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**ELECTRONIC COMMERCE TRANSACTION IN NIGERIA: A
CRITICAL LEGAL LITERATURE REVIEW**

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Abstract

This paper conducts a critical legal literature review on e-commerce transaction issues in Nigeria. The paper focuses much on pressing legal issues concerning data protection of e-consumers and unfair trade practices exhibited by unscrupulous e-traders. The paper also examines issues concerning consumer protection institutions with a view to assessing their effectiveness in protecting consumers in the country. The paper adopts a doctrinal research methodology in achieving its objective. The paper reveals that e-commerce contributes immensely to the global economy. That Nigeria stands to derive a lot of economic benefits from e-commerce transactions. That unfair trade practices and data protection as well as institutional problems pose a serious threat to the Nigeria consumers who desire to utilise the Internet for commercial transactions. The paper, therefore, recommends a systematic legislative reform that will address online data protection and unfair trade practices problems in the country. The paper also recommends holistic reforms in the institutional infrastructure for e-commerce and consumer protection in the country.

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1. Introduction

Electronic commerce (e-commerce) is of growing importance to countries, businesses and consumers. E-commerce is the buying, selling and even advertisement of goods and services electronically via the Internet (Chaffey, 2003; Kalakota & Whinston, 1997; Pearsall, 2002; Zwass, 1996). E-commerce transactions take place 24 hours a day and seven days a week (24/7) for consumers worldwide (Ozuru, *et al.*, 2012). E-commerce is rapidly increasing around the globe (Omar & Anas, 2014) as consumers can now make online purchases of goods and services from their homes and offices (Omar & Anas, 2014; Ozuru *et al.*, 2012; Tiwalade, *et al.*, 2014). E-commerce affords consumers (e-consumers) the opportunity to compare products, information and prices conveniently (Omar & Anas, 2014; Ozuru *et al.*, 2012). Above all, it affords the e-consumers have access to a wider global economic market at little cost (Bamodu, 2004).

Oppenheim and Ward claimed that the present primary reason people carry out business on the Internet is the convenience involved in the process (Oppenheim & Ward, 2006). That is why every day, thousands of transactions take place on the Internet that cumulatively involves millions of US dollars (Art., 2010). This development came as a result of the breakthrough in the modern-day Information Communication Technology (ICT).

In this regards, ICT and e-commerce could be utilised by countries to actualise the 2016-2030 UN Sustainable Development Goals (SDGs), particularly in the fight against extreme poverty and the pursuit of economic development (The United Nations, 2017; UN Economic Commerce and Development, 2002). Consequently, the unfolding benefits of ICT generally and e-commerce, in particular, to developing countries like Nigeria and Malaysia *inter alia* cannot be counted.

In Malaysia, for example, Datuk Seri Ismail Sabri Yaakob, Minister of Domestic Trade, Co-operatives and Consumerism said that in 2010, 1.1 million people in the country carried out e-commerce (Putra, 2013). Accordingly, e-commerce transactions worth, RM 1.8 billion were recorded in 2010 and in the year 2014, the amount increased to RM 5 Billion (Malaysia Complaints: 2014 Annual Consumer Complaint Report, 2015). According to the 2014 Malaysian National Consumer Complaints Centre (NCCC) Reports, the amount is expected to further increase to RM 13.3 billion by 2018 (Admin2, 2017). Similarly, in 2014 alone, Nigeria has recorded over USD 2 million worth of Internet transactions per week and close to USD 1.3 billion monthly with an estimated growth rate of 25 percent annually (Abiloye, 2015). Hence, e-commerce advancement opens a lot of opportunities for any country that is willing to take its advantages.

