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Country Update

Export Challenges Faced by S&SEA e-Commerce Providers

Provided by



VERITE RESEARCH
Sri Lanka

Background

CUTS International, Geneva is implementing the 'Business & Trade Connection' project, which aims to link private sector representatives in South and Southeast Asia (S&SEA) to the multilateral trading system.

The Country Update Note on 'Export Challenges Faced by S&SEA e-Commerce Providers' has been prepared to service the third forum meeting under the Business & Trade Connection project on e-commerce. The forum brings together WTO negotiators from participating countries to discuss views, clarify issues, ask questions and share ideas.

For the purpose of this note, an 'e-exporter' is defined as any private enterprise that engages in trade through electronic means. The note specifically looks at e-commerce providers engaged in cross-border trade. Examples of such trade include: online sales and marketing, accommodation booking, any mode of transport booking, digital financial services, medical services, provision of digital goods such as graphics, e-books, and online courses.

This Country Update Note provides the views of e-commerce providers in Sri Lanka on the most pressing issues they face in exporting their products or services. The objective is to understand the export challenges they face in operating in the e-commerce sector, so that WTO negotiators may address these concerns.

Perspectives from the Private Sector

Key Export Markets

Key export markets differed based on the business sector of the companies interviewed. In the tourism sector, companies offering tours to foreign tourists named Europe, UK, Australia and China as their main markets. Yohobed, an interviewed accommodation booking company, named India, Australia and Europe as its main export markets. Exporters of accessories differed based on the type of accessory sold. Glitteray named India and Singapore as the main markets, while Seasonsocks stated that USA, Canada, UK and New Zealand were their primary markets. House of Gifts, which exports a range of items from homeware to souvenirs, reported USA, India, Australia and Singapore as its major foreign markets.

Business Challenges

Issues related to electronic payments

- Non-availability of reliable and efficient Internet Payment Gateways (IPGs)

PayPal, one of the most widely used IPGs in the world, does not facilitate inward receipts to Sri Lanka. It is believed that PayPal has not implemented its complete package in Sri Lanka due to the low volume of e-commerce transactions in the country. The limited operations of this key global IPG and other such payment platforms such as Stripe and Skrill undermine the competitiveness of Sri Lankan e-commerce operators, especially with regard to cross-

border trade.^{1,2}

- Low brand credibility of alternative IPGs

Local Fintec startups such as PayHere, WEBXPAY, DirectPay and Genie have come up with alternative IPGs to international IPGs and those provided by local banks and financial institutions. However, all of these have been in operation only for a few years and do not have brand credibility yet.³ Therefore, and unlike Indian e-commerce providers who rely on domestic non-bank IPGs,⁴ the Sri Lankan e-commerce sector cannot rely on local non-bank IPGs yet, particularly when dealing with foreign customers.

- Outdated technology used to facilitate payments

The interfaces of these IPGs, in terms of technology and usability, are outdated and are a hindrance to the operations of e-commerce providers such as Takas, which process a large number of payments online.^{5,6} According to Lankitha Wimalaratne, Founder of Vesess, local banks that provide IPGs have weak Application Programming Interfaces (APIs), and unappealing User Experience (UX) Designs.⁷

- High fees levied by financial institutions when facilitating payments

Financial institutes that provide IPGs in the

country tend to charge high usage fees in the forms of initial charges, monthly recurring fees, and transaction fees. This reduces the profit margins of e-commerce providers, especially those of small-scale businesses and start-ups.^{8,9}

Shortcomings in the IPG infrastructure of the country have resulted in customers having to use less convenient payment methods such as bank transfers. In carrying out bank transfers, fees and commissions are required to be paid to multiple parties, including the merchant's bank, client bank and the Central Bank of Sri Lanka. According to the CEO of an internet marketing agency in Sri Lanka, such transaction costs relating to bank transfers from foreign clients are extremely high, and especially burdensome for SMEs. These costs could be avoided by having a sound IPG infrastructure, thus avoiding such intermediary costs. In addition to high transaction costs, minimum bank account balances required to be maintained by startups have been identified as another constraint imposed by the financial sector. Considering that most e-commerce providers operate a high-volume, low-margin business model, high financial costs pose a significant burden to such businesses.¹⁰

¹Daily Mirror, 'Doors Open for PayPal in Sri Lanka, Says CB', 29 December 2017, available at:

<http://www.dailymirror.lk/article/Doors-open-for-PayPal-in-Sri-Lanka-says-CB-143016.html> [accessed on: April 2019].

² Kanishka Weeramunda, The Morning, 'Who Needs PayPal Anyway?' The Morning, 29 January 2019, available at: <http://www.themorning.lk/biz-pg-5-lead-who-needs-paypal/> [accessed on: April 2019].

³ Ibid.

⁴ Hanif Hakiem, Roar Media, 'What's Holding Back E-Commerce In Sri Lanka?', 22 February 2016, available at: <https://roar.media/english/life/economy/whats-holding-back-e-commerce-in-sri-lanka/>, [accessed on: April 2019].

