**GOVERNMENT OF PAKISTAN**



**E-Commerce Regulatory Framework**

**Draft Prepared By:**

**Working Group on E-Commerce Regulatory Framework**

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# E-Commerce Regulatory Framework

**E-Commerce**

"The term 'electronic commerce' is understood to mean the production, distribution, marketing, sale or delivery of goods and services by electronic means.”[1]

E-commerce is vital in the economic development of a country as it increases accessibility of products to customers from a wide array of sellers all of whom are spread across a wide geography. This acts as an additional revenue stream for all stakeholders involved.

E-commerce also serves as a method to make transactions visible that would have otherwise gone unreported due to unlawful import of goods or off the books trading. As Pakistan works towards building its E-commerce market, it is essential that an environment supporting E-commerce is fostered to encourage local trade and foreign investment.

Many of the policy issues that arise in regulating electronic commerce also arise in regular commerce. Pakistan will take a technology neutral approach to regulation i.e. the same principles and regulatory rights/obligations, apply to commerce which takes place in a ‘bricks and mortar’ setting as it does for those transactions which take place via electronic means. However, there are some new challenges and opportunities created by electronic commerce which are catered by this regulatory framework.

The existing state and form of e-commerce business in Pakistan is as under

1. The current legal framework only accommodates traditional buyand sell (“Retail”) transactions where the E-commerce business itself is the seller of goods. Retail model can be defined as:

***Retail model:*** *Manufacturer, distributor, retailer or service provider uses a self-owned website to sell its owned products and controls the price of the products. Examples include websites of various famous clothing brands and other consumer goods.*

**[1]**Available at: <https://www.wto.org/english/tratop_e/ecom_e/ecom_e.htm>

1. However, one of the most commonly used E-commerce business models in the world is the “Online Market Place” model where the E-commerce website acts as a facilitator of services between a buyer and a seller. An Online Market place model can be defined as:
	* ***Online Market place model:***An Online Marketplace is an information technology platform run by an e-commerce entity over an electronic network that acts as a facilitator in transactions that occur between a buyer and a seller. Facilitation services of an Online Marketplace may include warehousing and logistics, marketing services, customer service, payment aggregation, after sales services and other services. Examples of such models in Pakistan are daraz.pk and yayvo.pk amongst others.
2. Another E-commerce business model in the world is the “Auction Market Place” model where the E-commerce website acts as a platform for auction of goods and services between a buyer and a seller. Auction Market Place can be defined as:

***Auction Market Place:*** *“An auction market is a market in which buyers enter*[*competitive bids*](http://www.investopedia.com/terms/c/competitivebid.asp)*, and sellers enter competitive offers at the same time. The price at which a stock is traded represents the highest price that a buyer is willing to pay and the lowest price that a*[*seller*](http://www.investopedia.com/terms/s/seller.asp)*is willing to sell. Matching bids and offers are then paired together, and the orders are executed.”*

(Note: SBP was of the view that point – iii may also be included whereas the private sector was of the view that it may be excluded)

Online Market place providers cannot be fully absolved from any liability for the products/services being offered via their platform (for example listing illegal products) their liability needs to be distinguished from the liability of the actual seller of the products/servicesin the context of the consumer protection and related matters.

# Consumer Protection

Consumer Protection is important for both the consumer andgenuine sellers in e-commerce as it is not only to protect them from possible exploitation but also enhances desired confidence in e-transactions resulting in healthyeconomic activity and reduced transaction costs. It also provides a level playing field for businesses to compete for providing improved quality of goods and services. With the rise in volume of e-commerce in the country, there is a need to revamp the existing legal framework to safeguard the interests of consumers and businesses from associated risks.The importance of the said law is as under:

1. Consumer rights and consumer protection law provides a way for individuals to fight back against abusive business practices. These laws are designed to hold sellers of goods and services accountable when they seek to take advantage of a consumer’s lack of information or bargaining power.
2. As per United Nations Conference on Trade and Development (UNCTAD) “Consumer protection benefits all consumers by ensuring that they have the right of access to: non-hazardous products; to adequate information to enable them to make informed choices according to individual wishes and needs; and to effective redress. Empowered consumers, who know their rights and enforce them, are subject to fewer abuses. This directly improves their welfare. It also contributes to creating a level playing field for businesses which have to apply a common set of standards, supporting competition.”[5].

**[5]**Available at: <http://unctad.org/en/Pages/DITC/CompetitionLaw/why-competition-matters.aspx>

**Existing Consumer Protection legal landscapein Pakistan**

In Pakistan, the Federal and Provincial governments have already approved ConsumerProtection laws which are used by the concerned government bodies at their level to promote consumer protection and fair trade. These laws at Federal level include Prevention of Electronic Crimes Act, 2016 (providing safeguards and remedies against all types of cybercrimes and spam), the Islamabad Consumer Protection Act 1995, the Competition Act, 2010 which mainly deals with the competition related matters and deceptive marketing practices.Then there are also sector specific regulators that deal with the consumer protection in specific sectors (e.g. Pakistan Telecommunication Authority etc). At provincial level there are laws passed by the Provincial legislatures for consumer protection that include:

* Punjab Consumer Protection Act 2005
* Sindh Consumer Protection Act 2014
* Khyber Pakhtunkhwah (NWFP) Consumer Protection Act 1997
* Balochistan Consumer Protection Act, 2003

Territories falling within federal or provincial administration FATA and PATA are without consumer protection laws.

By virtue of functional equivalence provided to the electronic transactions by the Electronic Transactions Ordinance 2002, these laws may also be applicable for e-transactions.**[6]**

**[6]** Section 3 of the ETO provides legal recognition to electronic documents as follows: 3. Legal recognition of electronic forms.—No document, record, information, communication or transaction shall be denied legal recognition, admissibility, effect, validity, proof or enforceability on the ground that it is in electronic form and has not been attested by any witness.

## Key Issues/Challenges in Consumer Protection

There are following key challenges with regard to consumer protection in e-commerce:

1. Difficulties in returning a faulty or otherwise unacceptable product particularly in a cross-border transaction and reversal of funds transfer;
2. Lack of trust in e-transactions and absence of mechanisms to enhance consumer confidence in e-commerce.
3. The existing modes of consumer dispute resolution need to be improved by enabling easier filing of a complaint, timely decisions and their execution
4. Today, in Pakistan, consumer protection remains regulated by traditional rules not specifically devoted to the online world that do not address specific issues raised by the electronic environment.
5. In the various consumer protection laws (Section 2), there is no evidence of any express consumer welfare thinking regarding E-Commerce. This is largely because at the time the legislation was enacted there was very little consumer awareness or volume of e-commerce transactions taking place in Pakistan.
6. The four consumer protection laws are generally similar in their letter and spirit, but the general public of Pakistan is not yet fully aware of their provisions as well as other laws pertaining to consumer protection, so there is lack of awareness of key stakeholders about the aforesaid consumer protections laws.