Unfortunately, this technological advancement throws up serious legal, institutional as well as infrastructural challenges to all countries in the world. Hence, (Bali, 2004) argued that the existing legal norms are becoming outdated. Thus, realising the challenges and the positive impact of e-commerce on the global economy, the UN as far back as 1996 adopted the United Nations' Commission on International Trade Law (UNCITRAL) Model Law on E-commerce (the Model Law). The UN adopted the Model Law to serve as a pioneer e-commerce legislation for countries to copy and enact in their respective domains. The primary aim of the Model Law is to remove obstacles coming in the way of electronic documents particularly regarding their enforceability before courts of law (Akomoledede, 2008). Additionally, the Model Law aims at ensuring that countries across the globe have uniform e-commerce

legislation (Akomolede, 2008). Accordingly, the UN enjoined its Member States to enact laws and establish institutions that conform substantially to the provisions of the Model Law (Akomolede, 2008). Equally, the UN Conference on Trade and Development (UNCTAD, 2015) made a similar call but with specific emphasis on consumer protection. This is to the effect that countries that are preparing to enact or revise their consumer protection laws for e-commerce may consider aligning their legislation with the *UN Guidelines on Consumer Protection (UNGCP) 1985* and the *Organisation for Economic Co-operation and Development (OECD) Guidelines for Consumer Protection in the Context of E-commerce 1999*. It is the view of the (UNCTAD, 2015) that this would encourage harmonisation of consumer protection laws and foster consumer confidence in e-commerce. Hence, many countries have complied with these calls.

For instance, as of 24th August 2017, the provisions of the Model Law have been adopted *mutatis mutandis* in 69 countries, Malaysia inclusive (UNCITRAL, 2017). In addition to adopting the Model Law in 2006, Malaysia has also put in place other supporting legislative framework to ensure smooth operation of e-commerce in the country. This includes *inter alia* the Digital Signature Act 1997, the Consumer Protection (Amendment) Act 2007 and the Consumer Protection (Electronic Trade Transactions) Regulations 2012 (Putra, 2013). Thus, e-commerce needs specific laws (such as the ones cited above) to address issues arising from e-commerce transactions (Chaabna & Wang, 2015).

Despite the progress so far recorded in Malaysia as noted above, the situation in Nigeria is different. Nigeria is yet to enact the Model Law. Besides, Enadeghe (2013), argued that hitherto there is yet to be a holistic or adequate legal and institutional framework for e-commerce and consumer protection in the country (Enadeghe, 2013). In this regard, Akomodele (2008) argued that due to lack of adequate legal and institutional frameworks in this area, e-commerce consumers face many challenges in Nigeria. Akomodele further claimed that the problem has been compounded particularly, by some legal issues that have been addressed in more advanced and sophisticated nations (Akomolede, 2008). But which issues are still being struggled with in Nigeria. These issues include jurisdictional and choice of law, fraudulent and unfair trade practices, data and privacy protection, evidential and regulatory among others (Akintola, *et al.*, 2011; Akomolede, 2008). More so, there are also other infrastructural issues or challenges posing a serious threat to the growth and development of e-commerce in Nigeria (Aghaunor & Fotoh, 2006; Ahmadu, 2010). Scholars have identified lack of reliable electricity supply (Adamu, 2014; Akintola *et al.*, 2011; Sambo & Garba, 2012), poor Internet connectivity (Abubakar & Adebayo, 2014; Enadeghe, 2013; Ozuru *et al.*, 2012), and poor delivery system (Akintola *et al.*, 2011; Oluchi, 2015) of goods and services as some of such issues. Hence, it is evident that the emergence of e-commerce raises serious legal issues in Nigeria which must be tackled for the country and its citizens to benefit from its potentials (Akintola *et al.*, 2011). It, therefore, remains important to address these problems cum issues so as to enable the country to maximise the opportunities which ICT revolution offers to the Nigerian economy.

Consequently, this paper will examine the legal and institutional issues relating to e-commerce in Nigeria. Hence, the emphasis would be made on such legal issues as data protection and unfair trade practices. The paper will also examine the institutional frameworks put in place for the protection of the e-commerce consumers in Nigeria. This would be done to find out whether the said legal and institutional frameworks are adequate in addressing e-consumer related issues in the country. Meanwhile, the outcome of this paper is likely to suggest the need for specific reforms in the Nigerian legal and institutional

frameworks for the protection of e-commerce consumers as such recommendations to that effect would be proffered at the concluding part of the paper.

2. Literature Review

According to Ridley, (2012) a literature review is that part of the academic work where a researcher makes extensive reference to other researchers and theories. Literature review avails the researcher the opportunity to engage in a written dialogue with previous researchers in his/her chosen research area (Nuruddeen, 2015). A literature review enables a researcher to identify the theories and previous research which have influenced his/her choice of research topic and the methodology he/she adopts (Ridley, 2012). A researcher can use the literature to show that there is a gap in previous studies. Therefore, literature review affords a researcher the opportunity to identify a research gap or question which needs to be addressed.

