1 Purpose

Both consumers and businesses would benefit from the existence of guidance in the form of an international standard concerning the development and implementation of effective and efficient processes relating to business-to-consumer electronic commerce transactions.

The increased ability of consumers to use computers connected to the Internet to search for and purchase goods and services from merchants located both locally and around the world has the potential to provide advantages for consumers including, but not limited to:

- enhanced consumer convenience,
- increased access to information about products and services,
- improved choice, and
- cheaper prices.

This potential, if realized, will also benefit merchants. In particular, small and medium-sized businesses will be able to expand their markets substantially through e-commerce applications, unencumbered by conventional expensive activities associated with building and operating new facilities.

It would seem in this scenario that there is an important role for an international standards body such as ISO to address:

- the limitations of domestic laws;
- impracticality associated with domestic laws operating in a cross-jurisdictional context;
- the inadequacy of current international laws; and
- variable criteria, scope, credibility, and inter-operability associated with existing guidelines, International Standards, programs, and information initiatives.

This international voluntary e-commerce consumer standard should reduce unnecessary barriers to entry into e-commerce by merchants, while at the same time offering consumers an assurance that their interests are protected. While this standard would not be legislation or regulations, it can become recognized as an international benchmark so that companies who want to compete in the relevant market have a great incentive to adopt them.

The development of this voluntary international e-commerce benchmarking standard by a recognized, high profile international standards setting organization such as ISO will help harmonize consumer protection standards on a global scale. ISO has a well-understood rules-based system for the development of international norms, in which both demand and supply-side interests, as well as governments, are invited to participate. Because ISO is well known in the marketplace (particularly in the private sector), the development of this international e-commerce consumer standards by ISO should stimulate strong interest among a variety of stakeholders and for businesses to meet or exceed the standard.

2 Justification

The ISO Consumer Policy Committee (COPOLCO) through its Global Markets Working Group has examined and tracked the issue of the feasibility and desirability of developing ISO guidance standards for business-to-consumer e-commerce transactions for many years. In addition, the need for a consistent standard for consumers wherever they shop on the internet has been
supported by research undertaken by Consumers International (e.g., *Consumers@shopping: An International Comparative Study of Electronic Commerce* (1999))

The points outlined below are extracted from earlier COPOLCO research on this issue. They are as valid now as when originally articulated. ISO is an appropriate international institution for the development of an international e-commerce consumer standard, because:

- ISO has a proven track record at producing market-based and market-accepted standards, including the 9000 (quality) and 14000 (environmental) series. In particular, the 14020 series of standards covering environmental marketing claims and 10002 covering complaints handling indicates that ISO has already developed standards setting benchmarks for market behaviour by industry in areas where consumers have a real interest in the market outcomes delivered by these standards;

- ISO standards are voluntary, baseline norms, which can be adopted by governments, businesses, and others, but which do not prevent governments, businesses, or others, from putting in place more rigorous protections as they see fit;

- ISO development process is a rules-based (i.e., non-arbitrary) system, in which participants (representing consumer, business, and other interests) reach decisions on the basis of the principle of consensus, and through which the draft standards are subject to consultation and inputs. Meaningful and balanced participation of all stakeholders will be essential to the standards being perceived as credible in the marketplace;

- The ISO business-to-consumer e-commerce standard would build on existing innovative standards pertaining to customer satisfaction codes of conduct, complaints handling and dispute resolution (ISO 10001, ISO 10002, and ISO 10003). Note that ISO 10001 and ISO 10003 are currently at the FDIS stage;

- The ISO business-to-consumer e-commerce standard would provide a welcome opportunity to address global issues such as the protection of personal data and privacy, and product safety in the sale of goods online. In this regard, it will be important to work in close cooperation with other ISO work, such as the JTC1 and ISO COPOLCO work concerning product safety;

- WTO has recognized the important role of international standards in contributing to equal opportunities in cross-border trade;

- ISO is one of the only truly international, non-governmental, rule-making organizations with a consumer focus which offers participation to a range of stakeholders. ISO is at the apex of an infrastructure for norm development and implementation which extends throughout the world;

- ISO has a high profile in the market, facilitating acceptance of its standards by national governments as a basis of or supplement to their regulations, to industry participants and to consumer organizations. In recent years ISO has indicated its willingness to develop standards recommended by COPOLCO;

- ISO offers a cost-effective mechanism for the development of standards, especially where the cost of producing standards by small and/or less developed countries is prohibitive; and

- ISO standards can be adopted as national standards. This is particularly useful for smaller and developing countries.
3 The problem

