



## Economic and Social Council

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### Substantive session of 2013

Geneva, 1-26 July 2013

**High-level segment: annual ministerial review**

### **Statement submitted by Consumers International, a non-governmental organization in consultative status with the Economic and Social Council**

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 30 and 31 of Economic and Social Council resolution 1996/31.



## Statement

Consumers International is the world federation of consumer groups that, working together with its members, serves as the only independent and authoritative global voice for consumers. With over 240 member organizations in 120 countries, we are building a powerful international movement to help protect and empower consumers everywhere.

On the theme of science, technology and innovation and the potential of culture for promoting sustainable development and achieving the Millennium Development Goals, Consumers International wishes to draw members' attention to the relevant work of the United Nations Conference on Trade and Development (UNCTAD) towards the revision of the United Nations Guidelines for Consumer Protection.

A proposal to amend the Guidelines is to be presented to UNCTAD at the July 2013 Expert Meeting on Consumer Protection of the Intergovernmental Group of Experts on Competition Law and Policy. Consumers International's input into that proposal would address a number of key issues concerning access to knowledge for consumers in the digital age. These include provisions that would:

- Promote the principle of technological neutrality, whereby not only online and offline purchases, but also digital and analogue products (for example, e-books and regular books) come with the same consumer rights by default
- Stop suppliers from using technology to cripple digital products or unreasonably limit the ways in which consumers can use them
- Require that consumers are clearly informed of any limits on the functionality or interoperability of digital products, for example due to the application of technological protection mechanisms, or "digital locks"
- Ensure that consumers retain access to their own data in formats that they can use and that such data is protected against misuse

Notably, a number of these provisions are based around the flexible application of intellectual property laws. In this context, we are concerned about suggestions that policymakers in Africa should redouble efforts to develop their legal and policy frameworks, including their intellectual property legislation and policy, so as to release the region's untapped potential.

On the contrary, sometimes we find that limitations and exceptions to intellectual property rights, and flexibilities such as fair use and fair dealing, are more likely to promote a flourishing of cultural expression than heightened intellectual property rights are. Much of the creativity that consumers are engaged in online depends upon their ability to build on elements from the culture that surrounds them, but copyright laws and digital locks can make this impossible, illegal or both.

The link between intellectual property protection and economic and social development is also highly questionable, as many research studies have demonstrated. Such research casts doubt on the received wisdom that intellectual property rights are linked to greater direct foreign investment or to domestic innovation.

As the simplistic assertion that intellectual property rights will promote cultural production and innovation in developing countries is no longer seriously accepted by most scholars, we do not consider it appropriate for this assertion to form part of any resolution of the annual ministerial review. Instead, the meeting should look into alternative innovation models such as open collaborative projects that can contribute to a shared commons of knowledge to the benefit of all.

The link between access to knowledge and consumer protection is also important, as it is through consumer protection law that attacks on access to knowledge can often be best confronted (for example, in the abuse of digital locks to prevent consumers from exercising “fair use” or “fair dealing” rights). Consumers International would therefore value members’ support for the important work of UNCTAD in reviewing the Guidelines for Consumer Protection to strengthen it in this regard.

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