⁵ Andre Howson, Roar Media, 'Takas And The Difficulties of E-Commerce', 13 March 2017, available at: <https://roar.media/english/tech/insights/takas-and-the-difficulties-of-e-commerce/>, [accessed on: April 2019].

⁶ Roar Media, 'The Problem With Payment Gateways in Sri Lanka', 7 November 2016, available at:

<https://roar.media/english/tech/insights/the-problem-with-payment-gateways-in-sri-lanka/> [accessed on: April 2019]

⁷ Hanif Hakiem, Roar Media, 'What's Holding Back E-Commerce In Sri Lanka?', 22 February 2016, available at: <https://roar.media/english/life/economy/whats-holding-back-e-commerce-in-sri-lanka/> [accessed on: April 2019].

⁸ Daily Mirror, 'Control of Payment Gateways by a Few Said to Be Trapping Lankan E-Commerce Surge', 16 March 2018, available at: <http://www.dailymirror.lk/article/Control-of-payment-gateways-by-a-few-said-to-be-trapping-Lankan-e-commerce-surge-147358.html> [accessed on: April 2019].

⁹ Hanif Hakiem, Roar Media, 'What's Holding Back E-Commerce In Sri Lanka?', 22 February 2016, available at: <https://roar.media/english/life/economy/whats-holding-back-e-commerce-in-sri-lanka/> [accessed on: April 2019].

¹⁰ EU-Sri Lanka Trade Related Assistance: National Public-Private Dialogue on E-Commerce Platform Policy/Regulatory Issues held on 2nd April 2019.

Restrictions in access to finance for SMEs

A majority of interviewed SME e-commerce providers in Sri Lanka noted that they face numerous disadvantages when dealing with financial institutions when compared to an established e-commerce provider. For example, financial institutions tend to charge higher fees for IPGs from start-ups as they are not able to leverage the size of their business or brand name.¹¹ Similarly, financial institutions allocate a higher proportion of their budget for marketing activities (such as card promotions) to larger companies, which have steady financial backing compared to SMEs.¹² Furthermore, many small scale e-commerce platforms do not maintain high levels of inventory, which banks require as collateral for providing bank overdrafts.¹³

Cost and efficiency of transport and delivery

A majority of e-exporters interviewed are SME businesses that do not deal with exports of products in bulk. Hence, in delivering goods to overseas customers, such companies use the standard postal system or express courier services. However, the cost of shipping through courier is extremely high, particularly in comparison to the sale value of low-priced items. Using the alternate option of shipping items via regular post significantly increases the time taken for delivery and does not always guarantee proper handling of goods.^{14,15} Local postal services also do not allow for tracking of packages, and hence is not preferred by e-exporters.¹⁶

Unavailability of data servers which are cost effective and compliant with standards

Another crucial deficiency in Sri Lanka's internet infrastructure is the unavailability of data servers that are both cost effective and compliant with regulations, such as Payment Card Industry Data Security Standard (PCI DSS) and the US Health Insurance Portability and Accountability Act of 1996 (HIPAA). Consequently, most e-commerce providers prefer to utilize foreign data servers to store their data.¹⁷

Ease of entry leading to intense competition

E-exporters' reliance on online marketing for generating sales, exposes them to competition from a wide spectrum of competitors. Due to the relative ease of marketing online, many substandard products or services can gain equal exposure to customers through effective utilization of techniques such as search engine optimization. This allows competing businesses to easily replicate any innovative products and services offered. Attracting customers away from a client is much easier with respect to e-commerce business compared to traditional businesses.¹⁸

Time taken for registration of trademarks

The time taken for registration of trademarks has proved to be another challenge for companies in the e-commerce sector. Presently, it takes up to two years for a trademark to be registered, by which time the company's products have already

¹¹ Key Person Interview. Busseat.lk. 7 May 2019.

¹² Key Person Interview. Lino.lk. 25 April 2019.

¹³ Key Person Interview. Glitteray. 7 May 2019.

¹⁴ Key Person Interview. Glitteray. 7 May 2019.

¹⁵ Key Person Interview. Cosmetics exporter. 4 July 2019.

¹⁶ Key Person Interview. Apparel exporter. 10 July 2019.

¹⁷ EU-Sri Lanka Trade Related Assistance: National Public-Private Dialogue on E-Commerce Platform Policy/Regulatory Issues held on 2nd April 2019.