The literature review in the context of this paper revolves around two fundamental key issues. That is the definition of operational terminologies. Then followed by a brief review of the issues surrounding legal and institutional frameworks for e-commerce in Nigeria.

2.1. Definition of Operational Terminologies

Legal Framework: The phrase “Legal Framework” is defined as a comprehensive system of rules that governs and regulates decision making, agreements or laws, etc. According to the MacMillan Dictionary, the legal framework is a system of rules, laws, agreements, etc., that establishes the way something operates in business, politics, or society. Therefore, in the light of the above and for the purpose of this paper, “legal framework” means the body of rules, laws, policies and guidelines including case law, etc. That governs or regulates e-commerce transactions and consumer protection in Nigeria.

Institutional Framework: The phrase “institutional framework” has varying definitions. For instance, Khrishman, (2008); Burton (1998) defined it as a structure designed to regulate, govern, guide, control, supervise and oversee certain affairs. The (OECD, 2004) Glossary of Statistical Terms defined an institutional framework as a statutory provision which assigns responsibility or authority to a particular agency. Ekanem (2011), opined that institutional framework means the agencies established by the law that is vested with the power to supervise, monitor and regulate certain affairs in the society. Therefore, for the purpose of this paper, “institutional framework” means agencies, bodies or institutions established by the Nigerian government to regulate the affairs of e-commerce, consumer protection and related issues in the country.

Electronic Commerce: The term “electronic commerce (e-commerce)” has no precise definition (OECD, 1997). Thus, scholars, judges and businesses made efforts to define the term e-commerce from different perspectives. For instance, Akintola *et al.* (2011) defined e-commerce as buying and selling of products or services electronically via the Internet. Also, Khairi, as quoted by Omar & Anas (2014), defined the term as a business where traders use the Internet as a means of promoting and selling products and services for consumers the world over. Here, it is the Internet that allows direct communication between the trader and the buyer without any physical contact (Omar & Anas, 2014). On the contrary,

(Bali, 2004) opined that every time services are rendered and paid for on the Internet, it is e-commerce. Thus, for the purpose of this paper “E-commerce” means transactions that involve buying and selling of goods and services with the aid of the Internet. However, the paper focuses on buying and selling via the websites of online traders or merchants.

Consumer: According to Kanyip (2010), the word “Consumer” is generic, and so it is of broad generalisation. Kanyip (2010) further opined that the word “Consumer” encompasses different categories of persons. A consumer comprises of all end users of goods and services. This includes the hirer, the hotel guest, the bank customer and the insured or policyholder, etc. (Andzenge, 2013). On the other hand, Section 32 of the CPC Act 1992 defined a consumer as an individual who purchases, uses, maintains or disposes of goods or services (Asagh, 2013). Monye *et al.*, (2014) opined that a group or class of individual consumers could fall within the meaning of a “consumer” under the CPC Act. However, in this paper, the word “Consumer” means a purchaser of goods and services electronically via the Internet or website. Otherwise referred to and interchangeably used in this paper as “e-commerce consumer” or “electronic consumer (e-consumer).”

E-consumer: According to Amin & Mohd Nor (2013), an e-consumer is as any person who engages in commercial transactions via the Internet. Ilobinso (2015) argued that there is no much difference between an e-consumer and ordinary consumer. The only difference is the mode through which they make purchases. The e-consumer uses electronic means such as the Internet while the ordinary consumer uses the conventional markets to do so (Ilobinso, 2015).

2.2. Legal and Institutional Issues affecting E-commerce in Nigeria

Since the central focus of this paper is on legal and institutional frameworks for e-commerce in Nigeria, the followings sub-heads would expose debates among scholars on the subject matter.

