influenced by the national context and level of technological evolution in Cameroon. In this respect, the protection of consumers in a digital convergent environment in Cameroon are governed by a combination of principles laid down in Consumer Protection 2011 law as much as the those provided by telecom and electronic frameworks.

With respect to national instruments, we have the following:

The Constitution

-The Constitution^{xix} whose guarantees freedom and security to every individual with due respect for the rights of others and the best interests of the State. The Constitution also provides for inviolability of privacy of all correspondences, non-interference except as provided in a judicial decision. Privacy and data protection is, therefore, a right enshrined in the Constitution.

Other applicable laws

These include: the telecommunication laws^{xx};the Cybersecurity Law;^{xxi}the Electronic Communications Legislations;^{xxii}the E-Commerce Law of 2010;the Consumer Protection Law of 2011;Decree No. 2012/1637/PM of 14 June 2012 on the Methods of Identification of Subscribers and Terminals the E-Communications Consumer Protection Decree; The 2014 Law on the Suppression of Terrorist Acts;Law No. 90/36 of 10 August 1990 Organising Medical Practice ('the Law on Medical Practice' Decree No. 83-166 of 12 April 1983 on the Code of Ethics of Medical Doctors ('the Medical Code of Ethics'); Decree No. 2002/209 of 19 August 2002 on the Organisation of the Ministry of Public Health; Decree 2013/0403/PM of 27 February 2013 lays down maximum thresholds for public exposure to electromagnetic emissions from equipment used in electronic communication networks, or from any other equipment capable of producing electromagnetic emissions

Other Regulatory Measures

-The *Public Key Infrastructure (PKI)* which helps establish the identity of people and devices, enabling controlled access to systems and resources, protecting data and authenticating transactions. PKI technology guarantees security and protection of sensitive data. This helps government agencies and regulators to ensure that citizens can continue to make optimum use of telecom services is worth commending. This is seen through the provision of subsidy schemes and the promotion of tele-health and tele-education, among other solutions.

-The *elaboration of a government strategy* for the development of digital economy, which has digital governance as one of the pillars. Its aim is to encourage digital trust by intensifying the fight against cybercrime.

-The *setting up of two cyber security laboratories* in charge of digital investigation within the department of the Judicial Police of the General Delegation for National Security and at the National Advanced School of Engineering.

-The setting up of surveillance and video surveillance networks in the national cyberspace within the relevant administrations in charge of public security.

-*An audit of the quality of services offered by mobile operators*, carried out to ensure the reliability of their equipment while proposing corrective measures.

-Security watch, including live monitoring of critical infrastructure, issuance of security bulletins and alerts, establishment of security references, etc.

-The audit of the information systems of Public Administrations.

On the Institutional Frameworks we have the following:

The Ministry of Posts and Telecommunications (MINPOSTEL) which is responsible for the development and implementation of government policy on posts, telecommunications and information technology and communication.

Telecommunications Regulatory Board (TRB) (The Board) which has as mission to ensure the regulation, control and monitoring of the activities of providers and operators of the telecommunications sector and also sees to the respect of equity in the treatment of users.

The National Agency for Information and Communication Technologies is responsible for:

-the promotion and monitoring of government action in the field of information and communication Technologies (ICT);

- the regulation, monitoring and follow-up of activities related to the security of information systems and electronic communications networks and electronic certification, in collaboration with the Telecommunications Regulatory Agency.

Consumers Protection Organisation

These are groups that seek to protect people from corporate abuse like unsafe products, false advertising and pollution. Consumer protection organizations activities are lobbying, campaign, protest, negotiation or even litigation with the aim of enforcing consumers' rights which are violated. Consumers' rights violation is a common phenomenon. The presence of advocacy groups is therefore important. Hence, vulnerable customers of electronic money services may be helped by consumers' protection associations like: ADMC, ACTIC , ACSIS , OCOSO , UCOCAM to mention a few. The functions of these organisations are mainly advocating for consumers protection rights, raising awareness, training and capacity building.

Service Providers

Also important in the protection of the rights of consumers in an ICT convergent environment is the presence of Service providers like CAMTEL, ORANGE Cameroon, MTN Cameroon, NEXTEL etc.

THE THEORETICAL UNDERPININGS AND UNDERLYING GUIDELINES FOR GOVERNING THE PROTECTION OF CONSUMERS IN A DIGITAL CONVERGENT ENVIRONMENT

To increase legal certainty, which is beneficial to both providers and consumers of digital services, national consumer protection policies and legislations are guided by some guiding principles and respect of rights.^{xxiii}

With respect to principles, we have the following:

The *principle of accessibility* which requires that goods and services are easy to access. This means access to electronic communications services, with standards of quality and regularity inherent in its nature, throughout the national territory;

Proportionality is a general principle of law requiring that public intervention does not exceed what is necessary to achieve its objectives. Proportionality implies that horizontal rules should

be as non-distortive as possible to achieve the protection of consumers, and that the need for specific legislation is assessed against the background of existing horizontal legislation.