¹⁸ Key Person Interview. Tuk Tuk Safari Sri Lanka. 5 July 2019.

been replicated by competitors.¹⁹

Lack of laws to address intermediary liability in Sri Lanka

Currently, the level of liability borne by e-commerce providers for content uploaded on their platform remains an area of uncertainty for businesses and legal professionals alike. For example, an e-commerce provider who operates a platform utilized to connect customers with builders and tradesmen stated that they endure numerous complaints regarding breach of contract by such service providers.²⁰

Existing Policies, Programmes, Legislation and Regulations

Access to information regarding e-commerce and cross border trade

A majority of e-commerce providers stated that they do not have access to comprehensive and up-to-date information on regulations, market opportunities in relation to both domestic and foreign markets. This was evident as a majority of companies interviewed were not aware of data privacy laws of the countries to which they export, and operated on the basis of a company-specific privacy policy. Many businesses rely on their own independent research to keep themselves informed of such topics. The companies interviewed stated that advanced markets have most of the information readily available digitally; other markets however, require reliance on a local partner. Similarly, the e-exporters interviewed stated that they were not aware of specific programmes in Sri Lanka that

promoted exports in the e-commerce sector.

Lack of information has proven to be a significant challenge for local businesses to both enter foreign markets and to attract foreign investors to invest in the e-commerce sector. In this regard, many e-commerce providers expressed the pertinent need to establish a single source with up-to-date information that is easily accessible by the public.

Changes to existing labour laws

E-commerce providers were also of the view that less stringent labour laws which would allow for flexible hiring and firing of workers would be beneficial for the e-commerce sector.²¹ Furthermore, labour regulations that accommodate flexible work arrangements are important for the IT/BPO industry as a whole. The shortage of a workforce possessing the right skills needed for the industry, and a 'brain drain' of skilled individuals have been pertinent concerns of the private sector. In this regard, labour laws allowing for flexible work would be beneficial to both encourage non-active workers to enter the labour force, and to retain a workforce.²²

Revising laws to adapt to digitalization of the economy

As Sri Lanka's e-commerce segment is still in its infant stages, it is still to be recognized as a driver of trade and commerce in the country. Hence, existing regulations and taxes that were developed in an era prior to e-commerce may be unsuitable when applied to the e-commerce sector, and have not been revised yet. Due to the differences in the business models of e-

¹⁹ EU-Sri Lanka Trade Related Assistance: National Public-Private Dialogue on E-Commerce Platform Policy/Regulatory Issues held on 2nd April 2019.

²⁰ EU-Sri Lanka Trade Related Assistance: National Public-Private Dialogue on E-Commerce Platform Policy/Regulatory Issues held on 2nd April 2019.

²¹ EU-Sri Lanka Trade Related Assistance: National Public-Private Dialogue on E-Commerce Platform Policy/Regulatory Issues held on 2nd April 2019.

²² Sri Lanka Association of Software and Service Companies, 'SLASSCOM Strategy Document 2016', 6 October 2016, available at: <https://slasscom.lk/report/slasscom-strategy-document-2016>, [accessed on: July 2019].

exporters and traditional exporters, both the regulation and taxation of an e-exporter would require a different approach to that of a traditional exporter.²³ For example, exporters in certain sectors have encountered an unfavourable situation of having to obtain a permit from the regulatory agency for each individual item to be exported, as the existing regulations were geared towards a business model where items would be consolidated and shipped in bulk.²⁴

Missing Regulations

Overall, in drafting new regulations, it was considered pertinent to note the fact that a large number of e-commerce providers in the country are SMEs. Hence, regulations should be both easy to understand and implement by such businesses.²⁵ Furthermore, once new regulations are introduced, businesses should be made aware of such legislation and their provisions, through awareness programmes.²⁶

Regulating competition

Sri Lankan e-commerce providers have mixed views regarding the regulation of competition from international players in the e-commerce sector of the country. Some entities such as the Tourist Hotels Association of Sri Lanka, which face increasing competition from international e-commerce providers such as Airbnb and

Booking.com, have requested the government to regulate e-commerce businesses.²⁷ Others such as Sachira Fernando, the CEO of NicNac argue that introducing legislation to regulate e-commerce providers without providing them with supportive infrastructure and facilities could hamper the growth of the e-commerce sector.²⁸

Need for an e-consumer protection framework

Sri Lanka does not have regulations or policies to foster consumer privacy and protection in the e-commerce sector. Nor does the country have an umbrella organisation that facilitates traders and consumers of e-commerce to resolve commercial disputes. Though the Consumer Affairs Authority Act (CAAA) No. 9 of 2003 provides a framework for the protection of consumers in a traditional setting, it is not sufficient to resolve disputes in a digital era where transactions occur on digital platforms.²⁹ The CAAA does not confer the Consumer Affairs Authority (CAA) with any specific authority to regulate online trade and services, and is insufficient to address the multifaceted nature of e-commerce activities.³⁰

Furthermore, e-commerce providers expressed the need for constructive dialogue with the CAA, as they claim there are currently many misperceptions among the authorities. This arises from authorities lacking a concise understanding on how online platforms operate and on the efforts

²³ Anushka Wijesinha, The Ceylon Chamber of Commerce, 'E-Commerce: The Great Equalizer in International Trade', 3 November 2016, available at: <http://www.importsection.lk/file/2016/11/TIPS-E-commerce.pdf> [accessed on: July 2019].