2.2.1. Inadequacy of Legal Framework

Most of the existing rules and laws in Nigeria lag behind the development of e-commerce in particular and ICT as a whole. Studies on e-commerce in Nigeria such as the one carried out by Akomolede, (2008); Nwokpoku, (2014) respectively supported the conclusion that the Nigerian legal system lags behind in terms of ICT-based legislation. Bamodu (2004), further argued that the existing statutory laws are quite inadequate to address the e-commerce legal issues in the country. In fact, (Ahmadu, 2010) described the existing Nigeria’s legal framework for e-commerce as “a sketchy picture of the semblance of a legal environment.” Jemilohun & Akomolede (2015), maintained that significant efforts at the regulation of e-commerce and related issues are still at the stage of draft bills pending before the National Assembly.

Moreover, (Monye *et al.*, 2014) reported that the Nigerian consumers are not comfortable with the Nigerian laws relating to consumer protection. This is because the laws are too old and inadequate to protect the interest of the contemporary consumers such as the e-commerce consumers (Monye *et al.*, 2014). In the words of Udeh, Nigeria needs an adequate legislation that will protect e-commerce businesses and consumers to drive growth and boost opportunities in the sector (Nwokpoku, 2014). For

example, Enadeghe (2013), argued that the existing legislation such as the CPC Act 1992 and the *Sale of Goods Act 1893* are rather too old. Other inadequate legislation that affects e-consumers includes those bordering on data protection and privacy, unfair trade practices, and electronic evidence, etc. (Ladan, 2014; Osinbajo Yemi, 2007).

2.2.2. Privacy and Data Protection

Given the openness and accessibility of the Internet, Okoro & Kigho (2013) observed that the protection of data and privacy has been a source of concern for Internet users. Akomolede (2008) stated that this remains a threat to e-commerce in Nigeria. Nigerian consumers who want to transact business via the Internet will want their privacies regarding data to be protected, but this is not possible. This is because any information fed into the Internet could be accessed anywhere in the world by other persons using the Internet. Perhaps, that is why Enadeghe (2013) observed that Nigerians are always security conscious and are very careful when disclosing their personal information. The majority of Nigerians do not release their personal information, especially when related to their finance. Enadeghe (2013) has attributed this to lack of Internet privacy, lack of technology and legal structures to ensure data protection.

In fact, due to lack of trust, banks in Nigeria frequently caution customers not to disclose their ATM Personal Identification Numbers (PINs) to any person including the banks' staff and close relations. Perhaps, that is why Okoro & Kigho (2013) observed that many consumers nowadays source for information online but make purchases the traditional way. In the alternative, consumers prefer to place orders online but make payment upon delivery of the physical goods (Okoro & Kigho, 2013). Consumers feel safer with the traditional way or payment upon delivery.

Section 37 of the *Nigerian Constitution 1999* has guaranteed the right to privacy as one of the recognised Fundamental Rights. However, Tiwalade *et al.* (2014) argued that Nigeria has neither enacted any specific data protection law nor adopted any functional self-regulatory system of data protection. In this regard, Akinsuyi (2007) advocated for a comprehensive data protection legislation in Nigeria. This was re-echoed by (Jemilohun & Akomolede, 2015), who argued that at present, there has not been any comprehensive legislation on data protection in Nigeria. Jemilohun & Akomolede (2015), argued further that the closest that Nigeria has to a data protection legislation is the *Guidelines on Data Protection (GDP) 2013*. By implication, the duo is of the view that the GDP are not sufficient to replace a proper legislation. Therefore, adequate legislation is needed for data protection in Nigeria, especially in this electronic age. Akomolede (2008) made it clear that this situation signals a great danger for e-commerce consumers in Nigeria.

2.2.3. Unfair Trade Practices

Despite the problems of privacy and data protection, Nigerians do participate in e-commerce transactions that have connections to countries other than Nigeria. At some point in time dispute is inevitable. Parties usually make reference to the terms and conditions governing the transactions to resolve the dispute. However, (Bello *et al.*, 2012) argued that most of the times, the conditions are contained in a standard form that usually favours the powerful electronic traders (e-traders). This is confirmed by Bamodu (2004), who said that most e-traders have a particular web page outlining lengthy

terms and conditions for contracts concluded on their website. The e-consumers might not be aware of or might not notice or even bother to read such terms and conditions (Bamodu, 2004). For example, the Amazon (online retailers) provide conditions on their website to the effect that in the event of any dispute regarding any transaction concluded on their website, the law of Washington shall be used to resolve such dispute. This kind of condition appears detrimental to a Nigerian consumer who might, without the knowledge of such conditions, conclude a contract on the website. For he/she might not get the wherewithal to go to Washington and seek for redress where there is any breach on the part of Amazon. In this respect, Nuruddeen (2011) argued that the Nigerian CPC (being the principal regulatory body for consumer protection in Nigeria) has a minimal role to play in the circumstance. According to Enadeghe, (2013) the law establishing CPC makes no specific provision concerning e-commerce.