Self and co-regulation involves demands that reliance on self or co-regulation^{xxiv} be implemented when this mode of regulation can effectively protect consumers and strike the right balance between predictability, flexibility and efficiency. To do so, the conception and the implementation of self- and co-regulation should follow the best practices principles. Rules should be prepared by participants representing as many interests as possible, in an open manner, in good faith and with clear objectives, and the implementation of the rules should be monitored and regularly assessed. Currently, self and co-regulation is used extensively to address some problems raised by rapidly developing digital services.^{xxv}

-Legal certainty and predictability which is a principle that deals with the rules to give sufficient certainty and predictability to suppliers as well as to consumers. This implies that the rules need to make up a coherent set, in particular with regard to the balance between horizontal and sector-specific rules, and must be simple to understand and sufficiently stable over time, especially when the investment cycle is long.

-Sustainability principle is indispensable in the face of rapid and unpredictable technology and market evolution. The evolution of digital technology and the digital market is often rapid and unpredictable. In this context, consumer protection rules need to be flexible enough to adapt to these changes and to continuously meet their objectives. This is best achieved with rules which, on the one hand, have a horizontal scope of application and are not dependent on the type of services and, on the other hand, are principle-based and not overly specific or detailed.

Non-discrimination principle also referred to as a regulatory “level playing field”, implies that all substitutable services are subject to the same rules.

-Personalisation principal deals with consumers of digital services are heterogeneous in capabilities and preferences. This diversity is well understood by big data firms whose business is to identify the characteristics of each customer in order to target the users and tailor their services accordingly. Consumer diversity can also be better taken into account in the rule-

making and enforcement processes, provided some safeguards are in place, such that the personalisation should be based on objective and transparent criteria and that privacy is respected.

Information disclosure principle which demands that information be first of all focused on what really matters to consumers; such information could possibly be personalised depending on individual capabilities and preferences. Second, the information should be presented in a user-friendly manner, for instance relying on different layers of information and using intelligible language. Third, it should be given when the decision needs to be made – and not too much beforehand. This principle would serve as a cornerstone of Cameroon’s consumer protection rules is the disclosure of as much information as possible to allow consumers to make the best choices for themselves. This transparency obligation is complemented by fairness obligations. Current disclosure rules are not adapted to rationality-bounded consumers, as they do not sufficiently take into account what type of information should be given, at what time and in which format. Moreover, they are not adapted to algorithmic consumers, i.e. consumers using digital personal assistants – such as Apple’s Siri or Amazon’s Alexa – to help them make their choices or even to conclude their purchases for them.^{xxvi} Thus, disclosure rules should be improved to promote smarter information disclosures to humans and to bots.

-the principle of accessibility requires that goods and services are easy to access. In this context, telecommunication services should be easily and readily accessible to consumers.

Fairness obligation principle. This principle prohibits unfair practices, i.e. practices which are not in good faith or which contravene professional diligence. The advantage of these principle-based rules is that they can easily adapt to the rapid and often unpredictable evolution in the provision of digital services. The drawback, however, is that they can raise legal uncertainty as to whether a specific practice is prohibited.

Added to these principles are the principles provide under the Cameroon’s 2011 Consumers Protection Law which include:

- a) The principle of protection according to which consumers have the right to the preservation of life, health, safety and environment in the consumption of technology, goods or services;
- b) The principle of satisfaction according to which consumers have the right to satisfy their basic or essential needs in the health, food, water, housing, education, energy, transport, communication and any other domains mentioned under this law;
- c) The principle of information according which enables consumers to have the right to access to information to enable them to make an informed choice during any transaction concerning the supply of technology, goods and services;
- d) The principle of equity according to which consumers have the right to fair, non-discriminatory treatment by suppliers of technology, goods and services;
- e) The principle of redress according to which consumers have the right to full compensation for the wrongs or losses suffered which, according to this law or other regulations, shall be attributable to suppliers or providers.
- f) The *principle of participation* according to which consumers have the right and freedom to form voluntary autonomous and independent consumer associations or organizations to promote and protect or participate in the promotion and protection of their rights consumer information, protection and rights.

In addition to the eight United Nations Guidelines for consumer protection^{xxvii}, consumer in a digital converging environment in Cameroon shall have the following rights:

The *right to freely* express our views online. To not be censored by the prevailing sentiment exercised by the ruling bodies of government or business.