²⁴ Key Person Interview. Ministry of Development Strategies and International Trade. 11 July 2019.

²⁵ EU-Sri Lanka Trade Related Assistance: National Public-Private Dialogue on E-Commerce Platform Policy/Regulatory Issues held on 2nd April 2019.

²⁶ Key Person Interview. Apparel exporter. 10 July 2019.

²⁷ U.S. Department of Commerce, 'Sri Lanka - ECommerce', 10 October 2018, available at: <https://www.export.gov/article?id=Sri-Lanka-eCommerce> [accessed on: April 2019].

²⁸ Sachith Perera, ReadMe, 'The Sri Lankan Government Wants To Regulate E-Commerce', 14 September 2016, available at: <https://www.readme.lk/sri-lankan-government-regulate-e-commerce/> [accessed on: April 2019].

²⁹ The Island, 'Gaps Exist in Digital Consumer and Data Protection Laws in Sri Lanka' Experts Discuss Consumer Rights in the Digital Age at Forum Organized by IPS', 17 March 2017, available at: http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=162068 [accessed on: April 2019].

³⁰ Bamunu Achchige Rishanthi Ruwanthika Ariyaratna, OUSL Journal 13, no. 2 (2018): 5–23, 'Protection of Consumer Rights on the Internet: Prospects and Challenges for the Sri Lankan Legal System'.

of e-commerce providers towards consumer protection.³¹ In the absence of a proper mechanism to protect the rights of consumers who engage in e-commerce activities, consumers find it hard to trust e-commerce providers. Therefore, the absence of an e-consumer protection framework not only adversely affects consumers who make online purchases, but also e-commerce providers and ultimately the e-commerce sector of the country as a whole.³²

Data protection legislation

In the absence of data privacy and security laws, many leading e-commerce providers have resorted to developing and following their own policies based on international best practices.³³ However, due to the absence of strict laws and regulations, e-commerce providers noted that there have been instances in the industry where customer data has been hacked or leaked to third parties. In such instances, it was noted that the relevant authorities were ineffective in taking action against such perpetrators.³⁴

A leading e-commerce provider in the health sector stated that one of the main challenges in entering foreign markets would be the necessity to adapt to the regulations of that country. In this regard, the company noted that many countries have modeled their legislation based on the General Data Protection Regulations (GDPR) of the EU. Hence, having similar legislation in Sri Lanka would not only support Sri Lankan e-commerce providers by making the shift to foreign markets less challenging, but also increase the confidence of foreign business partners in domestic companies. However, e-

commerce providers in the health sector noted that such regulations would also need to be reconciled with local regulations, as there are currently contradictions between certain local regulations and GDPR. For example, the GDPR allows customers to understand and request the deletion of data stored about themselves, whereas the National E-Health Guidelines issued by the Ministry of Health does not provide for such rights.³⁵

Data localisation

The Central Bank of Sri Lanka has proposed to introduce laws making data localization mandatory. This requires businesses to process and store data within the country, whereas a majority of e-commerce providers currently store data outside the country, utilizing servers located in other countries. This is due to data storage facilities in Sri Lanka being highly costly and not meeting international security standards compared to facilities that e-commerce providers can obtain from overseas. Large scale enterprises may have the capacity to bear the additional costs and establish local data centres, however, SMEs will not be able to do the same. This would put local SMEs in the e-commerce sector in Sri Lanka at a disadvantaged position. Hence, as pointed out by a leading online shopping platform, data localization laws similar to those of Australia would be preferred by local e-exporters, whereby the government identifies specific 'safe harbour' countries in which e-commerce providers can locate

³¹ EU-Sri Lanka Trade Related Assistance: National Public-Private Dialogue on E-Commerce Platform Policy/Regulatory Issues held on 2nd April 2019.

³² Bamunu Achchige Rishanthi Ruwanthika Ariyaratna, OUSL Journal 13, no. 2 (2018): 5–23, 'Protection of Consumer Rights on the Internet: Prospects and Challenges for the Sri Lankan Legal System'.

³³ EU-Sri Lanka Trade Related Assistance: National Public-Private Dialogue on E-Commerce Platform Policy/Regulatory Issues held on 2nd April 2019.

³⁴ Key Person Interview. Glitteray, 7 May 2019.