Consumer e-commerce transactions can present numerous challenges for consumers and businesses alike. In the internet-based marketplace, because the consumer cannot touch and interact with the product the way he or she can with conventional marketplace purchases, e-consumers are at a disadvantage. There are added difficulties in terms of authentication of the merchant's identity, assessing the merchant's reliability, disclosure of accurate and sufficient information to allow for informed online transactions, payment security, fair marketing practices, assurances of consumer safety, and in getting redress if something goes wrong. In this regard, see general research undertaken by Consumers International (e.g., Consumers@shopping: An International Comparative Study of Electronic Commerce (1999)). Online merchants also face challenges in terms of persuading consumers that they are reliable and that their products are what consumers want. An added difficulty is cross-jurisdictional purchases, where it is not clear what rules apply. Existing national based e-commerce rules also raise questions about whose rules apply: those operating in the buyer or seller's jurisdiction. The position taken here is that a voluntary ISO guidance standard is ideally placed to address such problems.

4 Results of consultations

In 2004-2005, Steven Cole, who was then the Executive Director of the Global Trustmark Alliance, conducted a survey of trustmarks for COPOLCO with consumer and trade associations, business leaders, government officials, and a few other academic, legal and related persons located in the Americas, Asia and Europe.

Ninety seven (97) surveys instruments were distributed—19 to Asia-Oceania; 23 to Europe; 3 to South America, 2 to Canada; and the rest to the US. The regional designations are not fully descriptive of the areas of responsibility of the recipients because a large number have scope that is international. Examples are groups such as the ICC, business leaders such as with Hewlett Packard and Proctor & Gamble, consumer groups such as Consumers International and one or two trustmark organizations.

Of the ninety seven, 32 went to trustmark organizations, 5 to consumer associations, 24 to business leaders, 16 to government officials, 14 to trade associations and 6 to academic, legal or consultants. In a few cases more than one survey was sent to an organization (to different individuals) to increase the chance of a response. Moreover, the categories are not “neatly” divided. For example, many of the associations are supporters of trustmark programs, by issuing codes or conducting ADR. Many of the business leaders were chosen because of their companies’ support for codes and trust marks and ADR, through participation on Boards of Directors, or on drafting committees.

Mr. Cole reported that some of the key opinion-leaders in the area of e-commerce standards were quite supportive of an ISO effort. It should be noted that no questions were asked regarding the possible detail or lack of detail in such standards, or in whether the document would be a guidance document or one capable of certification and conformity assessment.
Potential benefits

Business Benefits of ISO Global E-Commerce Consumer Standard

The potential benefits for business of ISO global e-commerce consumer standard are that it can:

- reduce compliance costs associated with the need to adhere to a range of divergent national e-commerce initiatives;
- enhance the ability for a company to compete in the global e-commerce marketplace;
- promote growth of international trade through enhanced consumer confidence in global market mechanisms;
- provide companies operating in the global market with objective, measurable benchmarks which have had demand and supply side and government input;
- provide companies operating in a competitive environment with the means to internalize consumer protection, thus providing a market advantage;
- assist industry participants to become or remain responsible corporate citizens by providing them with a means of determining whether they conform to accepted norms of good behaviour;
- provide some assurance to industry participants who adopt these standards that they will have a base of consumer support; and
- provides an effective corporate compliance measurement approach.

Consumer Benefits of ISO E-Commerce Consumer Standard

The potential benefits for consumers flowing from widespread adoption of ISO e-commerce consumer standard include:

- increased access to and choice of goods and services
- increased level of satisfaction with the quality and delivery of products and services in the global market, thus enhancing the consumer-business relationship;
- increased confidence of the consumer that he or she is dealing with a reputable merchant, when that merchant implements all applicable guidance provided in the ISO standard;
- the provision of efficient and fair access mechanisms for supplying consumer goods and services and resolving consumer complaints; and
- the provision of low-cost means for consumers to obtain redress in a rapidly changing market, where legal remedies are either non-existent, inadequate or too costly to enforce.

Regulatory Benefits of ISO E-Commerce Consumer Standards

The potential benefits to regulatory authorities of an ISO voluntary business to consumer e-commerce consumer standard include that it can:

- act as a useful supplement to regulatory approaches, in that they represent minimum, voluntary baseline standards, but do not prevent governments and others from adopting higher protections as they see fit;
- assist government in addressing consumer protection issues arising in a cross-border context which are difficult to resolve via conventional legal approaches;

may enhance the ability of business and consumers to resolve problems by themselves, without the need for early regulatory intervention.
6 Potential Issues

There are a number of challenges to the development of an international standard on business to consumer e-commerce. These have been largely based on the experience to date with COPOLCO.