The *right to own our digital identity and digital actions* and behaviors.

The *right to defend our privacy* through encryption and other IP rights over our own data and consumer behavior.

The *right not have our consumer data exploited without consent* and fair value exchange.

The *right to control* what, when, where and how to consume everything and anything. The freedom to choose.

The *right to not have our rights infringed upon* by government regulations or business policies.

These governing rights and principles create raise awareness, provide for standards for digital goods and services, prohibits conduct which prevents consumers from enjoying their consumer digital rights and regulation of conduct so that, it does not encroach on those rights, regulation of agreements entered between e-consumers and suppliers, registration and licensing of suppliers of certain goods and services.^{xxviii}

PROTECTIVE ASPECTS OF DIGITAL CONSUMERS UNDER CAMEROON'S EXISTING LEGAL AND REGULATORY FRAMEWORKS

This section deals with the aspects in which the existing regulatory frameworks protect the consumers in a digital convergent environment.

Security Aspects

The frameworks provide for security of consumers of digital services which has the following component. There is the Confidentiality duty owed to consumers with respect to their personal data is well enshrined in Cameroon's legal instruments.^{xxix} For example, the duty of confidentiality is enshrined in the 1998 Telecommunication law of Cameroon. Article 4 of the law provides that, Persons authorized to set up a network open to the public and providers of telecommunications services, as well as members of their personnel shall be bound to keep secret the content of users' messages.^{xxx}

Also, there is accessibility and affordability aspect which addresses e-consumers' right to benefit from electronic communications services.^{xxxi} The law also establishes a Universal Service Access Fund, aimed at ensuring equal, quality and affordable access to services.^{xxxii}

The internet and mobile telephony have registered growth, access and affordability remain a challenge, especially among rural and poor communities. Hence there is guarantee of price and geographical accessibility to digital services.

Judicial Aspects of Protection

The Judiciary is one method of protecting consumers of e-services in Cameroon. This component ensures that consumers have the right to full compensation for the wrongs or losses suffered which, according to this law or other regulations, shall be attributable to suppliers or providers^{xxxiii}. There exist under this umbrella different grounds on which a consumer alone or group/association of e-consumers may choose to claim by alternative dispute resolution or a court action.

a. Alternative dispute resolution

Consumers may bring their claims before Alternative Dispute Resolution (ADR) whose features are different from that of court proceedings. ADR options are also called ‘Out of court mechanisms for resolving disputes. The most commonly available ADR processes include: mediation^{xxxiv}, negotiation^{xxxv} and arbitration. As far as disputes between telecommunication operators are concerned, the 1998 Telecommunication Law provides in its section 22(3) that, The Board shall arbitrate in the event of disputes between operators concerning in particular, the interconnection or the access to a telecommunications network, numbering, frequency disturbance and the sharing of infrastructure.

Arbitration is a consensual procedure in which the parties submit their dispute to one or more arbitrators of their choice for a binding and final decision (an “award”) based on the respective rights and obligations of the parties and enforceable under arbitral law. Arbitration normally forecloses any subsequent court options. The main features of ADR include:

-A single procedure according to which parties can use ADR to settle disputes involving several jurisdictions in a single forum, thereby avoiding the expense and complexity of multi-jurisdictional litigation and the risk of inconsistent results.

-Choice of Expertise according to which parties can appoint arbitrators, mediators or experts (known as neutrals) with specific knowledge of and experience in the relevant legal, technical or business area. This helps achieve high quality outcomes while limiting the time and cost of the proceedings as compared to court proceedings.

Neutrality a principle according to which experts are required to be neutral and thereby preventing any advantage that one of the parties may enjoy in court-based litigation.

-Confidentiality which allows any proceedings and outcomes to be confidential, thereby allowing the parties to sidestep concerns about the dispute's public impact.^{xxxvi}

This judicial mechanism is cost and time efficiency. It also has the advantage of maintaining business relationship which creates an enabling environment for further use and development of ICTs.

Protection By Actions in Court

Although the regulatory and alternative disputes resolution methods are encouraged for telecom dispute settlement due to its flexibility and efficiency, court adjudication remains a formal and important final recourse for many types of telecom disputes particularly those that are less policy-related. Court adjudication brings finality and official enforcement mechanisms to bear upon a dispute.^{xxxvii}

Action in Cases of Irregularities in Management Account Claims Under Contract

In the absence of tailored legal remedies, in case of non-performance of a contract concerning the supply of digital content the consumer will have to seek recourse to the remedies that are available under consumer contract law or general contract law.

If the contract is qualified as a contract for the sale or supply of goods, the consumer may invoke the following remedies under consumer contract law: repair or replacement; price reduction or termination.