³⁵ EU-Sri Lanka Trade Related Assistance: National Public-Private Dialogue on E-Commerce Platform Policy/Regulatory Issues held on 2nd April 2019.

their data.³⁶

Policies to address shortages of skilled labour in the e-commerce sector

As mentioned earlier, although Sri Lanka's education system has been effective in providing the workforce with necessary skills required by the e-commerce sector, companies face a shortage of skilled employees due to 'brain drain'. Thus the companies interviewed stated that it is important to have policies aimed at retention of workers in the country, to support the industry.³⁷ The shortage of skilled workers is aggravated with SMEs, as the most skilled employees are recruited while at university by larger IT firms. Students receive higher exposure and access to such firms. Their brand names allow them many opportunities to conduct workshops and seminars at universities. However, start-ups are not given similar opportunities or exposure by universities, leading to difficulties for smaller e-commerce providers to recruit talented students.³⁸

Policies aimed at easing the financial burden of SMEs

SMEs find it more difficult to enter export markets as they do not have strong financial backing like that of larger, established businesses. Similarly, these companies have to face higher costs from financial institutions as they do not have a strong reputation or collateral. Hence, policies and regulations aimed at financially supporting SMEs were considered important by the e-exporters interviewed, as many of them were SMEs.³⁹ Reflecting

this view, industry reports also identified access to debt capital from banks and availability of capital as significant barriers to start ups in the IT/BPM sector.⁴⁰

Branding of Sri Lanka

Improving the brand image of Sri Lanka to bring out its value proposition has been identified as a key issue that needs to be addressed for the IT/BPM sector.⁴¹ Yohobed was of the view that this was critical for the tourism sector as well.⁴² Some initiatives identified in this regard were: (i) the setting up of a branding unit which comprises both the public and private sector; (ii) annual country benchmarking reports; (iii) the utilisation of Sri Lankan missions overseas to promote Sri Lankan exports; and (iv) private sector organizations to work directly with the Ministry of Foreign Affairs.⁴³

Perspectives from the Public sector

Policies and Programmes to Support Exports by e-Commerce Providers

Legislation forming the basis of e-commerce in Sri Lanka

The Electronic Transactions Act No. 19 of 2006 (ETA) is the primary legislation that applies to the e-commerce sector of Sri

³⁶ EU-Sri Lanka Trade Related Assistance: National Public-Private Dialogue on E-Commerce Platform Policy/Regulatory Issues held on 2nd April 2019.

³⁷ Key Person Interview. Busseat.lk. 7 May 2019.

³⁸ Key Person Interview. Glitteray. 7 May 2019.

³⁹ Key Person Interview. Glitteray. 7 May 2019.

⁴⁰ Sri Lanka Association of Software and Service Companies, 'SLASSCOM Strategy Document 2016', 6 October 2016, available at: <https://slasscom.lk/report/slasscom-strategy-document-2016>, [accessed on: July 2019].

⁴¹ Sri Lanka Association of Software and Service Companies, 'SLASSCOM Strategy Document 2016', 6 October 2016, available at: <https://slasscom.lk/report/slasscom-strategy-document-2016>, [accessed on: July 2019].

⁴² Key Person Interview. Yohobed. 10 July 2019.

⁴³ Sri Lanka Association of Software and Service Companies, 'SLASSCOM Strategy Document 2016', 6 October 2016, available at: <https://slasscom.lk/report/slasscom-strategy-document-2016>, [accessed on: July 2019].

Lanka.⁴⁴ Several other laws also support e-commerce, such as the Evidence Act No. 14 of 1995, Payment and Settlement Systems Act No. 28 of 2005, Payment Devices Frauds Act No. 30 of 2006, Computer Crimes Act No. 24 of 2007, Information and Communication Technology Act, No. 27 of 2003 and the Intellectual Property Act No. 36 of 2003.^{45,46} Additionally, companies in the health industry are governed by the National eHealth Guidelines and Standards, and telecommunications service providers are guided by the Telecommunications Regulatory Commission (TRC) of Sri Lanka.⁴⁷

Until recently, the ETA was not on par with international standards, but due to the requests made by e-commerce experts and other stakeholders, an amendment to the Act was passed in October 2017 making Sri Lanka the first country in South Asia, and the second country in Asia to adopt the UN Electronic Communication Convention (UN ECC). This amendment is believed to provide greater legal certainty to e-commerce providers in the country and ensure the validity of electronic contracts, which could help improve competitiveness and efficiency in the sector.^{48,49} It is also

supposed to improve the prospects of local SMEs to engage in trade with other UN ECC countries, and bring clarity and predictability to the use of electronic communication in such cross-border trading.⁵⁰ Moreover, under this amendment, the definition of electronic signatures has been broadened to cover all forms of verification systems. It is also believed to facilitate interoperability between various authentication technologies.⁵¹

Legislation relating to e-consumer protection

The current legislation relating to the protection of consumers is the Consumer Affairs Authority Act (CAAA) No. 9 of 2003. However, this legislation is inadequate to address consumer protection in a digital setting. In order to address these issues, a new consumer protection framework that includes a new legislation that suits the e-commerce marketplace in the country is being drafted. The framework aims to protect consumers at pre-purchase, purchase and post-purchase stages by strengthening consumer rights and knowledge under five priority areas; access, education, awareness, payments, and data protection.⁵² The proposed legislation includes provisions to recall unsafe or defective products, to deal with e-commerce security and marketing of digital content, and misleading advertisements.⁵³

⁴⁴ Daily FT, 'Geneva ITC Calls for Opening of Sri Lanka E-Commerce Gateways', 16 March 2018, available at: <http://www.ft.lk/business/Geneva-ITC-calls-for-opening-of-Sri-Lanka-e-commerce-gateways/34-651334> [accessed on: April 2019].

