

Pakistan's E-Commerce Policy: Legal Challenges and the Need for Reform

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Abstract

The proliferation of e-commerce has revolutionized global trade, dissolving traditional market boundaries and introducing unprecedented legal complexities. This paper explores the multifaceted legal challenges arising from the digitalization of commerce, particularly in areas such as jurisdiction, online contract enforcement, digital authentication, data protection, and consumer rights. Existing legal frameworks, originally designed for physical transactions, often fall short in addressing the nuanced realities of virtual marketplaces. The absence of comprehensive e-commerce legislation in many jurisdictions has further exacerbated legal uncertainty, especially in relation to electronic signatures, intermediary liability, and online dispute resolution mechanisms. This study emphasizes the dual role of law in this digital era—as both reactive to emerging issues and anticipatory in crafting forward-looking regulatory solutions. It underscores the need for legal systems to evolve in step with technological advancements by incorporating agile, inclusive, and ethically informed norms. In doing so, it highlights the imperative for national, regional, and international legal harmonization to ensure that digital trade fosters innovation, safeguards consumer and privacy rights, and promotes equitable access across all segments of society.

Keywords: E-commerce law, Digital contracts, electronic signatures, Jurisdiction in cyberspace, Data protection, Consumer rights, Intermediary liability, Online dispute resolution

Introduction

The rapid emergence of e-commerce has significantly reshaped the contours of global commerce, ushering in a new era where digital transactions transcend traditional market boundaries. This transformation has posed complex challenges to existing legal frameworks, which were largely developed in the context of physical commerce and localized transactions. E-commerce introduces issues related to jurisdiction, enforceability of online contracts, digital authentication, data protection, and consumer rights in virtual marketplaces. Consequently, legal systems around the world are under pressure to modernize and adapt, striving to maintain

regulatory oversight while fostering innovation and cross-border trade. In many jurisdictions, the absence of comprehensive e-commerce legislation has created legal uncertainty, particularly in areas such as electronic signatures, online dispute resolution, and liability of intermediary platforms.

In this evolving landscape, the role of law is not merely reactive but also anticipatory—tasked with developing robust legal norms that balance commercial interests with consumer protection and privacy concerns. The digitization of commerce necessitates a recalibration of legal principles to address novel risks such as cyber fraud, intellectual property infringement in digital environments, and unfair trade practices on online platforms. Moreover, the borderless nature of e-commerce challenges conventional notions of territorial jurisdiction, compelling states to engage in regional and international harmonization of e-commerce laws. The growing reliance on technology and algorithm-driven transactions further intensifies the need for regulatory frameworks that are agile, inclusive, and informed by ethical considerations, ensuring that the benefits of digital trade are equitably distributed across all segments of society.

The **National E-commerce Policy of Pakistan (2019)**¹ was introduced as a strategic response to the exponential growth of digital trade and the country's increasing participation in the global digital economy. At its core, the policy aims to harness the potential of e-commerce as a driver of economic growth, job creation, and innovation, particularly for small and medium enterprises (SMEs), women entrepreneurs, and youth. Recognizing the fragmented legal and regulatory environment that previously governed e-commerce activities, the policy seeks to create a cohesive framework that ensures secure online transactions, consumer protection, data privacy, and a competitive digital marketplace. It also emphasizes the need for reliable digital infrastructure, financial inclusion through digital payments, and capacity-building initiatives to bridge the digital divide. The policy reflects a proactive effort to modernize trade facilitation and to formalize Pakistan's vast informal online market.

In comparative perspective, Pakistan's approach mirrors global trends observed in countries such as India, Malaysia, and China, where national e-commerce strategies have been pivotal in shaping digital ecosystems. For instance, India's e-commerce policy emphasizes data localization, platform accountability, and protection of domestic industry,² while Malaysia's **Digital Free Trade Zone (DFTZ)** initiative focuses on export facilitation for SMEs and digital cross-border trade.³ Pakistan's policy, while less protectionist than India's and more nascent than Malaysia's, reflects a hybrid model that combines regulatory reform with developmental objectives. However, implementation remains a significant challenge in Pakistan due to institutional limitations, lack of coordination among regulatory bodies, and low digital literacy.⁵ The comparative context underscores the importance of aligning national policies with international

best practices and regional frameworks to foster cross-border e-commerce and ensure Pakistan's competitiveness in the global digital marketplace.

The objective of this article is to undertake a critical legal assessment of Pakistan's **National E-commerce Policy (2019)**, with a focus on examining the coherence between its stated policy goals, the institutional mechanisms established for its implementation, and the regulatory gaps that persist within the current legal framework. While the policy articulates ambitious objectives such as enhancing digital trade, promoting financial inclusion, and protecting consumer rights it is imperative to evaluate the extent to which these goals are supported by enforceable legal instruments and adequately empowered institutions.