Moreover, besides these remedies the consumer can normally claim compensation for any damage suffered as a consequence of the non-performance of the contract. If the contract does not qualify as one for the sale or supply of goods, but is seen as a one for services, or of a sui generis nature, a consumer may in principle rely on the remedies available in general contract law in all countries included in the analysis. These remedies include: specific performance, damages and termination.^{xxxviii}

Irrespective of the classification of the contract, and although this is not a ‘remedy’ in the strict sense of the term, a consumer may also withhold performance of her own obligations in order to induce the provider of the digital product to perform her part of the contract. In the digital environment, however, withholding performance often is not possible, as many transactions will not proceed unless the consumer pays directly (using online banking or a debit or credit card).^{xxxix} Furthermore, a claim for non-performance may coincide with one for avoidance of a contract on the basis of mistake, fraud or misrepresentation. A consumer may, for instance, base a claim either on the fact that the digital content did not conform to her expectations (and invoke one of the remedies mentioned above) or on the basis that she was mistaken as to the exact characteristics of the product (and therefore avoid the contract).^{xl}

Apart from Contract law the innocent party may also claim in tort or restitution in a situation where, he may have been induced to enter into a contract by the other party’s fraudulent or negligent misrepresentation, which is a tort, thus causing loss to himself and unjustly enriching the other party.^{xli}

A tort is a civil wrong for which a remedy may be obtained usually in the form of damages. Legal actions for irregularities in the management of the mobile money account are usually sought to redress against mistakes in entries and management of the mobile money account. Both consumers and agents are affected by fraud in key mobile financial services markets.^{xlii}

Action Under Criminal Law

A criminal action is one means of protecting consumers in the convergent environment when there exists a gross violation of the consumer rights. The possible grounds for an action in

crime may be divided dually, namely the offences by intentional commission and by omission.^{xliii}

The material element of offences by commission consists of a positive character. They include infringement on the patrimonial integrity of the customer, breach of the duty of secrecy, false advertisement, offences to the regulation of prices and offence of usage. In *Michel Strafort vs Societe Orange Cameroun SA*,^{xliv} the plaintiff (Michel Strafort) subscribed for internet service with Orange Cameroun in October 2008 and equally paid all that was required for installation. Orange Cameroun deplored staff that were incompetent to do the installation. The installation was poorly done and the plaintiff however never enjoyed the services he subscribed for.

This led to plaintiff bringing a case against Orange Cameroun. The court held Orange Cameroun liable for poor quality services provided to the plaintiff and consequently ordered Orange Cameroun to pay the plaintiff 950,000 CFA as damages to the plaintiff. In another case *Benoit vs Societe Mobile Telephone Network, MTN*^{xlv}, the plaintiff, Olinga Benoit, subscribed for telephone services with MTN and all that was charged as well as his bills. MTN negligently disconnected the plaintiff's line and all attempts to have the line reconnected failed. The plaintiff consequently did not enjoy the services he subscribed for. The plaintiff equally suffered loss and damages. The court held that, MTN should pay 15,000 CFA to the plaintiff as damages as well as reconnection of the plaintiff's line immediately. Consumer protection enforcement powers may be related to fines, civil penalties, warning letters, cease-and-desist orders, negotiated resolutions, criminal prosecutions, enforcement proceedings in courts or tribunals and bans and licence suspensions, as well as publicizing the violation.

Environmental Protection Aspect

There are specified obligations which are incumbent upon those authorized to install or operate electronic communication networks, the operators of radio networks or facilities and the holders of frequency assignment agreements. More specifically, where educational establishments, nurseries and healthcare premises located within a radius of 100 m from such equipment or facilities are concerned, the operators of radio equipment and facilities are

required to take measures to ensure the lowest possible exposure without any reduction in the quality of the service provided.^{xlvi}

THE RELEVANCE OF THE INSTRUMENTS ON TELECOMMUNICATION IN CAMEROON

Generally, policy and legislative measures apply established principles and guidelines which protect consumers in a digital confluence environment. Specifically, these measures have the following relevance:

-Impose certain rights and obligations on both parties and secure their enforceability; Equalize an essentially unequal relationship between the stronger and weaker parties, whether between large and small traders or traders and consumers;

-Allow State's intervention to correct market failures in the public interest and to punish offending behaviour;

-Enable State's control through registration and licensing procedures, ensuring a degree of protection for consumers from unscrupulous and disreputable traders and from undesirable products and services;