## Policy Measures

The Federal Government shall take following actions:

1. Federal Board of Revenue/Ministry of Commerce shall review the customs and other relevant procedures/laws with a view to determine a minimum value of a shipment of merchandise imported that may be imported free of custom duties and other taxes and seamless delivery of goods through e-commerce. Similarly, FBR/Ministry of Commerce shall also review its procedures/laws with a view to ensure that any unacceptable delivered goods can easily be returned.

(**Note :** SBP was of the view that the point – i may be excluded)

1. Establishment of trusted and easier modes of payment shall be facilitated with a view to facilitate inbound/outbound payments and transaction reversals.
2. The Consumer Protection Councils/bodies at Federal as well as Provincial levels shall be encouraged to run awareness campaigns particularly with reference to e-commerce for educating the people regarding their legal rights, obligations and remedies;
3. The TDRO or any other body designated by the Ministry of Commerce in this behalf shall launch a scheme for accreditation and rating of e-commerce websites/platform on the basis of their commitment to compliance with the local laws and international best practices with a focus on consumer protection. The designated body shall also establish an online application/website for obtaining consumer feedback directly and may also seek information from other governmental/non-governmental consumer protection bodies working at Federal and Provincial level. The accredited e-commerce website/platform shall be rated periodically on the basis of the feedback.
4. The TDRO/designated body shallestablish an Online Dispute Resolution (ODR) platform that shall provide the facility of automated as well as facilitated Online Dispute Resolution free of charge based on international best practices. UNCITRAL Technical Notes on ODR may also be consulted while establishing the procedure for ODR.
5. Rules for liability protection of market place providers shall be framed under the Prevention of Electronic Crimes Act, 2016. **[7]**
6. Trademark and copyright processing for E-commerce companies should be expedited with the IPO in order to give E-commerce companies the highest cover possible against such infringement.
7. Provisions should be made to ensure consumers understand the terms and conditions relating to the acquisition and use of digital content.

**[7]**Section 38 of the PECA provides indemnity to service providers against any civil and criminal liability for the content hosted by them unless it is established that the service provider had specific actual knowledge and willful intent to proactively participate in the offence and not merely through failure or omission to act.

1. For such products which cannot be sold to certain categories of persons (e.g. due to age restrictions or licensing requirements), the relevant regulatory regimes will be reviewed and where possible appropriate changes shall be introduced for enabling delivery of such products/services via e-commerce while ensuring that safety of life and property of the citizens and other public policy objectives are not compromised.

CCP should further prohibit resort to deceptive marketing practices by e-commerce companies and a joint task force of relevant stakeholders may be formed to proactively check this anti-competitive element in the e-commerce industry and CCP shall take action against such undertakings for violations of competition Act, 2010.

1. Every business, no matter its size or age, may have online presence through its business website, blog, LinkedIn or Facebook profile, and any other places on the Internet where customers can find you. This will help to gain credibility, authority, visibility and growth in online business as it is a very vulnerable space. In this regard, disclosure may be made regarding:
* Business name, contact details and address
* Description of goods or services
* Price, including all applicable taxes
* Options for mode of payments
* An estimate on delivery promise (i.e. how long it will take goods/services purchased online to arrive)
* Use of trust marks and security seals/badges from Authorized Service Providers for its web site which will helpful for authenticity and to maximize customer trust.
* Any other metric relevant for the customer to make an informed purchasing decision.
* Disclosure about jurisdictions where delivery can or cannot be committed by e-Commerce merchant (**SBP Viewpoint**).
1. The rules that apply to other forms of advertising must apply to online marketing, too. These standards protect businesses and consumers and help maintain the credibility of the Internet as an advertising medium. Following are the key factors for online marketing and advertising that needs to be kept in check and balance to ensure consumer protection.
* Placement of Terms & Conditions must be monitored
* Fitness for purpose, Expected Life & Utility of a second hand product may also be mentioned
* Minimum word limit for description should be introduced
* Description should also be provided in forms of table or diagram
* Secure and authentic payment methods must be introduced and implemented
* Return or replacement policy must be clearly visible on the product page since products are purchased without physical inspection
* Disclaimers
* Advertisers should use clear language and syntax and avoid legalese or technical jargon.
* Disclosures should be as simple and straight forward as possible.
* Disclosure about Original Equipment Manufacturer (OEM) supplier of goods being sold should be mandatory. Further, acceptance of warranty in the country of purchase should be disclosed (**SBP viewpoint**).
1. Following the footsteps of the model competitive markets in the E-commerce sector, legislations are proposed to ensure effective regulatory framework for E-commerce. Such legislations include Franchise and Business Opportunity Rule, the Children’s Online Privacy Protection Act (COPPA), the Fair Credit Billing Act, the Electronic Fund Transfer Act, Free Products (Guide Concerning the Use of the Word Free and Similar Representations), Mail or Telephone Order Merchandise Rule, Warranty Terms and Guarantees.

# 2. Personal Data Protection

Privacy of home is a fundamental right guaranteed under the Constitution of the Islamic Republic of Pakistan. In digital era this fundamental right extends to digital space as well. The Government of Pakistan also recognizes the economic and social benefits of protecting the personal information of users of electronic commerce. Such personal data may include but is not limited to name, residential address, phone number, email address father-name, Date-Of-Birth, mother-name, Credit card information, pin code, list of purchased items etc.

## Existing landscape in Personal Data Protection:

Besides Constitutional protection, at present there are various provisions in different laws, rules and regulations that provide for protection of personal data. Main enactments dealing with the protection of personal data include:

1. Section 41 (Confidentiality of Information) of the Prevention of Electronic Crimes Act, 2016
2. Section 155D, the Customs Act, 1969
3. PTA Anti-Spam Regulations
4. SBP Regulations

References to SBP regulations and Rules as required under Personal Data Protection 2(3) are placed below:

|  |
| --- |
| **SBP CIRCULARS** |
| **Sr. #** | **Circular No.**  | **Date** | **Subject** |
| 1 | PSD Circular No. 05 of 2016 | 10-Jun-16 | Regulations for Payment Card Security |
| 2 | PSD Circular No. 03 of 2015 | 21-Oct-15 | Regulations for Security of Internet Banking |
| 3 | BPRD Circular No. 07 of 2016 | 22-Jun-16 | Prevention against Cyber Attacks  |
| 4 | BPRD Circular No. 09 of 2016 | 12-Jul-16 | Branchless Banking Regulations for Financial Institutions |
| 5 | BPRD Circular No. 09 of 2007 | 13-Jul-07 | Guidelines on Outsourcing Arrangement |
| 6 | CPD Circular No. 04 of 2014 | 29-Aug-14 | Financial Consumer Protection |
| **REFERNCES IN RULES** |
| PS & EFT Act 2007 | Section 13(3), 15, 30-2(i), 30-2(v), 35, 36, 70 |
|
| Rules for PSOs/PSPs | Section 6-10(i), Section 6-10(1), Section 7(2), Section 8(2), Section 9 (all clauses) and Section 14(3) |
|