6.1 Organizations and countries with established e-commerce rules

In apparent recognition of both the differences between the off-line and online consumer experiences, as well as the significant potential benefit of e-commerce to consumers and merchants alike, inter-governmental organizations, governments, the private sector, non-governmental organizations, and standards organizations have each variously attempted to develop solutions to problems associated with online purchasing activity. The result has been a proliferation of principles and guidelines, merchant reliability codes, seal and trustmark programs, “international e-commerce standards” from non-ISO bodies, complaints handling and money-back guarantee services, third party mediation and dispute resolution initiatives. If an international standard was proposed one could expect that there could be some resistance from organizations or jurisdictions that have developed e-commerce codes/standards/rules.

Setting out a clear commitment to draw on existing codes and standards as resource documents in the drafting stage of an international standard is a good technique for building support. This method was successfully employed in the development of the international standard on complaints handling ISO 10002 – Quality Management – Customer Satisfaction – Guidelines for Complaints Handling in Organizations. In that instance the working group drafting that standard drew on relevant national standards and other guidance from Australia, Canada, Argentina, Japan and the United Kingdom, among others. This assisted with buy-in from those countries. There is much to recommend a similar approach in promoting the development of this proposed international standard that it be clear that all relevant material be considered in the drafting of the standard.

6.2 Fear of the unknown

The consumer policy committee of ISO (COPOLCO) has had a proposal to develop “a suite of standards” for e-commerce on its agenda since 2000. To date there has been a reticence by this group to make a recommendation to ISO to develop standards in this area. One explanation for this reticence might stem from the largeness of the task presented by a “suite of standards” and by a fear of the unknown. Another problem might be the breadth of the original proposal: where do you start and where do you finish? There may also have been problems with the amount of resources/commitment available to an undefined project.

However, since that time, ISO has developed or is in the final stages of developing three customer satisfaction standards pertaining to codes of conduct, complaints handling, and dispute resolution. It is submitted that these standards have gone a long way towards dispelling concerns that ISO was not well placed to develop consumer-oriented standards of relevance to business-to-consumer e-commerce. Moreover, the suggestion made here is that the proposed ISO business-to-consumer standard build on and follow the approach adopted in the three ISO customer satisfaction standards. As such, the four standards taken together create a solid foundation for organizations interested in addressing business-to-consumer e-commerce issues.

The suggestion made here is the an ISO business-to-consumer e-commerce standard should draw on existing codes and standards consistent with the Organization for Economic Co-operation and Development’s (OECD) Guidelines for Consumer Protection in the Context of Electronic Commerce. By doing so, it should be clear that the standard would be building on a base of experience rather than engaging in an “unknown” area.
6.3 Back-up support

One of the practical challenges to developing an international standard is having a sponsoring organization willing to provide secretarial and chairing backup support for the development of an international standard. Currently, ISO standards covering codes of conduct, complaints handling and external dispute resolution schemes for customers have been or are being developed by Technical Committee 176, the ISO committee developing quality standards. A standard on business to consumer e-commerce also has a strong link to customer satisfaction and quality. In view of the appropriateness of the ISO 10001–10003 standards to electronic commerce, it would make considerable sense if TC 176 SC 3 were to undertake this work, building on the solid foundation provided by ISO 10001–10003 and the inherent linkages between quality management, customer satisfaction and business-to-consumer e-commerce. ISO’s processes are such that they require a national standards body(s) to supply a chair and a secretariat. Several possibilities are being explored at this time.

6.4 Translating existing Code/standards into an international standard

Prior to recent experience at the ISO level with customer satisfaction standards, there may have been concern that ISO was not capable of translating existing domestic consumer codes, standards and other instruments into international standards. It is submitted that the recent experience with ISO consumer oriented international standards covering codes of conduct, complaints handling and external dispute resolution schemes has been useful in showing that ISO is well placed to engage in such domestic-to-international translation. Moreover, the template or approach to customer satisfaction and quality management may provide a useful model for development of an ISO business-to-consumer e-commerce standard.

7 Draft Example – ISO Business-to-Consumer E-Commerce Standard

A draft example of what the ISO business-to-consumer e-commerce standard might look like, drawing on existing codes and standards, is attached as a separate Annex. Note that the draft example is only provided to provide readers with some ideas as to what the standard might look like. The actual standard, if developed, would be the result of a consensus process, drawing on expertise and experience from around the world.