-Guarantee the observation of Equity and social justice to they help in achieving bargaining equality between consumer and producer interests and alleviating the problems of those who are particularly vulnerable in the market place such as children, the poor and illiterate, and those with particular needs such as persons with disabilities. Private consumer protection law confers individual legal rights on consumers, frequently through the law of contract. Consumers therefore hold rights conferred by contract or tort law, which they can directly assert without having to resort to State intervention.^{xlvii}

-Enhance efficiency by encourage a Competitive Environment ensuring that all systems are functioning optimally. Electronic communication operators and industries engage in fierce

competition to attract consumers, using pricing as the bait. Consumers too are increasingly becoming “prosumers” and may as such even achieve stronger power in the market. Major online platforms provide a variety of services, ranging from email services to video sharing. Combined with consumer inertia and switching costs, such markets can produce lock-in effects for consumers. In this competitive economy, the market is in perfect equilibrium, when the supply and demand side have equal power.

-Provide consumers with full information on their products; thus keeping them aware of the safety and quality standards and also compensation if problems arise with their products or services.

– The laws ensure Delivery of quality Digital Services Consumer

The protection is designed to protect individual rights in the pursuit of considerate treatment and dignity. Consumers’ rights are part of the range of social rights which individuals are entitled to claim in a modern society. Such rights, often of an aspiration nature, have been enshrined in national constitutions and other online and offline consumer protection laws.

-Ensure that products and services offered for sale are of a minimum standard of safety and quality; and Ensure access to certain basic goods and services essential for life.

- Guarantee Access and Affordability. For example Article 4 of the 2010 e-Communications law states that every citizen “has the right to benefit from electronic communications services”. The same law establishes a Universal Service Access Fund, aimed at ensuring equal, quality and affordable access to services (Articles 27-29). Whereas internet and mobile telephony have registered growth, access and affordability remain a challenge, especially among rural and poor communities.

--Guarantee of privacy and data protection of digital consumers through the constitution the national Constitution which provides for the privacy of all correspondence is inviolate. The 2010 Cybersecurity and Cybercrime law also provides for the privacy of communications under Article 41 and outlaws the interception of communications under Article 44. The obligation for service providers to guarantee users’ privacy and the confidentiality of

information is covered under Articles 42 and 26.^{xlviii} According to Article 26(1); “Information system operators shall take all technical and administrative measures to ensure the security of the services offered. Also, the protection of children online is ensured.^{xlix}

-Enhance trust and confidence in the use of digital services. Safeguard trust in the Internet by developing a robust cybercrime strategy and data protection and privacy strategy that is future proofed to cope with new technologies.¹

– Create a simpler, clearer regulatory framework and level playing field for distributors of content, avoiding legal uncertainty, duplication and double monitoring that may occur where network and transmission regulation is separate from content regulation.

-To collaborate and cooperate with any regional or international organization specializing in the telecommunications industry including

- Ensure the observation of environmental Protection through a regulatory framework in response to the issue of exposure to electromagnetic fields. In Cameroon work has begun on the establishment of a regulatory framework in response to the issue of exposure to electromagnetic fields. Given the dynamism of industries within the electronic communications sector, which are constantly upgrading electronic communication terminals and equipment and ICTs, as well as the increasing use by consumers of multiple devices and equipment, the problem of electronic waste management has increased over the years and the adverse effects of e-waste on the environment and on the health of citizens is acute. Statistics show that e-Waste is one of the world’s fastest-growing waste streams.^{li}The specified obligations are incumbent upon those authorized to install or operate electronic communication networks, the operators of radio networks or facilities and the holders of frequency assignment agreements. More specifically, where educational establishments, nurseries and healthcare premises located within a radius of 100 m from such equipment or facilities are concerned, the operators of radio equipment and facilities are required to take measures to ensure the lowest possible exposure without any reduction in the quality of the service provided.^{lii}

HINDRANCES FOR EFFECTIVE DIGITAL CONSUMERS PROTECTION UNDER CAMEROON'S LEGISLATIVE AND REGULATORY FRAMEWORKS

The evolution of digital security has made digital asset management more transparent, accessible and streamlined than ever. But the frameworks are being hindered by a set of unique factors.

The evolving Nature of Technology vis a vis the slow growth of regulatory /legislative responses due to budget shortages and insufficient human resources.

With the evolving nature of technology, consumers services keep evolving and is exposed to many issues or challenges to the existing laws.

Patchy laws

The regulatory and legislative frameworks dealing with digital consumer protection in Cameroon are patchy with complex and varied objectives of regulation are besides fostering competition and protecting consumer benefits. There is therefore an absence a single appropriate law to effective protect consumers in the convergent world.

Lack of text of application

A major challenge for the laws on telecommunication is the absence of a text of application. Indeed, with the lack of an enabling legislation to the e-Laws, it makes implementation of the provisions of the laws cumbersome. This situation is unhealthy as it consumers of e- services more vulnerable to being exploited.