1. Section 441 (criminal trespass) and section 509 (Insulting modesty of a woman) of the Pakistan Penal Code read with Section 27 of the Prevention of Electronic Crimes Act, 2016.**[15]**

## Key Issues/Challenges in Personal Data Protection

There is a need to provide a comprehensive legal framework for dealing with the personal data protection issues. This framework may be required not only to provide adequate safeguards to the individuals as well as businesses thus helping towards achieving desired level of trust in e-commercebut also to achieve legal certainty in the matter. This legal certainty is required in order to enable the users of the e-commerce to know upfront to what extent their personal data is going to be used and on the flipside to what extent they can use the personal data of others.

## Policy Measures

This Policy mandates formulation of a comprehensive legal framework for personal data protection. The legalframework will ensure that personal data of individuals is not processed in any manner inconsistent with the consent obtained by the business entities from the respective individual or provisions of the relevant laws. It shall also be ensured that the legal framework does not impose any restrictions on free flow of information than absolutely necessary for protection of privacy of individuals.

The Government of Pakistan or an entity authorized by it in behalf shall periodically publish up-dated information on the personal information protections it provides to users of electronic commerce, including:

1. What rights are available to individuals with regard to collection and processing of their personal data;
2. How individuals can pursue remedies;
3. What are the legal obligations of a data controller/processor with regard to the personal data; and
4. How businesses can comply with the legal requirements relating to collection and processing of personal data.

The e-commerce players shall ensure the security, privacy of their customer personal data while hosting their databases on the cloud computing environment. A privacy policy should be clearly visible on the digital platform so each user knows what data is collected and how it is used.

**[15]**Section 27 of the PECA reads as: 27. Legal recognition of offences committed in relation to information system. - (1) Notwithstanding anything contained in any other law for the time being in force, an offence under this Act or any other law shall not be denied legal recognition and enforcement for the sole reason of such offence being committed in relation to or through the use of an information system. (2) References to "property" in any law creating an offence in relation to or concerning property, shall include information system and data

# Rules for Cross-Border Electronic Transactions

Cross-border E-Commerce is booming, especially in the Asia and Pacific region. The Asia and Pacific region contributes to approximately one-third of the global total, and has outperformed North America in which China alone is responsible for 60% of APAC E-Commerce transactions. E-Commerce giants like Amazon and Alibaba require state of the art technology and quick processes to work in the regions they invest in for which an enabling environment is required.

## Key Challenges/Issues for Cross Border Transaction

The issues currently faced in importing and exporting through proper channels are:

**Imports:**

Owing to existing legislation and process challenges, Pakistani Online marketplaces are not able to list foreign sellers on their platforms. A Pakistani consumer currently uses foreign websites like EBay, Alibaba or Amazon to import items for personal usewhile using local credit cards to make payments.

Alternatively, non-custom duty paid items also enter the country via a grey channel to serve the high local demand and can be purchased from the offline market. This pusheslocal Pakistani online marketplaces to be in a disadvantageous position compared to foreign platforms.

(**Note: SBP Viewpoint regarding above yellow text:**Goods imported through foreign Market Places go through customs clearing upon arrival. Therefore this sentence is not depicting factual position and should be deleted. Further, vigilance should be enhanced by the relevant agencies to stop smuggling of goods into the country.

To enable local online marketplaces to legalize these transactions, the challenges listed below will need to be addressed

1. Online marketplaces are unable to provide visibility to customers with respect to customs duties assessed upon entry at time of purchase. This is primarily due todifferences in item valuation upon time of assessment (invoice value vs. previously assessed value in FBR records) Poor visibility and inconsistent application of customs duties encourages mistrust in local Online marketplace platforms.
2. There is no legislation in the Foreign Exchange manual allowing local online marketplaces to aggregate payments on behalf of individual customers to pay foreign sellers for completed deliveries. Chapter 16 Para 14 enables individuals to make payments using Form M for personal use however aggregation of these payments for issuance outside Pakistan to a foreign seller by an Online Marketplace in Pakistan is not addressed in the manual and therefore not allowed.

(**Note: SBP Viewpoint on ii:**SBP does not agree with this paragraph as incorrect reference and context has been quoted)

1. Online Marketplaces are not authorized to apply for PTA approvals on behalf of importers for items that require PTA approvals. A PTA approval can only be obtained by the buyer which in this case would appear after the item is displayed online for purchase by sellers and will result in a processing delay.
2. Factors given above results in legislation causing local businesses to be in a disadvantageous position compared to businesses that do not exist within Pakistan’s borders. Ebay’s CEO recently [claimed](https://propakistani.pk/2017/01/17/ebay-ceo-pakistan-among-fastest-growing-e-commerce-markets-world/) that Pakistan was an ‘exploding’ market for their business despite the fact that Ebay has no presence locally in Pakistan.
3. The Working Group supports export based cross border ecommerce and complete visibility to State Bank on import levels and is of the view that Pakistan’s import regime is already liberal. The country’s economy is already facing huge trade deficit where imports are approximately double than exports resulting into pressure on country’s foreign exchange reserves. Therefore, import regime may require special care to avoid associated risks such as trade deficit.

**Exports:**

1. Presently the value of low value items shipped through couriers for personal use is often not captured in export data because they are categorized as samples or gifts. This is a simpler and faster way to get through customs as compared to the a normal export channel exporters have to file shipping documents that include airway bill, invoice, packing list, request letter to assistance collector of custom AFU export, letter authorizing clearing agent to clear export, copy of passport, copy of airline ticket and personal presence of passenger at time of clearance and these documents are subject to checks by custom officials, making the process cumbersome, costly and time consuming, especially for small exporters with low-value shipments.
2. There is no regulation in customs laws that permit an online marketplace to ship items on behalf of the seller. If an online marketplace facilitates the transaction on behalf of the seller and ships it out on their behalf, they will automatically be deemed the seller of this item with the associated risks and rewards transferred to the online marketplace.
3. Exports from Pakistan are, interalia, governed under the foreign exchange rules and regulations framed by the Federal Government and State Bank of Pakistan. In order to boost exports through E-Commerce, the following rules and regulations may need to be modified
4. Federal Government’s Notification No. I (6)-ECS/ 48 and No. I(7)- ECS/48 both dated July 01, 1948;
5. SBP Notification No. F.E.1/2016-SB dated July 26, 2016;
6. Chapter 12 (Exports) of the Foreign Exchange Manual-2016;
7. Chapter 13 (Imports) of the Foreign Exchange Manual-2016.