⁴⁵ U.S. Department of Commerce, 'Sri Lanka - ECommerce', 10 October 2018, available at: <https://www.export.gov/article?id=Sri-Lanka-eCommerce> [accessed on: April 2019].

⁴⁶ Key Person Interview. Export Development Board. 4 July 2019.

⁴⁷ EU-Sri Lanka Trade Related Assistance: National Public-Private Dialogue on E-Commerce Platform Policy/Regulatory Issues held on 2nd April 2019.

⁴⁸ Daily FT, 'Major Boost with Sri Lanka Harmonising E-Commerce Legislation with New Amendment', 19 October 2017, available at: <http://www.ft.lk/front-page/Major-boost-with-Sri-Lanka-harmonising-e-commerce-legislation-with-new-amendment/44-641819> [accessed on: April 2019].

⁴⁹ The Sunday Times, 'New E-Commerce Laws Major Boost to Sri Lankan Trade and Commerce', 29 October 2017, available at:

<http://www.sundaytimes.lk/171029/business-times/new-e-commerce-laws-major-boost-to-sri-lankan-trade-and-commerce-265516.html>, [accessed on: April 2019].

⁵⁰ The Sunday Times, 'New E-Commerce Laws Major Boost to Sri Lankan Trade and Commerce', 29 October 2017, available at:

<http://www.sundaytimes.lk/171029/business-times/new-e-commerce-laws-major-boost-to-sri-lankan-trade-and-commerce-265516.html>, [accessed on: April 2019].

⁵¹ Daily FT, 'Major Boost with Sri Lanka Harmonising E-Commerce Legislation with New Amendment', 19 October 2017, available at: <http://www.ft.lk/front-page/Major-boost-with-Sri-Lanka-harmonising-e-commerce-legislation-with-new-amendment/44-641819> [accessed on: April 2019].

⁵² EconomyNext, 'Sri Lanka Updating E-Commerce Consumer Protection Laws', 6 September 2018, available at: https://economynext.com/Sri_Lanka_updating_e-commerce_consumer_protection_laws-3-11805-7.html [accessed on: April 2019].

⁵³ Randima Attygalle, The Sunday Times, 'Workshop to Focus on Protecting Digital Consumer's Rights', 11 March 2018, available at: <http://www.sundaytimes.lk/180311/news/workshop-to-focus-on-protecting-digital-consumers-rights-285492.html> [accessed on: April 2019].

However, delays in enacting the law pose the afore-discussed challenges for both consumers and e-commerce providers.

Digital economy strategy

Sri Lanka's Digital Economy Strategy is currently in the implementation process after gaining approval of the Cabinet in early 2019. The strategy aims to bring about digital transformation in three key sectors; agriculture, tourism and manufacturing, through the implementation of three flagship projects and ten priority projects. The flagship projects under the strategy are the establishment of digitally-enabled export promotion zones and logistic villages, a centralised agriculture nerve centre, and a data exchange platform.⁵⁴ The Digital Free Trade Zone (DFTZ) is similar to the initiative that is currently being implemented by the Government of Malaysia along with Alibaba, and would particularly benefit SME e-exporters. The government is in the very early stages of setting up the logistics component of this model, which will offer centralized warehousing, consolidation and other logistics support for SMEs to reduce both domestic and international logistics costs. The subsequent phase of establishing a digital marketplace has not yet started implementation. Public sector agencies are in the process of seeking a private sector partner (similar to the role of Alibaba in the Malaysian DFTZ) for this venture.⁵⁵ This national level strategy was developed by the global consulting firm McKinsey and Company and will be led by the Ministry of Development Strategies and International Trade (MoDSIT) and the

Ministry of Digital Infrastructure and Information Technology.⁵⁶

National Information and Cyber Security Strategy

The National Information and Cyber Security Strategy is in its initial stages of implementation, following approval of the Cabinet of Ministers in October 2018. The strategy is an institutional framework that aims to create a resilient and trusted cyber security ecosystem in Sri Lanka, and will be implemented over a five-year period commencing in 2019. The strategy addresses six key areas as its basis, including the establishment of a governance framework, enactment of relevant legislation and policies, and the development of a competent workforce with relation to cyber protection.^{57,58} The introduction of the Data Protection Act and Cyber Security Act are key initiatives currently being carried out under this initiative.⁵⁹

National Financial Inclusion Strategy

The development of a National Financial Inclusion Strategy for Sri Lanka was launched in 2018 with the assistance of the International Finance Corporation (IFC). The strategy's focus on digital finance is expected to be beneficial for Sri Lanka's e-commerce sector, particularly the Micro, Small & Medium Enterprises (MSME). These companies are expected to benefit from refinancing, interest subsidies, and credit guarantee schemes aimed at MSMEs as part of the initiative.⁶⁰ Furthermore, policymakers are also aiming to establish a national payments gateway,

⁵⁴ Nishel Fernando, Daily Mirror, 'Govt. moves forward with digitalisation of economy', 19 March 2019, available at: http://www.dailymirror.lk/business_main/Govt--moves-forward-with-digitalisation-of-economy/245-164147, [accessed on: July 2019].