The absence of a converged regulator

The absence of a converged regulator allows for the possibility of unequal regulatory treatment of different platforms delivering overlapping content or unequal regulatory treatment of different content delivered over any platform. For example, the Telecom Regulatory Board and the national Agency for Information and Communication Technology are delivering

overlapping services. Furthermore, convergence poses challenges to both the structure of regulatory bodies and the instruments they use. Converged regulators with responsibilities for media and content as well as ICT services face a daunting challenge by taking on extensive, and often complicated, workloads.

Furthermore, in a converged environment, traditional telecommunications regulators may struggle to resolve certain issues, such as consolidation between media content and telecommunications service providers. These measures which are reactive rather than proactive cannot adequately address consumers demand in a digital convergent environment.

Jurisdictional Limitations

Cameroon's laws can only regulate e-services within its territory. With activities taking place over the internet, such regulatory mechanisms become inadequate. Many problems are beyond the control of a single country. Policy makers and regulators around the world are increasingly addressing the security of personal data and network data. Collaboration is needed to address the increasing complexity of network and information security.

Consumer right unawareness

In Cameroon, most victims of poor-quality e-services are ignorant about their legal rights. There seems to be a general acceptance by a large proportion of e-consumers in Cameroon of the maxim of caveat emptor. This maxim is often interpreted to imply that the burden is on consumers to look out for defects in products rather than on manufacturers to make their products safe.

Difficulties in Apportioning Responsibilities

-Difficulties for individual consumers to define the exact number of damages when services are not provided satisfactorily. Due to the large number of information and communication operators and service providers, diversified services, and complex supply chain of goods and services, it is often difficult for individual consumers to define the exact number of damages when services are not provided satisfactorily. For example, in Cameroon, infringements of

image rights have led to: The landmark case of *YOMBA Madeleine v. Les Brasseries du Cameroun*^{liii} and the case of *Mrs. MFOPA MAMA born NTOUO SABIATOU v. Société NESTLE Cameroun S.A and Société Océan Central Africa SA*^{liv}. In both cases, an individual's photo was unlawfully used for advertisement purposes without the individual's consent, constituting a violation of his image right. Also in the case of *Mrs. MBOCK Frankline Junior v. Les Films TERRE AFRICAINE and Les Brasseries du Cameroun*,^{lv} a contract stipulated for the use of an individual's image within a specific period of two years was violated through the broadcasting of the advertising spot beyond the agreed term. This constituted a violation of the individual's image rights. The final judgment ruled that a mere evidence of the invasion of one's privacy gives rise to compensation, and that there is therefore no need to establish that a damage was suffered.

CONCLUSION /RECOMMENDATIONS

This research shows a general lack of effective solutions. We therefore recommend the following:

-The enactment of a legislation that would provide a holistic approach to the protection of consumers in the digital convergent environment. Such legislation should provide legitimate digital consumer rights and interests, which include but should not be limited to: access to publicly available information and services over the Internet, quality of service, privacy, confidentiality and protection of personal data, the possibility to opt-out of functions and services; the right to file a complaint; number portability; and intellectual property rights.

- strengthen consumer access to dispute resolution and redress, which should be considered in the wider context of the right of consumers to access justice. Enhancing Privately led online dispute resolution mechanisms are commonly subject to public oversight, as consumers may be more easily misled regarding their procedural and substantive rights, indicating that public enforcers need to be involved to some degree. Complementing a solid legal and institutional framework that incorporates consumer empowerment, business guidance

and dispute resolution and redress with effective enforcement is essential in addressing the challenges posed by the digital economy to consumers.

-Definition of a permanent framework for dialogue, on one hand between the consumer associations and the ICT/telecommunication regulatory authority and on the other between the consumer associations and ICT service providers/operators. Coordination between entities involved in consumer protection, and suggested two options:

-Professionalize national consumer movements by strengthening the capacity of member associations.

-Enhance consumer awareness about their rights and responsibilities as e- consumers.

-collaborate and cooperate with any regional or international organization specializing in the telecommunications industry including African Telecommunications Union (ATU) and the International Telecommunication Union.

-Create a simpler, clearer regulatory framework and level playing field for distributors of content, avoiding legal uncertainty, duplication and double monitoring that may occur where network and transmission regulation is separate from content regulation.

- Adopt a specific law on privacy and data protection, so as to guarantee the principles of anonymity and consent, and in line with international best practice.

-Sensitize and train all users on good security practices.

- adopt increasingly social regulations (standards environmental, privacy) that strike a balance between protecting users and providing sufficient freedom necessary for new technologies to develop.