However, the above rules have been identified in the absence of any formal model/mechanism of E-Commerce. SBP will need to propose amendments in their foreign exchange rules and regulations after going through the formal model/mechanism of E-Commerce particularly for Ecommerce to support local platforms to list foreign sellers.

## Policy Measures

Following are the Policy measures for Cross border transactions:

**Imports**

1. Introduce de minimis value of USD 250 in order to promote cross-border transactions to make the final cost visible to the consumer at time of purchase and also cut down on delivery time by reducing the time taken in tax and duty assessments. Customs duties are by their very nature trade barriers that hurt job creation, slow down economic growth and drive up costs for companies and consumers. A recent [study](http://www.oecd-ilibrary.org/docserver/download/5k4bw6kg6ws2-en.pdf?expires=1495556418&id=id&accname=guest&checksum=0E913E583243B61E1B75205915D2D09E) by the Organization for Economic Cooperation and Development (OECD) suggests that improved tradefacilitation in developing nations would mean a 15% reduction in the cost of trade.

**SBP Viewpoint:** *In the joint meeting it was discussed at length and customs also agreed to run a pilot project for 100 items whose duty structure will be available online through open API so that any individual importer or Market Place will have visibility about price + import duty at the time of placing order online. SBP disagree with the entire insertion except points (iv) and (v) on which views of customs should be taken***.**

One of the most prevalent and burdensome global trade barriers is the formality of declaring, classifying, valuing and risk assessing low value consignments at the border. Majority of such cases are assessed as low risk. Additionally, in many cases, the cost to authorities for processing low value shipments is greater than the revenue collected by the customs administrations. This is why de minimis regimes were introduced in the revised Kyoto convention and also the WTO trade facilitation agreement to establish a reasonable threshold, below which duties and taxes would not be collected and for which less information will be required for clearance with greater focus being on risk assessment and admissibility.

A number of recent economic [studies](http://www.global-express.org/assets/files/Members%20Library/GEA%20Position%20Paper%20on%20de%20minimis%20FINAL.pdf) have demonstrated the positive impact of de minimis regimes:

* APEC economies concluded that establishing a de minimis threshold of USD 200 could lead to almost USD 12bn in net economic benefits[[1]](#footnote-2)
* A study in the US concluded that raising the de minimis from USD 200 to USD 800 would lead to net gains of USD 17 mn per annum[[2]](#footnote-3)

Importantly, OECD is developing new ways for GST collection on imports. Two collection models are under consideration, the vendor collection model and the intermediary collection model. These models should be studied by Pakistan Customs Authorities and implemented

From the above points it becomes clear why de minimis is essential for the growth of e-commerce and important for the overall economy of the country. It will provide:

* Easier pricing tools for sellers and portals which in turn create a better customer experience
* Lower costs involved for customs whilst assessing
* Faster clearance times enabling faster deliveries
* Lower costs for end consumers

Already Pakistan has a great inflow of goods from across the globe that come in via the grey channel (zero tax collection) and also lots of products coming in via green channel that are either under invoiced. The products that come in via green channel without any ambiguities also exist, however, the importers add on high margins which in turn make the products costly for customers.

Online Marketplaces on the other hand, typically have standard low commissions and can ensure more favorable prices for the end consumer. Furthermore, the government also gets full visibility in imports and spending patterns of local consumers and can introduce appropriate taxation. Moreover, this will activate the local economy to be more competitive with pricing and may also dishearten grey channel operators since ecommerce portals will be able to provide competitive rates via the green channel.

As far as risk of narcotics and banned substances is concerned, e-commerce companies will have contracts with shipping providers and sellers that strictly condemn and prohibit movement of banned substances. Shipping companies will also be responsible for screening at ports of exit.

India and Malaysia are two economies that have de minimis values within the range recommended in this document.

1. Necessary amendments in the foreign exchange related to allow for payment aggregation and settlement of funds collected from individual consumers across Pakistan to foreign sellers supplying the purchased product or service after the item or service is delivered.Chapter 16 Para 4 of the FE manual may be amended to allow online marketplaces to aggregate and issue payments on the behalf of individual importers as long as the legal requirements are met and complete visibility can be provided on the individuals that are the real importers behind the payments

**SBP Viewpoint:***SBP does not agree with this paragraph as it was not discussed in the joint meeting*

1. Allow online marketplaces to seek PTA Type approvals for Electronic Sim based devices on behalf of individual buyers. This will eliminate the monopoly of local distributors on mobile devices and create an open market with the necessary control system and visibility. Accelerating smartphone penetration is critical to e-commerce growth and overall education of the population.

Pakistan already has an active customer base that orders/sources Electronic Sim based devices from multiple channels:

* Portals such as AliExpress & Amazon whereby shipments come in via post or express courier
* Paid Gray Channel Carriers
* Friends and Family

Whilst the last 2 channels escape under the radar, orders via portals go through the customs green channel. To aid the clearance the, PTA has devised an [SOP](http://www.pta.gov.pk/media/ta/sop_ta_noc_210915.pdf) of obtaining a personal NOC which is very simple to execute, but can only be executed by the actual individual importer.

Established online marketplaces can facilitate customers (importers) by fulfilling this procedure on the customers’ behalf to make the overall experience better and smoother. Online marketplaces that receive permission for this process can also share real time information about inflows with the PTA and customs to further aid the regulatory authorities.

1. In order for cross border to work successfully there needs to be a simple framework for customs on both export as well as imports. As an example, the Chinese government made a number of amendments to regulations pertaining to Cross Border E-Commerce (CBEC) in Apr 2016 via the Circular on Tax Policies for Retail Import in Cross-Border E-Commerce. These amendments included a new tax policy as well as a comprehensive list of products (with relevant HS codes) to be imported via CBEC.

**SBP Viewpoint:***This should be made part of pilot project recommended earlier*

Adjustments were also made to import tax rates of imported articles, which were divided into three categories with tax rates of 15%, 30% and 60%:

* Category I: Books and newspapers, publications, audio and video materials for educational use; computers, video cameras, digital cameras and other IT products; food and beverages; gold and silver; furniture; toys, gaming products, and festive and other recreational products;
* Category II: Sporting goods (excluding golf balls and clubs), fishing tools; textiles and their manufactured goods; TV cameras and other electrical appliances; bicycles; other goods not included in Category I and III;
* Category III: Alcohol and tobacco; valuable accessories, jewelry and gemstones; golf balls and clubs; luxury watches; cosmetics.