Bamodu (2004), argued that this kind of unequal bargaining power and other unfair trade practices are checkmated in many countries by passing appropriate legislation. For example, in Malaysia, Amin & Mohd Nor, (2013) argued that unequal bargaining power and other unfair trade practices against e-consumers have been addressed by Part IIIA of the *Consumer Protection (Amendment) Act 2010*. The amendment was particularly done to protect consumers against unfair terms in standard form contracts. Now, e-consumers in Malaysia can challenge the validity of standard terms of online contracts. Similarly, according to Enadeghe (2013), in the European countries, e-consumers will not be held bound by a term of an agreement that has not been unanimously negotiated. Especially if that term, contrary to the requirement of good faith, creates a significant imbalance in the parties' rights and obligations (Enadeghe, 2013). In this regard, could we say there is a gap in the Nigerian law? Particularly bearing in mind the recommendation of UN enjoining countries to enact the Model Law so as to ensure that the practices of member states in the area of e-commerce, as an emerging practice in commercial transactions, is uniform and of an acceptable standard.

2.2.4. Problems Associated with Institutional Framework for E-commerce and Consumer Protection: CPC in Focus

The UN enjoined its member states, Nigeria inclusive to come up with the institutional framework to facilitate e-commerce transactions and consumer protection in their jurisdictions. The need for an institutional framework to protect consumer's interest cannot be overemphasised. Suffice it to say that such institutional framework would boost consumer confidence in the emerging e-commerce transactions (UNCTAD, 2015). In the words of Bello *et al.*, (2012) without the consumer, there can be no basis for production and hence no market. Bell & Emory (1971) added by saying that consumer is seen as not only necessary in marketing but of all businesses. Hence, a consumer being weaker party in commercial transactions his/her interest must be protected especially by the government against unscrupulous conducts of the traders and suppliers (Bello *et al.*, 2012). Bell & Emory (1971), said that if the business fails to protect a consumer (out of unequal bargaining position), then the government or other parties must come to his/her aid. In the same vein, Green, (1974) opined that the consumer would be better protected by the government measures than the private law remedies. Hence, Odion, (2015) quoted Hutchinson saying:

“without the state willing or able to define and protect property right, enforce contracts and prevent involuntary transactions, maintain a circulating medium and curtail monopoly and anti-competitive behaviour, there is no market in any real or meaningful sense.”

This inevitably calls for the establishment of consumer protection institution to govern the affairs of consumers generally and e-consumers by extension. It is worth noting that Nigeria has been setting up consumer institutions such as the NAFDAC, the SON, and CPC to protect the rights of consumers against unfair trade practices of traders and suppliers (Bello *et al.*, 2012). Unfortunately, none of these bodies was established with a clear mandate to protect the interest of e-commerce consumers in the country (Enadeghe, 2013).

For instance, the CPC which was created by the CPC Act 1992 is the most direct consumer administrative agency in Nigeria. The establishment of the CPC is an important government policy, and it remains the most significant action targeted at consumer protection rights in the country (Bello *et al.*, 2012). However, Enadeghe (2013) has observed that careful perusal into the mandate of the CPC under Sections 2 and 3 of the CPC Act 1992 will reveal that the CPC Act does not apply to e-commerce transactions. In this way, Abubakar & Adebayo (2014) emphasised the need for an effective institutional framework to govern the conduct of e-commerce in Nigeria. This is necessary because, according to Enadeghe (2013), an e-consumer can face problems like delay in delivery, delivery of wrong/defective goods or no delivery at all, etc. In this kind of situation, Nwokpoku (2014) lamented that such a consumer might not have any place to go and lodge a complaint or seek redress. Noting that the CPC Act 1992 has been in existence for over two decades without any amendment. This is unlike what we observed from the study conducted by (Amin & Mohd Nor, 2013) regarding progressive amendments to the Malaysian *Consumer Protection Act 1999* to address e-commerce and consumer protection issues. Hence, is it not there the need to also extend the mandate of the Nigerian CPC to keep pace with the advancement of the modern-day ICT?