-Encourage research on the subject. This is very important given that there is not only a new phenomenon which calls for expert exploitation for equally an evolving field that requires constant research.

- Create a platform for collaboration and concertation with all stakeholders.

Lastly, some best practices and guidelines on convergence were defined to protect consumers in a converging environment.

PERSPECTIVES

The challenges and recommendations thus presented, the question may be asked, what perspectives for the future? In effect, how do we go from here and what do we expect in this web that entangles the consumer, convergent environment and Cameroon's Vision of digital economy? Cameroon is fast moving into a digital economy in which the benefits can only be harnessed through building confidence and trust in the use of ICTs.^{lvi} This cannot be done without designing policies that would respond to the exigence of users/consumers of ICT products. It therefore becomes safe to hold the view that a Digital Consumer Bill of Rights be declared in Cameroon, to guide the new Digital Ecosystem. This regulatory measure would go a long way to ensure that consumers have the inalienable right to expression, digital privacy, ownership of their individual digital identity and the right to choose what, when, where and how they consume everything and anything in pursuit of convenience, lifestyle, peace of mind and freedoms^{lvii}.

ENDNOTES

ⁱ Adoni, H., & Nossek, H. (2001). The new media consumers: Media convergence and the displacement effect. *Communications: The European Journal of Communication Research*, 26 (1), 59-83

ⁱⁱ Owen B.M. (1999) *The Internet Challenge to Television*. Cambridge: Harvard University Press. p. 373

ⁱⁱⁱ A consumer is a person who buys goods or services for their own use:

^{iv} (2014), 2014 COMPETITIVENESS REPORT: A Resilient Economy, Ministry of the Economy, <https://www.gouvernement.lu/5670950/ppe-029-en.pdf> OECD (2015) OECD Digital Economy Outlook, Organization for Economic Co-operation and Development, <http://www.oecd.org/>

^v People who use technology to buy and sell products and services are known as digital consumers. They are the same people who walk into your business, order on a telephone, or request for a discount. For instance, an internet user who is reading this article now is a digital consumer. Alternative used in this research as e-consumers or consumers in a digital convergent or confluence environment

^{vi} Aghion, P., N. et al. (2013) *Disruptive technologies: Advances that will transform life, business,*

and the global economy Oxford University Press, Oxford.pp 701–728.

vii Bauer, J. M. (2010), “Regulation, Public Policy, and Investment in Communications Infrastructure”, Telecommunications Policy, Vol. 34, Elsevier, Amsterdam, p 79.

viii *Ibid.*

ix Dick W. Olufs III. Boulder, Colo.(1999) *The Making of Telecommunications Policy*. Lynne Rienner Publishers, p. 213

x This stands for International Telecommunication Cameroon

xi See Mokube, P. (2010).” State of e-governance in Cameroon. “Presentation at Seminar on Electronic Governance Cameroon, July 2010, Yaounde

xii See section 1 of Law No.98/014 of 14 July 1998. See also section 5 of the same which provides that,

xiii Asongwe, P. (2012) “e-Government and the Cybersecurity Legislation 2010: Opportunities and Challenges, *The African Journal of Information and Communication Issue 12 2012, p.157.*

xiv Willis H. (1998) *The Cyber-Posture of the National Information Infrastructure*. Santa Monica, Calif.: Rand Ware. p.37

xv Brands C. H. and Evan T. L(1999) *The Law and Regulation of Telecommunications*. Boston: Artech House. P.735

xvi See also International Telecommunication Union

xvii For example see the African Telecommunications Union (ATU)

xviii Regulation No. 21/08-UEAC-13-CM-18 of 19 December 2008 on the Harmonisation of Regulations and Regulatory Policies on Electronic Communications in CEMAC Member States ;Directive No. 07/08-UEAC-133-CM-18 of December 19, 2008 on the Legal Framework for the Protection of Users of Electronic Communications Networks and Services within CEMAC,Directive No. 09/08-UEAC-133-CM-18 of 19 December 2008 Harmonising the Legal Frameworks of Electronic Communications in the CEMAC Member States

xix Law No. 96/6 of 18 January 1996 revising the Constitution of 02 June 1972, as amended and supplemented by Law No. 2008/001 of 14 April 2008

xx Bauer J and Guenter K (2015), “Innovation Complementarities and Network Neutrality,” available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2585326.

xxi Law No.2010/012 to govern cybersecurity and cybercrime

xxii Dresang, E. T., & McClelland, K. (1999). Radical change: Digital age literature and learning. *Theory and Practice*, 38(3), pp.160-167. Samgena D. G. “In the wilderness at the dawn of the millennium: The untold truth about Cameroonian consumers and the global challenge.” *African Journal of International and comparative Law*.