This allows for easier classification and assessment of products belonging to a certain category. Such implementation in Pakistan will also be helpful for ecommerce players as well as customs authorities.

Our recommendation is to follow the structure implemented by China in 2016 by allowing import of the products.

1. A pilot project can be launched to integrate cross border transactions of leading e-commerce marketplaces directly with Customs’ WeBOC system to boost cross border transactions through E Commerce. This can be funded through ICT R&D and developed in collaboration with Customs, SBP and leading Ecommerce players as well as logistics companies. For reference, Bank of China released a working paper on processes undertaken to strengthen cross border ecommerce across government institutions.

**Exports**

1. Simplifying the process of exports by introducing a de minimis value of USD 250 per package. This would mean any packages within this limit would be considered exports for personal use and would require similar documentation requirements as those items sent overseas as gifts i.e airway bill and invoice.The removal ofexcessive documentation and requirements for assessments on products below this threshold will encourage exports and speed up deliveries to customers abroad that seek Pakistani products especially textiles and handicrafts
2. Adjust legislation to allow online marketplaces to ship items on behalf of the seller that is listed on its platform. An online marketplace owing to its expertise in digital ecommerce, may be able to generate multiple export orders for a particular seller listed on its platform as opposed to the seller attempting to find these customers on his own. It is essential that the risks and rewards of the product or service are transferred from the seller to the customer upon delivery and not the online marketplace facilitating the transaction.
3. Ministry of Commerce may establish a website for training, education and hand-holding of SMEs that have potential to sell their products internationally. This initiative can be promoted in collaboration with the private sector in order to activate the existing seller base on e-commerce platforms in the country and integrate the education program for exports through e-commerce channels.
4. Simplify re-export of items imported by consumers that did not arrive in the condition that they were advertised to facilitate customer returns for imports with the following conditions applicable to the re-export
	* Full amount of payment, if any is repatriated
	* Approval from concerned authority / customs is obtained

Conditions such as request letter to deputy / assistant collector of custom AFU exports, export invoice of the items shown in foreign currency in export invoice format, warranty letter, indemnity bond on Rs. 100 bond paper with signature of 2 witnesses and 1 director with NIC copy as well as copy of NTN may be removed to simplify the process.

# Dispute Resolution Mechanism

Swift and effective resolution of disputes is indispensable for international export and import of goods and services including e-commerce disputes. To fill the void, the Ministry of Commerce, in-consultation with relevant stakeholders, has developed a draft Trade Dispute Resolution Act 2016-17.

The proposed legislation aims to provide a one stop solution for trade disputes under various mechanisms thus protecting trading interests in line with internationally accepted standards such as Model law on International Commercial Conciliation and International Commercial Arbitration. Other features of TDR Law are as under:

1. Agreement of the Parties to file their disputes with TDRO which is not the subject of a choice of court or arbitration agreement and is above a minimum value prescribed under the TDR Law;
2. Constitution of special Commercial Benches with an exclusive, supervisory and enforcement jurisdiction in each High Court by the Chief Justice of the High Court, for timely resolutions of trade disputes;
3. Establishment of Trade Dispute Resolution Organization (TDRO) as a functionally autonomous body with delegated authority from the Ministry of Commerce;
4. TDRO to coordinate with all government and private sector organizations including e-commerce entities for realizing its objectives; and
5. A complainant to approach TDRO for registration of trade dispute including e-commerce disputes. However, in case of foreign country, the complainant will approach Pakistan’s Mission abroad. Others mechanism provided in TDR Law are early neutral evaluations, mediation and conciliation.
6. Need for third party trusted services to address consumer protection will also be taken into consideration for preempting disputes.

## Key Challenges/Issues regarding Dispute Resolution

Following are the key challenges /issues regarding dispute resolution

1. There is lack of holistic strategy framework regarding dispute resolution
2. Non provision of on-line receipt of complaints from parties in e-commerce business
3. There is no mechanism / policy guidelines for dispute domain name

## Policy Measures

Ministry of Commerce, while finalizing the Trade Dispute Resolution Law shall consider following recommendations:

1. Dispute Resolution Law seeks to receive complaints from a party living abroad through Pakistani missions abroad. TDR law shall provide for on-line receipt of complaints from parties;
2. TDR Law needs to have a parallel system for handling of on-line dispute resolution for trade disputes which cannot be handled under the proposed TDR Law due to a minimum value of trade disputes referable thereto. Moreover, the UNCITRAL Technical Notes on ODR may also be consulted for the purpose.
3. The entire processes may be automated for efficient, effective and transparency in the entire dispute resolution process, as deem appropriate.
4. The matter of domain name disputes may also be catered in the government holistic dispute resolution policy strategy.

# Registration Requirements

## Existing landscape in registration requirements

The Securities and Exchange Commission of Pakistan (SECP) as established in pursuance of the Securities and Exchange Commission of Pakistan Act, 1997 is the corporate sector regulator in Pakistan. The current mandate of the SECP is widespread and involves regulation of corporate sector and capital market, supervision and regulation of insurance companies, supervision and regulation non-banking finance companies and private pension’s schemes and oversight of various external service providers to the corporate and financial sectors, including chartered accountants, credit rating agencies, corporate secretaries, brokers, and surveyors including e-Commerce players.

***The working group discussed the registration requirements for e-commerce and concluded that the existing SECP rules adequately cover registration of e-commerce Company and no additional rules are required for the registration of e-commerce business community.***

Following are the key steps for the registration of any company (including a company engaged in e-commerce):

1. First step towards incorporation of a Company is to seek availability of name from the Registrar concerned in terms of section 37 of the Companies Ordinance, 1984. Before applying for name reservation, the name can be initially checked from SECP web based systems , already linked on SECP official website (<https://www.secp.gov.pk> ) to make sure that the proposed name is neither identical or nor closely resemble with the name of any existing company. Further, the name should not be inappropriate and deceptive. It should not contain any prohibited word. Applicant may apply for the availability of name either offline or online. Further, the application may be submitted with normal fee or through Fast Track Registration Services (FTRS) for urgent processing in 4 hours.
2. Applicant is required to sign a Memorandum and Articles of Association. In this regard, presently, template for the category of “Information Technology” can be selected, however, “E-Commerce” could also be considered to be included in the list of categories, as well.
3. Two or more persons associated for lawful purpose may by subscribing their names to the Memorandum and Articles of Association and complying with the requirements of companies ordinance, 1984 and Companies (General Provisions and Form)Rules 1985 form a company. SECP also allows incorporation of single member companies under Single Member Companies Rules 2003.
4. The details about submission of relevant annual returns accounts and changes in company to the concerned quarters, scheduling for filing returns and how to close information is also described on SECP website.