This article also aims to identify areas where the policy falls short of creating a robust legal environment for e-commerce, particularly in terms of regulatory clarity, inter-agency coordination, data protection, and online dispute resolution. By analyzing these dimensions through a legal lens and drawing on comparative experiences from other jurisdictions. The article seeks to highlight the normative and structural reforms necessary for aligning Pakistan's e-commerce regime with international standards. Ultimately, the purpose is to provide insights and policy recommendations that can inform future legal development and ensure that the digital economy is governed in a manner that is just, inclusive, and transparent.

Regulatory Reform and Fragmented Legislation

Pakistan's e-commerce landscape suffers from a disjointed and outdated legal framework that is ill-equipped to govern the complexities of modern digital commerce. At present, there is no comprehensive e-commerce law that consolidates the various regulatory domains relevant to online transactions—such as consumer rights, data protection, cybersecurity, and digital payments—into a unified legal structure. This legislative vacuum has resulted in regulatory ambiguity, where businesses and consumers alike face uncertainty regarding their rights, duties, and legal remedies in the digital space.⁴ The fragmented nature of existing laws, coupled with inconsistent enforcement across jurisdictions, has hindered the growth of the e-commerce sector and eroded trust in digital marketplaces.⁵

Several key legislative instruments remain either incomplete or outdated. Despite growing concerns over the misuse of personal data and the increasing reliance on digital technologies, the proposed legislation concerning data protection and digital privacy remains pending enactment. As a result, Pakistan continues to operate without a comprehensive legal framework specifically dedicated to safeguarding digital privacy and ensuring data sovereignty. This legislative vacuum stands in stark contrast to the constitutional guarantees enshrined in Article 14 of the Constitution of the Islamic Republic of Pakistan, which affirms the inviolability of the dignity of man and, by extension, the right to privacy. The absence of a

formal legal regime not only undermines these constitutional protections but also exposes citizens to unchecked data exploitation and weakens national digital security..⁶ The **Electronic Transactions Ordinance (2002)**, once a pioneering law, now appears obsolete in light of technological advancements and evolving international standards.⁴ Furthermore, existing consumer protection statutes are primarily designed for traditional commerce and do not address challenges specific to online transactions, such as digital warranties, platform liability, and algorithmic manipulation.⁷ To address these deficiencies, a **unified E-Commerce Regulatory Framework Act** is urgently needed. Such legislation should integrate key aspects of e-commerce governance, provide clarity on cross-border digital trade, strengthen institutional coordination, and align domestic law with international best practices. This reform would not only promote legal certainty and investor confidence but also ensure that the rights of digital consumers and businesses are effectively safeguarded in Pakistan's evolving digital economy.

Digital Contracts, Evidence, and Dispute Resolution

The legal recognition of digital contracts, electronic signatures, and e-evidence is a foundational requirement for the functioning of a secure and predictable e-commerce environment. Pakistan's **Electronic Transactions Ordinance (ETO) 2002**, initially addressed these concerns by granting legal validity to electronic documents and digital signatures.¹ However, its limited scope, outdated definitions, and lack of implementing regulations have severely constrained its effectiveness. In parallel, the **Qanoon-e-Shahadat Order (1984)** does not adequately cater to modern digital evidentiary standards, leading to procedural hurdles in the admissibility and authentication of electronic records. Likewise, the **Contract Act of 1872**, although generally flexible, does not explicitly address the formation, enforceability, or revocation of contracts concluded through electronic means, leaving interpretive gaps that undermine legal certainty for online commercial transactions.

To resolve disputes arising from digital commerce in a timely and accessible manner, there is an urgent need to establish a legally mandated **Online Dispute Resolution (ODR)** mechanism. Traditional judicial forums are often ill-suited for handling the volume and technical nature of e-commerce disputes, which demand speed, low costs, and procedural simplicity. Comparative models offer valuable guidance in this regard. The **European Union's ODR platform** provides a harmonized, cross-border mechanism for consumer disputes.⁸ **India's Consumer Protection Act (2019)** includes provisions for e-commerce platforms and allows for e-filing and digital hearings before consumer courts.⁹ **Singapore** has adopted a more sophisticated model through its "ODR Framework for E-commerce Transactions," which integrates mediation, arbitration, and automated

resolution tools.⁶ Drawing from these examples, Pakistan should develop a statutory ODR framework that ensures transparency, neutrality, and enforceability of digital dispute outcomes, while integrating seamlessly with its broader judicial and regulatory systems.

Cross-Border Trade and Payment Infrastructure.