xxiii See generally Ngaundje Doris Leno SJIF (2019): 7.58 An Appraisal of the Law on Consumer Protection in Cameroon with Respect to Technology Products *International Journal of Science and Research (IJSR) ISSN: 2319-7064*

xxiv Boudreau, K. and A. Hagiu (2011), “Platform Rules: Multi-sided Platforms as Regulators”, in: *Platforms, Markets and Innovation*, Edward Elgar, Cheltenham, UK and Northampton, MA, U.S.

xxv Farrell J & Philip J. Weiser P.J [2003] MODULARITY, VERTICAL INTEGRATION, AND OPEN ACCESS POLICIES: TOWARDS A CONVERGENCE OF ANTITRUST AND REGULATION IN THE INTERNET AGE

Harvard Journal of Law & Technology . Harvard Law School, Vol. 17/1 PP., 86-134

xxvi *Ibid*

xxvii Which are the right to satisfaction of basic needs,the right to product guarantee,the right to be informed, the right to choose,the right to be heard,the right to a remedy,the right to education,the right to a healthy environment

xxviii . Roger Atsa E. R. et al (2016)Development Of The Digital Economy In Cameroon:Challenges And Perspectives *The Electronic Journal of Information Systems in Developing Countries* . See also Averitt, N. and Lande, R. (1997), Consumer Sovereignty: A Unified Theory of Antitrust and Consumer Protection Law, *Antitrust law Journal*, Vol. 65, pp 713–756. See also section 1 of Law No.98/014 of 14 July 1998 on Telecommunications

xxix Roger Atsa E. R. et al. *ibid* P.13

xxx See also section 24 of the 2010 Cybersecurity law

^{xxx} Article 4 of the 2010 e-Communications

^{xxxii} Ibid Articles 27-29

^{xxxiii} The Framework Law on consumer protection in Cameroon, section 3 (f).

^{xxxiv} An informal consensual process in which a neutral intermediary, the mediator, assists the parties in reaching a settlement based on the parties' interests. While the mediator cannot impose a settlement, any settlement agreement has force of contract. Mediation does not preclude any subsequent court or arbitration options

^{xxxv} Negotiation is the preeminent mode of dispute resolution which allows the parties to meet in order to settle a dispute. His main advantage is that it permits the parties themselves to control the process and the solution.

^{xxxvi} See sections 37-45 of the 1998 Law on telecommunication

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^{xxxix} See Macaulay, S. (1979), Lawyers and Consumer protection laws, Law and Society Review, Vol. 14 No. 1, pp 115–171,

^{xl} Ibid p.166

^{xli} *ibid*

^{xlii} *ibid*

^{xliii} See section 74 of Cameroon's Penal Code on Menrea

^{xliv}

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^{xlvi} The installation of pylons, antennas and masts is the subject of Ministerial Decision 00000054/MINPOSTEL of 18 April 2015.

^{xlvii} . Roger Atsa E. R. et al op cit P.24

Mobile-Internet-Connectivity-Report-2019.pdf.

^{xlviii} Decree n° 2013/0399/PM of February 27, 2013, establishing the modalities of protection for electronic communications of consumers

^{xlix} However? It is worth mentioning that there no Data Protection Law caaaaameroon

^l Fred B. Schneide F B (1999) "Tust in Cyberspace " Washington, D.C.: National Academy Press p. 331

^{li} Ngono Ndjie et al (2019) "Économie Numérique Et Croissance Économique Au Cameroun." HAL Id: halshs-01970291

^{lii} See the installation of pylons, antennas and masts is the subject of Ministerial Decision 00000054/MINPOSTEL of 18 April 2015. It is applied under the supervision of ART, which is responsible for specifying the technical characteristics of pylons and masts, as well as the characteristics of safety arrangements in terms of fencing, distances, rights of way, signaling and lighting .

^{liii} CFID/015f/2012 unreported

^{liv} CFI Yaounde CA, 2017 88 unreported

^{lv} (1997) Suit No HCSW\35\75 Unreported.

^{lvi} The 2035 Vision is the Policy defined by the Head of State, H.E. President Paul BIYA according to which Cameroon is expected transit into an emerging economy by the year 2035. This policy is pursued through a number of national policy orientations and instruments. The first of such instruments was the Growth and Employment Strategy Paper (GESP or DSCE in French) which ran from 2010 to 2020 and the current policy instrument in pursuit of that vision is the National Development Strategy Paper that will go from 2021 to 2030.

^{lvii} Waldman S. "Creating a 'Digital Bill of Rights': The Information Needs of Communities: The Changing Media Landscape in a Broadband Age " Government Documents Department p. 464