⁵⁵ Key Person Interview. Ministry of Development Strategies and International Trade. 11 July 2019.

⁵⁶ Daily FT, 'Govt. to implement National Digital Economy Strategy by mid-2019', 26 March 2019, available at: <http://www.ft.lk/front-page/Govt--to-implement-National-Digital-Economy-Strategy-by-mid-2019/44-675330> [accessed on: July 2019].

⁵⁷ Bandula Sirimanna, The Sunday Times, 'Sri Lanka introduces new legislation to protect people from cyber attacks', 24 March 2019, available at: <http://www.sundaytimes.lk/190324/business-times/sri-lanka-introduces-new-legislation-to-protect-people-from-cyber-attacks-341792.html> [accessed on: July 2019].

⁵⁸ Anjali Caldera, Ceylon Today, 'SL readies to face cyberattacks', 20 March 2019, available at: <http://www.ceylontoday.lk/print-edition/7/print-more/26778> [accessed on: July 2019].

⁵⁹ Sandaran Rubatheesan, The Sunday Times, 'Flaws in draft cybersecurity bill under review', 30 June 2019, available at: <http://www.sundaytimes.lk/190630/news/flaws-in-draft-cybersecurity-bill-under-review-355893.html> [accessed on: July 2019].

⁶⁰ Daily Mirror, 'Digital finance to be main focus of National Financial Inclusion Strategy', 21 March 2018, available at: <http://www.dailymirror.lk/article/Digital-finance-to-be-main-focus-of-National-Financial-Inclusion-Strategy--147598.html> [accessed on: July 2019].

and improve infrastructure to support digital financial services platforms as part of the policy.⁶¹

Regulations on B2C transactions

A regulatory framework supporting B2C transactions with overseas customers was introduced in Sri Lanka in 2018. Prior to this, although Sri Lankan consumers were able to engage in B2C transactions through trading platforms, Sri Lankan businesses were not similarly able to engage with foreign consumers. As per the newly introduced regulations, businesses can export goods up to a value of US\$ 3,000 each without submitting a Customs Declaration (CUSDEC) application to Sri Lanka Customs. Alternately, the exporter is required to submit one CUSDEC application to Sri Lanka Customs covering all transactions at the end of the month.⁶²

Initiatives by the Information and Communication Technology Agency of Sri Lanka (ICTA)

ICTA is the main government institution in Sri Lanka responsible for the implementation of ICT initiatives of the Government of Sri Lanka. The institution is currently under the purview of the Ministry of Digital Infrastructure and Information Technology. Hence, a number of programmes are currently being carried out by ICTA to support the e-commerce sector of Sri Lanka.

- SMART social circles: An initiative aimed at promoting the effective use of digital technologies and ethical use of social media. Under this scheme, 8000 'knowledge agents' at the grassroots-level will be trained to work as digital ambassadors who encourage adoption of digital technologies among communities. This is important for boosting the digital infrastructure of Sri Lanka as a whole.

- Spirallation: A technology startup support programme that provides funding, training and market access for new businesses. Many e-commerce providers and e-exporters are startups and SMEs that could greatly benefit from such support.

National Export Strategy

The National Export Strategy (NES) of Sri Lanka includes initiatives that improve access to trade information by SMEs. This is critical for e-exporters, as a lack of awareness on information ranging from legislation to market information was noted among a majority of e-commerce providers interviewed. The initiatives under the NES are aimed at improving data collection, analysis and dissemination between key institutions – such as the Export Development Board (EDB), the Department of Commerce, the Central Bank of Sri Lanka, private sector chambers and others – in order to create a platform for exporters to easily access relevant, updated and affordable market intelligence.⁶³

EU-Sri Lanka Trade Related Assistance Project

The government of Sri Lanka receives technical assistance from the International Trade Centre (ITC) and the United Nations Industrial Development Organisation (UNIDO) through the EU-Sri Lanka Trade Related Assistance Project. The project is funded by the European Union (EU) with the objective of increasing trade competitiveness of Sri Lankan SMEs in regional and EU markets. Two high-level public-private dialogues aimed specifically at reforming Sri Lanka's digital marketplace were held under this programme. The project also involves a number of initiatives aimed at boosting the competitiveness of SMEs in the ITO/BPO sector. These include (i) workshops and information sessions on improving competitiveness in

⁶¹ Economynext, 'Sri Lanka formulating strategy for digital economy', 20 March 2018, available at: https://economynext.com/Sri_Lanka_formulating_strategy_for_digital_economy-3-10167-.html [accessed on: July 2019].