One of the most significant legal and structural impediments to the growth of e-commerce in Pakistan is the underdeveloped cross-border payment infrastructure. The absence of globally trusted digital payment platforms such as **PayPal and Stripe** severely restricts the ability of Pakistani entrepreneurs, freelancers, and SMEs to engage in international transactions.¹⁰ This limitation not only curtails export potential but also undermines investor confidence in Pakistan's digital economy. The existing legal framework—particularly the **Foreign Exchange Regulation Act (FERA) 1947**, administered by the **State Bank of Pakistan (SBP)**—imposes stringent controls on the movement of foreign currency, which are often incompatible with the agile and decentralized nature of e-commerce.¹¹ These restrictions have led to high transaction costs, regulatory delays, and the proliferation of informal payment channels, creating compliance risks and hindering transparency.¹²

To facilitate secure and lawful cross-border digital trade, a set of **SBP-led legal reforms** is urgently required. First, the **FERA** should be modernized to accommodate digital transactions by introducing specific provisions for e-commerce payments, remittances from online exports, and the use of international digital wallets.⁴ Second, the SBP should develop and notify comprehensive regulations for onboarding international payment gateways, with clearly defined licensing criteria, data protection safeguards, and anti-money laundering (AML) protocols.¹³ Additionally, enabling partnerships between local banks and global fintech providers through a **legal sandbox approach** could foster innovation while ensuring regulatory oversight.¹⁴ These reforms must be supported by inter-ministerial coordination and legislative backing to create a transparent, interoperable, and investor-friendly payment ecosystem. Only through such legal modernization can Pakistan fully integrate into the global digital economy and unlock the economic potential of its tech-savvy population.

Gaps in Consumer Protection and Platform Liability.

Consumer protection in Pakistan's digital commerce sector remains severely underdeveloped, marked by weak enforcement mechanisms and outdated legal provisions. Traditional consumer protection laws—both at the federal and provincial levels—were crafted for physical marketplaces and are largely silent on digital-specific issues such as delayed deliveries, counterfeit products sold online, misleading digital advertisements, and refund or redressal policies for e-purchases.¹⁵ As a result, online consumers often face limited or no legal recourse in cases of fraud or defective goods.

Regulatory authorities, such as the **Competition Commission of Pakistan** and provincial consumer protection councils, lack both the digital tools and statutory mandates to effectively monitor and adjudicate violations in virtual marketplaces.

A key legal vacuum also exists around **platform liability**. E-commerce platforms currently operate in a grey area, with no codified obligations regarding third-party seller verification, product authenticity, or timely notification of data breaches.¹⁶ The absence of defined legal responsibilities allows platforms to deflect accountability, leaving consumers vulnerable and eroding trust in digital commerce. To address these gaps, comprehensive amendments are required in the existing **Consumer Protection Acts** at both federal and provincial levels. These reforms should introduce specific provisions for e-commerce transactions, including mandatory disclosure norms, platform liability for enabling or failing to prevent deceptive practices, and obligations to maintain consumer data confidentiality. Furthermore, the legislation should empower consumer courts to conduct hearings digitally and recognize e-evidence, thereby aligning legal remedies with the nature of the harm suffered in digital transactions. Such reforms are essential for establishing a rights-based, transparent, and accountable e-commerce environment in Pakistan.

Transparency, Accountability, and Enforcement Deficiencies

Pakistan's e-commerce ecosystem suffers from a fundamental lack of transparency and institutional accountability, largely due to the absence of mandatory legal obligations for digital platforms to register, report operations, or undergo regular audits. Unlike conventional businesses, many online platforms function outside the purview of formal regulatory oversight, avoiding disclosure of ownership structures, revenue models, seller verification processes, and compliance with consumer and data protection standards.¹⁷ This legal vacuum facilitates informal practices, tax evasion, and deceptive conduct, with consumers and small sellers bearing the brunt of these deficiencies. Without a statutory requirement for platform registration or periodic compliance audits, regulators remain unable to ensure a level playing field or uphold market integrity in digital commerce.

Regulatory oversight is further undermined by institutional fragmentation and weak enforcement capacities. While agencies such as the **Competition Commission of Pakistan (CCP)**, **Securities and Exchange Commission of Pakistan (SECP)**, and the **Ministry of Information Technology and Telecommunication (MoITT)** each possess partial mandates over the digital economy, their efforts are poorly coordinated, legally underpowered, and often reactive. The lack of a single, empowered regulatory body results in jurisdictional ambiguity and regulatory gaps that delay enforcement and frustrate accountability. To address this institutional disarray, a viable legal reform would be the creation of a centralized **Digital**

Commerce Regulatory Authority (DCRA) through dedicated legislation.¹⁸ The DCRA should be equipped with powers to license platforms, monitor compliance through digital audits, investigate anti-competitive behavior, and enforce standards on data protection, consumer rights, and fair trade practices.¹⁹ Such an authority would provide the legal clarity and institutional coherence necessary for sustaining a trustworthy, regulated, and rights-respecting digital marketplace in Pakistan.