Other steps have also been taken by SECP to promote usage of information technology, which would ultimately help in introducing innovative online financial services in the country.

**Insurance Sector**

1. **e-Signature allowed for life insurance policy illustration:** The acceptance of proposals of life insurance and family takaful illustrations through secure web-based “I agree” or “I accept” button in case of web sales has been provided (in March 25, 2016).
2. **Technology-based Claims Management Process for Health Insurance:** Third Party Administrators (TPAs) for Health Insurance Regulations, 2014 sets out various characteristics of the TPAs. So far, two entities have obtained license to act as TPA under the Regulations.
3. **Facilitating Insurance Selling through Mobile/internet:** Procedure have been approved to promote and encourage distribution of life insurance products through technology based channels i.e. mobile/internet under “file and use” scheme.

**Draft provisions added as part of the reforms in the Insurance Ordinance, 2000**

1. **Web aggregator for insurance:** Enabling provisions to introduce the requirement to provide information to the web aggregator that may be established on the direction of the SECP.
2. **Enabling provision for establishment of Insurance Repository:** drafted with the objective to eliminate physical policies, according to which, the SECP may issue directions in respect of establishment and operation of the repository for insurance.
3. **Flexibility for Adding Technology Based New Insurance Intermediary:** Enabling provision has been drafted for prescribing any entity as an insurance intermediary based on the nature of business of that entity and its role in insurance distribution cycle, to bring Mobile Network Operators in the regulatory ambit of SECP.

**Securities Market**

1. On the recommendation of SECP, CDC has developed a Centralized e-IPO System(CES)which is required to be integrated with banking system through 1-Link Guarantee Limited (owned by 11 different banks). Necessary support of SBP has been sought by SECP. CES is expected to be functional in second quarter of April 2017.
2. Measures for Online Account Opening - PSX, CDC and NCCPL have already been advised to devise framework for provision of facility to customers for enabling opening of accounts with broker and relevant custody, clearing and settlement service providers by submitting online forms, with adequate checks to ascertain identity of the customer. Initiatives are also underway for development of simplified Customer Relationship Form (CRF) with standardized KYC requirements and establishment of a Centralized Know Your Customer Organization (CKO). Integrated systems can supplement these processes and add much needed efficiency and simplicity to the Account opening process. For example, linkages with NADRA and mobile payment service providers etc. for obtaining KYC details and conducting third party identity verification can greatly facilitate the process and improve turnaround time.
3. To promote ease of doing business, SECP has developed a system called Corporate Debt Market Reporting System (CDMRS) for online reporting of issues of debt securities and their redemption by the Debt Securities Trustees (DSTs) on behalf of their clients/Issuer. CDMRS will bring efficiency and reduce reporting cost for the issuers and DSTs.
4. e-filing of annual returns by listed companies regarding pattern of shareholding.

e-filing of particulars (on Form 4) of directors and substantial shareholders (holding 10% or more shares) of listed companies.

 **Specialized Companies**

**E-Commerce through Asset Management Companies Website**

* Subsequent investment in units through 1Link member banks.
* Redemption of units.
* Conversion of entire/partial amount from one CIS to another.
* Balance Inquiry.
* Generation of account statements.

**E-Commerce through Asset Management Companies’ Mobile Application**

* E-Transactions- Redemption and Conversion.
* View portfolio value and allocation, transaction history, investment account details.
* Fund’s performance and NAVs.
* Financial Calculator.

**SahulatSarmayakari Account** introduced for low risk customers and branchless banking account holders whereby an investor would able to open small ticket online accounts. The maximum investment limit for low-risk investors at any point of time is Rs 800,000 whereas the limit is Rs 400, 000 for branchless banking customers.

## Policy Measures

1. A specific entity working under Ministry of Commerce or Directorate General of Trade Organizations must be designated *to facilitate, support and register e-commerce business,* the same may also be covered in the National e-Commerce Policy Framework.
2. The e-commerce players must file with the aforesaid entity.
3. This registration will be only for filing purposes and should not involve any conventional approval process.
4. SECP may assist the assigned entity to draft a standard template of Memorandum and Articles of Association with necessary amendments to promote e-commerce in the country.
5. SECP may further update its automated system for form submissions and updating records filed in SECP (i.e. *Form A* for submission of annual return, *Form 29* for changes in directors/signatories, *Form21* for change of company registered address etc.)

**Policy measures for other stakeholders**

1. **Review of Stamp Duty Act requirement to physically apply stamp duty on all policy documents sold in order to facilitate electronic issuance of insurance policies:**The insurers are required to affix stamp on the physical policy document in order to pay the stamp duty under the Stamp Act. This becomes administratively cumbersome in case of web-based insurance policies or sale of insurance through mobile handsets where policy can be communicated electronically. Therefore, suitable amendment may be proposed in the Stamp Act/ relevant laws to rationalize this requirement.
2. **Reduction in cost of conducting NADRA verification to address the cost concerns of insurers for digitally issued low value insurance policies:**The cost of conducting NADRA verification becomes of special concern in case of digitally sold insurance, which is mostly small ticket size/ low value product. The similar concern is raised by banks in case of Digital Transaction Accounts, where transaction value is less and cost of NADRA verification is significant in proportion to that. There is a need to review and revise the cost (from Rs.35/transaction to Rs. 10/transaction) in order to encourage the digitally sold financial products by making them financially feasible.
3. **Withholding tax on premium payment through mobile balance:**With expansion of e-Commerce globally, the insurance policies are increasingly being sold through mobile networks where the policy is offered to customer through SMS or call and the customer accepts the offer through same channel. In this case, one of the premium payment options is deduction of mobile phone balance. It is imperative to mention that when mobile balance is recharged through prepaid card of the telecommunication network, the balance is made available to the customer after deduction of tax.

Going forward, if the customer intends to pay premium through the mobile balance, he is paying premium from post-tax amount i.e. from which tax has already been deducted while recharging. It is suggested that a mechanism may be formulated through which, the customer is able to pay the premium without applicability of withholding tax on that amount, which is currently deducted at the time of mobile balance recharge. A suitable mechanism may be devised for the postpaid customers also in order to encourage the customers to opt for digitally sold insurance leading to financial inclusion and further promotion of e-Commerce.

# Other Matters

In the above text of the report, subject Working Group (WG) has covered the topics assigned by the Ministry of Commerce. However, there is other important information which needs to be covered in the main E-Commerce Policy document by the Ministry of Commerce in-consultation and review by the relevant WG. The said information is as under:

**E-commerce and Stamp Duty Legislation:** Stamp duty is applicable on specific physical documents such as purchase orders for machinery and tools, contractual agreements etc. However for online marketplaces most of their core business activity occurs online, there is limited liability with respect to Stamp Duty. However, online marketplaces may face functional difficulties without a formal clarification of their business model and stamp duty applicability resulting in visits from Stamp duty officers and court hearings

**Recommendation:**

Issue clarification that Stamp Duty is not applicable on direct activities of online marketplaces however Stamp Duty liability is payable on documents as listed in the law that are generated in indirect business activities.