2.2.5. E-Consumer Disputes Settlement Through the Nigerian Courts

In the event of any dispute, Ekanem, (2011) argued that the only option left for an aggrieved e-consumer is to resort to filing a civil action in a court of law. The courts are there to enforce consumer rights and award remedy appropriately (Ekanem, 2011). Unfortunately, studies such as the one conducted by (Jafaru *et al.*, 2015a; 2015b) revealed that courts in Nigeria are already overburdened. Also, according to Nuruddeen *et al.* (2017), the judicial system of settling disputes in the country is costly and time-consuming. Besides, most of the judges operating the Nigerian courts are not ICT law experts (Monye *et al.*, 2014). Isaac, (2015) reported that the Chief Justice of Nigeria (CJN), Justice Mahmud Mohammed acknowledged this fact. The CJN spoke during the opening ceremony of the 2015 Workshop for Judges on Legal Issues in Telecommunications. During the Workshop, the CJN recognised the need for an effective regulation of technological advancements especially in the telecommunication sector of the country (Isaac, 2015). Isaac, (2015) further reported that the CJN still accepted the fact that the challenges of the advancement of the ICT and the growing need for consumer protection are increasingly becoming complex for courts and regulatory bodies in the country. Thus, the need for basic knowledge of ICT among Nigerian judges was echoed by Ladan, (2014), who opined that ICT knowledge among judges

would enhance their capacity to handle ICT connected disputes with much expertise. Additionally, Ahmadu (2010) argued the appropriateness of computer literacy among the members of the Nigerian Bar Association (the Bar and the Bench) who handle e-commerce disputes before Nigerian courts. While emphasising the need for computer literacy among legal practitioners in Nigeria, Oluchi, (2015) argued that to adjudicate on issues relating to electronic transactions matters, whether as a practitioner (lawyer) or as an adjudicator (judge), one must be knowledgeable about the legal intricacies and technical details of the ICT. Although according to the (UNCTAD, 2015) Reports this problem is not limited to Nigeria. However, it is in the overall interest of the Nigerian e-consumers that this issue is addressed in due course.

3. Problem Statement

It is trite that the success of e-commerce depends on factors such as the legal and institutional frameworks established to ensure that the rights of e-consumers are adequately protected (Alhusban, 2014). It is believed that this would boost consumer confidence and trust in all the transactions he/she wishes to conduct via the Internet (Alhusban, 2014). Legal and institutional frameworks are needed the world over to tackle issues bedevilling e-commerce such as data and privacy protection, unfair trade practices, cybercrime and trans-border disputes among other things (Akintola *et al.*, 2011). As noted above, the UN had since enjoined its member countries to enact laws and establish institutions that will protect the interest of public who use the Internet as a means of conducting commercial transactions (Akomolede, 2008). Thus, keeping pace with the legal challenges brought by the modern-day technological advancement (Hassan, 2012; Mohamed Yusoff, 2011; Putra, 2013).

Regrettably, in Nigeria, significant efforts at the regulation of related e-commerce activities are still at the stage of draft bills before the Nigerian National Assembly (Jemilohun & Akomolede, 2015). Hence, e-commerce stakeholders are agitating and crying for legal and institutional frameworks that will adequately protect them in online commercial activities. This will pave the way for an orderly conduct of e-commerce transactions in a manner that is fair especially to the consumers (Ugwu, 2015). In specific terms, the following are some of the legal concerns of persons who use the internet for commercial transactions in Nigeria.