In today's digital economy, personal data has become an invaluable asset often referred to as the "new oil." It is central to the functioning of e-commerce platforms, digital banking, targeted advertising, and smart technologies. With increasing internet penetration and smartphone usage, Pakistani citizens are engaging more frequently in online transactions, often sharing sensitive personal information such as national identity numbers, financial details, and biometric data. Despite this growing reliance on digital platforms, there remains a significant gap in the legal framework for the protection of personal data in Pakistan.²⁰

Unlike jurisdictions such as the European Union, which have robust and enforceable laws like the General Data Protection Regulation (GDPR), Pakistan does not yet have a comprehensive data protection regime. The proposed *Personal Data Protection Bill* first introduced in 2018 has undergone several revisions but remains unlegislated as of 2025. In the absence of binding legislation, data controllers and processors operate without sufficient accountability. While regulatory bodies like the State Bank of Pakistan (SBP) and the Pakistan Telecommunication Authority (PTA) provide sector-specific guidelines for cybersecurity and financial transactions, these fragmented efforts fail to ensure consistent consumer protection or effective legal recourse.

This legal vacuum is particularly concerning in the context of online payments, where consumers frequently share sensitive financial data. Many local e-commerce websites lack end-to-end encryption, secure payment gateways, or compliance with international cybersecurity protocols. Incidents of phishing, identity theft, and financial fraud have become more common, with few merchants held accountable. Despite growing risks, Pakistan lacks a mandatory breach notification regime or consumer compensation mechanism in the event of data theft deepening the trust deficit between online platforms and users.

These systemic vulnerabilities are now a major challenge for the growth of e-commerce in Pakistan. Consumer trust is critical to the success of digital marketplaces, but repeated incidents of fraud, misuse of personal data, and weak regulatory response have discouraged wider adoption particularly among vulnerable populations such as women, the elderly, and lower-income households.²¹ This hesitation limits the potential of Pakistan's rapidly expanding digital economy and weakens its position in cross-border e-commerce and global digital trade ecosystems.

Therefore, enacting a comprehensive data protection law is not merely a legal requirement but a strategic necessity. Pakistan must adopt a rights-based data protection framework aligned with international standards such as the GDPR, supported by an autonomous Data Protection Authority. This must be paired with consumer education initiatives, secure digital payment infrastructure, and enforceable accountability mechanisms. Without these reforms, e-commerce will continue to suffer from a lack of consumer confidence, stalling the nation's digital transformation.

Conclusion

Pakistan's e-commerce sector stands at a critical juncture, yet its legal infrastructure remains fragmented, outdated, and ill-equipped to support the dynamic needs of the digital economy. The absence of a comprehensive e-commerce law, delays in enacting data protection legislation, regulatory ambiguity under the Foreign Exchange Regulation Act, and insufficient platform accountability all point to significant legal shortcomings. Consumer rights in the digital realm remain inadequately protected, and institutions tasked with oversight such as the Competition Commission, SECP, and National E-commerce Council lack the statutory authority and coordination necessary for effective governance. These deficiencies have not only impeded the formalization of digital trade but also led to missed opportunities in terms of attracting foreign investment, integrating into global value chains, and empowering local entrepreneurs.

There is an urgent need for harmonized, enforceable, and rights-based legal reform to unlock the full potential of Pakistan's digital commerce ecosystem. Legal modernization must prioritize the protection of fundamental rights such as the right to trade, privacy, and due process—while also creating institutional mechanisms that are transparent, accountable, and technologically adaptive. The state must act decisively to enact a unified e-commerce regulatory framework, finalize key digital legislation, and enable cross-border digital trade through secure and lawful payment channels. This moment calls for a coordinated effort by state institutions, the judiciary, and legislators to bring Pakistan's digital trade governance into the 21st century. Only through comprehensive legal reform can the country build a resilient, inclusive, and globally competitive e-commerce landscape that serves its people and positions Pakistan as a meaningful player in the international digital economy. Pakistan's e-commerce sector faces significant legal and structural challenges due to outdated, fragmented, and insufficient legislation governing digital transactions, data protection, and consumer rights. Key laws such as the Prevention of Electronic Crimes Act, 2016 (PECA), the Electronic Transactions Ordinance, 2002, and provincial consumer protection acts lack provisions tailored to the complexities of modern e-commerce, including online payment security, digital goods, and cross-border transactions. The

absence of a comprehensive data protection law further undermines consumer trust, especially in light of rising cyber fraud and unauthorized data sharing. While regulatory frameworks by the State Bank of Pakistan and policy initiatives like the E-Commerce Policy 2019 offer some guidance, they remain non-binding or narrowly focused. To ensure safe, inclusive, and sustainable digital commerce, it is imperative for Pakistan to enact the long-pending Personal Data Protection Bill, modernize existing laws, and introduce enforceable standards for online consumer protection and payment security across all digital platforms.

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