**E-commerce and taxation:** E-commerce is a nascent industry in Pakistan, but is taxed in line with very mature and established industries. This is holding back the growth and development potential and it should be considered to provide a number of tax reliefs to allow the industry to establish itself. As an example, the shipping industry has been granted relief from customs duty, sales tax, income tax and withholding tax as of July 2016 in order to support growth.

Another successful case study is Pakistan's software export industry. From less than $20 million in annual exports in between 1999-2000, the country's annual IT exports have increased to $2.2 billion at an annual growth rate of 41% (as reported by PESB). A major factor for the same is due to the overall tax exemption on all exports, and the exemption of income tax on software exports proposed in the Income Tax Ordinance 2001, expiring in 2016. Owing to the success of such reforms, the software export industry, in its tax proposals for 2016/2017 was proposed to extend the period of tax exemption and the sane has been approved till the June, 2019.

 A facilitating tax regime for e commerce must attract domestic and foreign investment for making Pakistan a competitive e-commerce player.

**Federal and Provincial Tax Requirements and Possible Policy Measures**

1. **Introduce an online marketplace category:** In order for online marketplaces to not face functional difficulties by being misunderstood as the reseller, it is essential to introduce an online marketplace definition within the commission agent section of the Income Tax Act. The definition can be found on page 4 of this document.
2. **Exemption from Income and Withholding tax requirements:**Commission agents are required to pay 12% withholding tax on commission earned as final tax regime. This is a very high tax rate in an industry that is in its initial stages and typically declares all its income and expenses on its financial statements. Minimum tax liability on turnover in other industries that have loss making businesses is 1% of turnover.

**Recommendation**

**a.** Income tax and related withholding requirements should be waived for a period of 10 years. When larger department stores entered Pakistan (Hyperstar, Makro & Metro), they were awarded a tax holiday from their minimum tax liabilities.

**b**. When reinstated, the requirement for online marketplaces to be taxed in the final tax regime (i.e. business expenses to be not deductible) to be removed. Online marketplaces to pay minimum tax turnover liability at prevailing rates as final tax when in loss or prevailing rates when profitable

1. **Provincial GST (applicable on Marketplace facilitation revenue streams):** Countries with Ecommerce in early stages typically either subsidize or exempt E-commerce businesses from GST. For example in Bangladesh online marketplaces are tax exempt while in Myanmar the tax rate is limited to 5%.

**Recommendation:**

**a.**E-commerce businesses be exempt from provincial GST for 10 years. When reinstated, this charge should be limited to 5% for all provinces. The representative from the Private Sector further recommended that as the industry takes 5-7 years to breakeven (even with a favorable infrastructure for E-commerce)

**b**. Input sales tax on all direct services acquired under Marketplace model to generate revenue to be claimable against output tax (not currently the case in the latest government budget).

1. **Withholding taxes:**The law assigns responsibility for withholding tax submission with the withholding agent consuming the facilitation services offered by the online marketplace. (i.e. the seller of the product). However, as part of the facilitation services provided by an online Marketplace, payments from customers for products or services offered on its platform are collected and paid in aggregate to the seller after deducting its facilitation revenue. Here since the flow of money is reversed, the withholding tax submissions must be completed by the online marketplace. This needs to be clearly defined with the relevant tax authorities to avoid unnecessary process and delays.

**Recommendation:**

Formal clarification of the withholding tax law be issued to allow Online Marketplaces to fulfil withholding responsibilities on behalf of sellers by submitting withholding taxes applicable on their own income be submitted by themselves. This is critical to simplify the business transaction and provide relief to sellers that this structure will not result in a tax liability on them as long as withholding taxes are submitted appropriately and on a timely basis.

1. **Conflicting provincial tax laws**: E-commerce and other businesses face a challenge when provincial laws conflict with one another in terms of GST collection. For example, Sindh Revenue Board requires GST on income to be paid where transaction originates vs Punjab Revenue Association requires GST to be paid where transaction ends. Since the tax agencies work independently of one another, this can cause a business to respond to a series of notices, undergo audits and in extreme cases even penalties rather than focusing on its operations (despite paying their full sales tax to one government agency).

**Recommendation:**

It is recommended that clarification of such laws are issued so industry players can focus on growing the E-commerce industry and not be caught in inter provincial disputes. The private sector recommends that GST be paid in the province where primary business activity takes place as can be defined by headcount, number of locations, management location where strategic decisions take place, number of locations as some examples of criteria that determine business activity

1. **Federal GST (only applicable to the Retail model):** In June 2016, PSEB and Ministry of IT pushed through legislation allowing computers and laptops to have a sales tax rebate of 17% to encourage purchase and use of technology.

**Recommendation:**

Exempt GST rates on products and services that sellers are liable to pay on their sales made via their own online platforms in order to encourage selling online for the next 10 years.

1. **Claiming bad debt:** Direct and indirect laws require companies to initiate proper legal proceedings against vendors who default in paying the Company. Since the target market of the e-commerce industry are retail outlets who make frequent defaults that are often minimal amounts. Ecommerce companies are then unable to initiate claim of bad debts due to costly/lengthy legal proceedings (cost vs. benefit). Further, due to frequent default of the vendors, ecommerce companies are unable to initiate claims of bad debts due to costly/lengthy legal proceedings.

**Recommendation:**

**a.**Decision to determine whether bad debt should be recovered legally be a business decision based on viability vs tax law

**b.** Criteria should be established for claiming small bad debts as an admissible expense other than issuance of legal notice or initiating legal proceedings;

**c.** There is currently no structured procedure for claiming bad debt refund on service tax already submitted to taxation authorities. It is suggested that a proper method for claiming bad debt amounts should be established, similar to debit/credit note adjustments.

**Proactive role of Private sector**

Private sector will come forward with estimates of growth and employment generation through e commerce promotion with timelines. There will be active collaboration between private and public institutions for increasing internet penetration, skill development of SMEs for facilitating digitalization of their products. Private sector will also play an active role in promotion of digital marketing and use of influencer marketing techniques. To ensure financial inclusion innovative approaches for fintech solutions from the private sector will be facilitated.

Recommendation:

* 1. Sharing of skill development plans by the private sector in the working group meetings
	2. Sharing of estimated growth and employment figures for short, medium and long term
	3. Estimated export enhancement

# Action Matrix

An Action Matrix, containing major topic wise issues, WG recommendations and associated actions, responsible entities and expected time frame. The said Action Matrix, placed at Annex-A, is based on the aforesaid information.