3.1. Privacy and Data Protection

Studies on e-commerce in Nigeria support the conclusion that Nigerian legal system lags behind ICT based legislation and that the existing statutory laws are quite inadequate to address legal issues affecting e-commerce transactions (Akomolede, 2008; Bamodu, 2004; Nwokpoku, 2014). For instance, an investigation revealed that at the moment, there seems to exist inadequate legislation in the country targeted at e-commerce (Okoro & Kigho, 2013). This is the case both for consumer rights protection and issues relating to data protection and privacy invasion resulting from unauthorised use of personal information (Nwokpoku, 2015). Perhaps, that is why many consumers nowadays source for information online but make purchases the traditional way. In the alternative, the consumer may place orders online but make payment upon delivery of the physical goods (Okoro & Kigho, 2013; United Nations, 2004). This is because they feel that the traditional way guarantees privacy and safety of their business

transactions (United Nations, 2004). Consequently, scholars have made a categorical call for an adequate data protection legislation in Nigeria that will ensure the protection of private information of individuals (Jemilohun & Akomolede, 2015; Jafaru, 2011).

3.2.Unfair Trade Practices

Despite the problems associated with privacy and data protection, Nigerians do participate in e-commerce transactions with either local and international merchants or traders. It is a well-known fact that disputes are unavoidable in all commercial transactions. Often, reference is made to the terms and conditions governing the transactions to resolve such disputes (Ahmadu, 2010; Bamodu, 2004). Most at times, the terms and conditions are contained in a standard form that favours the giant electronic traders (e-traders) (Bello *et al.*, 2012). Besides, the conditions governing online transactions are lengthy which many e-consumers might not be aware of or might not notice or even bother to read (Bamodu, 2004). For example, the Amazon (online retailers) provide such conditions on their website. It is to the effect that in the event of any dispute concerning any transactions concluded on their site, the law of Washington shall be used to resolve the dispute (Bamodu, 2004). This kind of condition is detrimental to, for example, a Nigerian consumer who might, without the knowledge of such conditions, conclude a contract on the website. For he/she might not get the wherewithal to go to Washington and seek for redress in the event of any default on the part of Amazon.

Bamodu, (2004) argued that this kind of unequal bargaining power and other unfair trade practices are checkmated in many countries by passing appropriate legislation. Some of these countries include Malaysia (Amin & Mohd Nor, 2013) and European countries (Enadeghe, 2013). Does Nigeria have legislation checkmating the excesses of the powerful e-traders in the country? Moreover, are there institutions put in place by the Nigerian government to ensure adequate protection of its e-commerce consumers in the country? Therefore, in order not to pre-empt the outcome of this paper, response to these questions would be provided in the following parts of the paper.

3.3.Consumer Protection Institutions in Nigeria

The Nigerian government set up institutions to protect the consumer against unethical commercial practices coming from the part of the traders. The National Agency for Foods and Drug Administration and Control (NAFDAC), the Standards Organization of Nigeria (established under the *Standards Organization of Nigeria Act, 1990*), and the Consumer Protection Council of Nigeria (CPC) are good examples of the institutions (Bello *et al.*, 2012). Unfortunately, none of these institutions was set up with a clear or specific mandate to protect the interest of e-commerce consumers in the country. For instance, the establishment of the CPC under the CPC Act 1992 is said to be the most significant action targeted at consumer protection in the country (Bello *et al.*, 2012). However, careful perusal into the mandates of CPC under Sections 2 and 3 of the CPC Act 1992 will reveal that the CPC Act 1992 does not apply to e-commerce transactions (Enadeghe, 2013). Besides, the CPC Act 1992 has been in existence for over two decades now without any amendment. Hence, is it not there the need to amend the Nigerian CPC Act 1992, to enlarge its mandate so as to keep pace with the advancement of the modern-day ICT?

In addition to institutions like the CPC, the Nigerian government also established courts and empowered them to protect and enforce the rights of aggrieved consumers in the country (Ekanem, 2011). The aggrieved consumers approach the court by way of civil suits (Ekanem, 2011). However, an ordinary consumer or e-consumer cannot approach the court for justice when his/her right is violated (Emelie, 2017). The cost of litigation in Nigeria which comprises of lawyer's fees and court charges are outrageous (Emelie, 2017). Secondly, civil proceedings before Nigerian courts are full of technicalities and unnecessary delays (Nuruddeen, *et al.*, 2017). This scares away many poor Nigerian consumers from approaching the court for justice. Thirdly, the settlement of e-consumer related disputes is quite different from ordinary consumer disputes. Often, expertise is required for an efficient adjudication of e-commerce and ICT related disputes (Ahmadu, 2010; Isaac, 2015; Ladan, 2014). Unfortunately, most of the judges operating the Nigerian courts are not computer literate, and so they tend to be conservative in their approach to such disputes (Ahmadu, 2010; Isaac, 2015; Ladan, 2014). On the whole, the judicial system of dispute settlement in the country is costly and time-consuming (Nuruddeen *et al.*, 2017). The current setting of the legal system is not e-consumer friendly. In this respect, perhaps, Nigeria can learn lessons from other jurisdictions where e-consumer disputes are settled with expertise and without much delay and financial commitments.

4. Research Questions

Given the identified problems above, this study has formulated the following research questions:

1. What is the legal framework for the protection of e-commerce consumers in Nigeria?
2. Is the legal framework for the protection of e-commerce consumers in Nigeria adequate?
3. What are the institutional bodies put in place by the Nigerian government for the protection and enforcement of e-commerce consumer rights in Nigeria?
4. What practical lessons can Nigeria draw from international best practices in the field of e-commerce consumer protection?

5. Purpose of the Study

The purpose of this paper is to address the above-highlighted problems. The paper, therefore, would be of benefit to the Nigerian policy makers (particularly the legislature), the academic society and members of the Nigerian Bar Association (NBA). The business community (e-traders and e-consumers) and the general public, as well as consumer institutions in the country, would equally benefit from this paper.

6. Research Methods

The research methodology adopted by this paper is Doctrinal. In legal studies, the doctrinal methodology is the dominant research method of answering research questions (Ali, *et al.*, 2017; Hutchinson, 2006; Yakin, 2007). The word "doctrinal" has its root from a Latin word "*doctrina*," which means education, knowledge or learning (Ali *et al.*, 2017). According to Hutchinson, a doctrinal research is a type of research that provides a systematic exposition of the rules regarding a particular aspect of the law (Hutchinson, 2006). Doctrinal research analyses the relationship between legal texts and explains

areas of challenges as well as forecasts future development and makes recommendations for legislative reforms (Hutchinson, 2006).

On the other hand, the types of data for this paper consist of primary and secondary sources. Primary sources comprise of legislative enactments (statutes) and case law (judicial precedent). In legal research, the primary source is the most authoritative and the highest source of data. Similarly, the secondary data for this paper comprises of various forms of writing of legal scholars describing, interpreting, analysing and criticising either statutes or judicial precedents (Aboki, 2004). Thus, secondary sources of data can take the form of academic journals, government publications, bulletins, textbooks, dictionaries, encyclopaedias as well as Internet materials among other things.

7. Findings

From the preceding, therefore, it is evident that e-commerce contributes immensely to the global economy. It boosts the economy of any country that wishes to take the advantages brought by the breakthrough in the modern-day ICT. However, this may not be achieved without putting in place the relevant legal and institutional frameworks to protect e-consumers being the key players in e-commerce transactions. Studies have revealed that Nigeria lags behind in terms of legal and institutional frameworks for e-commerce and consumer protection. The Nigerian CPC Act 1992 does not make explicit provisions for the protection of e-consumers. The CPC Act 1992 has been in existence for more than two decades without any amendment. This is despite apparent unfair trade practices emanating from the part of the giant e-traders. Nigeria is also yet to address problems relating to data protection and privacy of e-consumers, and this discourages many Nigerians from participating in e-commerce transactions in the country. Not forgetting the fact that access to justice and redress mechanisms for e-consumers is fundamental when it comes to enforcement of their rights. However, studies have revealed that access to justice for e-consumers in Nigeria is not conducive. The judicial system in the country is costly and time-consuming.

8. Conclusion

This paper has carried out a critical legal literature review on e-commerce transaction issues in Nigeria. The paper laid much emphasis on such pressing legal issues as data protection of e-consumers and unfair trade practices exhibited by unscrupulous e-traders. The paper also examined issues concerning consumer protection institutions with a view to assessing their effectiveness in protecting consumers in the country. The paper, therefore, recommends systematic legislative reforms that will address online data protection and unfair trade practices problems. The paper also recommends holistic reforms in the institutional infrastructure for e-commerce and consumer protection in the country.

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