**Annex-A**

**Action Matrix**

|  |
| --- |
| 1. **Online Marketplace Definition**
 |
| **Issues** | **Policy Measures** | **Responsible** | **Estimated Period** |
| There is no separation of responsibility and related liabilities between online marketplaces and sellers of products or services that list their offering on third party websites | Introduce legislation for legal and tax purposes that defines online marketplaces as a facilitator of transactions that occur online between buyers and sellers using an information technology platform | 1. Federal Board of Revenue (FBR)
2. Ministry of Commerce
 | 1 month |
| 1. **Consumer Protection**
 |
| **Issues** | **Policy Measures** | **Responsible** | **Estimated Period** |
| Returning a faulty or unacceptable product in a cross-border transaction and reversal of funds transfer. | Review of customs and other relevant procedures/laws for a faulty or unacceptable delivered product. | 1. Federal Board of Revenue (FBR)
2. Ministry of Commerce
 | 12 months |
| Lack of trust in E-transactions and absence of mechanisms to enhance consumer confidence in E-commerce. | Provision of trusted and easier modes of payment. | State Bank of Pakistan | 12 months |
| Complex procedure to file a complaint for a consumer dispute | Clearly define a consumer protection council /body at federal and provincial level for consumer dispute  | 1. Ministry of Commerce and
2. Provincial Governments
 | 12 months |
| No Law/ Act exist for online consumer protection | Concerned quarters may include a specific chapter regarding online consumer protection in their consumer protection act which is presently under process | Ministry of Commerce  | 12 months |
| Lack of awareness about existing consumer protection laws for the local community | Relevant bodies may launch awareness program regarding the existing said laws | 1. Ministry of Commerce
2. Chamber of Commerce
 | 12 months |
| 1. **Personal Data Protection**
 |
| **Issues** | **Policy Measures** | **Responsible** | **Estimated Period** |
| Lack of comprehensive legal framework to deal with personal data protection issues. | Formulation of a comprehensive legal framework for personal data protection.  | 1. Ministry of IT
2. Ministry of Law
3. Relevant stakeholders
 | 10 Months |
| 1. **Rules of Cross-Border Electronic Transactions**
 |
| **Issues** | **Policy Measures** | **Responsible** | **Estimated Period** |
| Inconsistent application of customs duty assessment results in poor visibility of final pricing to end customers | Introduce De Minimis at USD 250  | FBR | 12 months |
| Foreign exchange manual does not authorize aggregation of payments made by customers for items imported for personal use for outward payment to foreign sellers**SBP Viewpoint:** *SBP does not agree with this paragraph as it was not discussed in the joint meeting* | Introduce legislation permitting online marketplaces to aggregate and make payments to foreign sellers on behalf of customers importing items for personal use.  | State Bank of PakistanFBRMinistry of CommercePrivate Sector | 6 Months |
| Online Marketplaces cannot obtain PTA approvals when listing products requiring PTA approvals online | Authorize online marketplaces to seek PTA approvals when listing foreign sellers on its platform  | Ministry of IT | 2 months |
| Minimal automation and weak processes hamper cross border trade through e-commerce | * Review CBEC regulation amendments made in China to simplify framework for customs for cross border
* Launch a pilot project, to automate processes and its integration with existing Customs‘s WeBOC system funded by ICT R&D
 | Ministry of ITMinistry of CommerceSBPFBR (Customs)Private Sector | 10 months |
| Any exports done by online marketplaces on behalf of sellers result in online marketplaces assuming seller liability on customs documentation | Authorize online marketplaces to export items on behalf of sellers without being deemed a reseller of the product | FBR | 6 months |
| Lack of initiatives to encourage SME startups aiming to export their products to create a single platform and to enhance their skills set | Ministry of Commerce may establish a website to educate SME startups aiming to export their products using online marketplaces. This will be used for onboarding these entrepreneurs on a single platform and launch capacity building and hand-holding programs for SMEs. | Ministry of CommerceMinistry of ITPrivate Sector | 12 months |
| Items exported for personal use not classified as gifts have a complicated process that delays exports and acts as a deterrent especially for smaller exporters | Simplify documentation requirements for packages shipped upto USD 250 per shipment value by categorizing them as personal use  | FBR | 6 months |
| Items imported by consumers for personal use cannot be re-exported easily as returns if the item received is not in the condition advertised or a wrong item is received | Reduce number of documents required for re-exporting items that have arrived not in the condition advertised. Detailed documentation requirements present in this report. | FBR | 6 months |
| 1. **Dispute Resolution Mechanism**
 |
| **Issues** | **Policy Measures** | **Responsible** | **Estimated Period** |
| There is lack of holistic strategy framework regarding E-commerce dispute resolution | Formulation of holistic strategy framework regarding E-commerce dispute resolution | Ministry of Commerce | 12 months |
| No proper Mechanism to deal with Online Dispute Resolution | Introduction of On-line Dispute Resolution mechanism for E-trade disputes  | Ministry of Commerce | 12 months |
| 1. **Registration requirement**
 |
| **Issues** | **Policy Measures** | **Responsible** | **Estimated Period** |
| There is no Government body for the facilitation for the E-commerce business and for their registration  | A specific entity may be designated to facilitate, support and register E-commerce business on a voluntary basis, in the country.  | Ministry of Commerce | 10 months |
| Stamp duty is payable on physical documents such as contracts however for online marketplaces since most transactions occur online it is difficult to determine liability  | Issue clarification that Stamp duty is applicable on actual documents and not documents generated on a digital network | (TBD) | 1 month |
| 1. **Taxation**
 |
| **Issues** | **Policy Measures** | **Responsible** | **Estimated Period** |
| Online marketplaces are often misunderstood as resellers of products and it is important to define their business model to determine appropriate tax liability | Introduce definition for online marketplaces within the commission agent section of Income tax Act  | FBR | 2 months |
| Income tax and withholding tax liabilities heavily weigh down the industry  | Exempt online marketplaces from income and withholding tax for 10 years | FBR | 2 months |
| Sales tax on services provided is very high for this industry when it is in its growing phase | Exempt online marketplaces from GST for 10 years | Provincial authorities | 6 months |
| Confusion over which province an ecommerce company should pay sales tax in results in unnecessary confusion and risk of non-compliance  | Issue clarification that sales tax to be paid in province where principal business activity takes place for the ecommerce company | Provincial authorities | 6 months |

1. De  Minimis  Thresholds  in  APEC,  IST  Global  and  Canberra  University,  September  2012   [↑](#footnote-ref-2)
2. Logistics  Reform  for  Low  Value  Shipments,  PB  11-­‐7,  Peterson  Institute,  June  2011   [↑](#footnote-ref-3)