⁶² Lanka Business Online, 'Sri Lanka introduces Business to Consumer direct transaction under E-commerce', 22 October 2018, available at:

<https://www.lankabusinessonline.com/sri-lanka-introduces-business-to-consumer-direct-transaction-under-e-commerce/> [accessed on: July 2019].

⁶³ Government of Sri Lanka, 'National Export Strategy of Sri Lanka 2019-2022', 1 June 2018, available at: <http://www.srilankabusiness.com/pdf/nes/sri-lanka-nes-4-3-web.pdf> [accessed on: July 2019].

EU markets, (ii) opportunities for companies to participate in trade fairs and meet buyers, and (iii) assistance for companies to align with the sector's 'Island of Ingenuity' branding.

Enterprise Innovation Programme

The 2019 budget allocated Rs. 50 million for the 'Enterprise Innovation Programme' to support the development of innovative new products and technology by Sri Lankan companies. This is seen as a boost to the digital economy of the country as a whole. The three-year programme will provide matching grants for proof of concept, prototyping, R&D and technology adoption.⁶⁴

Negotiation of 'de minimis' rules

As sales through e-commerce primarily involves individual shipments that are not of high value, e-exporters are positioned to benefit from *de minimis* rules applicable in the country to which they are exporting. Hence, in encouraging the growth of exports through e-commerce, negotiating appropriate *de minimis* rules with key export markets would be important to the e-commerce sector.⁶⁵ The Sri Lanka-Singapore Free Trade Agreement, signed in January 2018, was the first instance of a *de minimis* rule being recognized in a Free Trade Agreement signed by Sri Lanka.⁶⁶

Revision or Expansion of Current Policies and Rules

Data protection and cyber security bills

In view of the difficulties faced by the e-commerce sector due to the lack of adequate legislation, the Government of Sri

Lanka is currently in the process of drafting a Data Protection Act and Cyber Security Act.

The Data Protection bill aims to provide a framework for data protection in Sri Lanka, and addresses issues of data processing, data retention, and cross border flow of data. The legislation has been drafted based on international best practices, such as the OECD Guidelines, APEC Privacy Framework, Council of Europe Data Protection Convention, the EU General Data Protection Regulations (GDPR) and laws enacted in other jurisdictions, such as Australia, Mauritius, Singapore and the Indian Draft Legislation. A national Public-Private Dialogue on the proposed legislation was held in June 2019 under the EU-Sri Lanka Trade-Related Assistance Project, funded by the EU, of which the International Trade Centre (ITC) is the lead implementing agency.⁶⁷ The draft Bill is based on six data protection principles of lawfulness in processing, purpose limitation, data minimisation, accuracy, storage limitation, integrity and confidentiality. Through the proposed legislation, the government of Sri Lanka hopes to boost cross border trade by both supporting innovation and enhancing consumer confidence.⁶⁸

The Cyber Security bill, also currently in the draft stages, is aimed at protecting information infrastructure in Sri Lanka. Among the provisions of the bill are proposals to establish a 'Cyber Security Agency' that will act as a central body for cyber security in Sri Lanka. It will also include provisions for the empowerment of the already existing Sri Lanka Computer Emergency Readiness Team (CERT) and National Cyber Security Operations

⁶⁴Ministry of Finance of Sri Lanka, 'Budget Speech – 2019', 5 March 2019, available at: <http://www.treasury.gov.lk/documents/10181/684395/BUDGET+++2019+Final.pdf/c603c8ab-5d04-4075-9bea-eea75ae17783> [accessed on: July 2019].

⁶⁵ Key Person Interview. Ministry of Development Strategies and International Trade. 11 July 2019.

⁶⁶ The Ceylon Chamber of Commerce, 'Insights and Findings on the Sri Lanka-Singapore Free Trade Agreement', 20 September 2018, available at: https://www.chamber.lk/images/pdf/InsightsandFindingsonSLSingaporeFTA_EIU_TIP.PDF [accessed on: July 2019].

⁶⁷ Ministry of Digital Infrastructure and Information Technology of Sri Lanka, 'Press Release on Data

Protection Public-Private Dialogue', 24 June 2019, available at:

<http://www.mdii.gov.lk/index.php/en/mtdi-news/item/6-ministry-of-digital-infrastructure-partners-itsc-to-organize-a-national-public-private-dialogue-on-the-proposed-data-protection-bill>. [accessed on July 2019].

⁶⁸ Daily Mirror, 'Proposed data protection regulations could boost cross border e-commerce activities: experts', 28 June 2019, available at: <http://www.dailymirror.lk/business-news/Proposed-data-protection-regulations-could-boost-cross-border-e-commerce-activities:-experts/273-170148> [accessed on: July 2019].

Centre.⁶⁹

Conclusions and Recommendations

The concerns of e-exporters and e-commerce providers in Sri Lanka relate primarily to the need for infrastructure and regulations that establish a conducive environment for the growth of the e-commerce sector. A lack of reliable and convenient IPGs, and difficulties in accessing finance as an SME were two of the main concerns raised often by both the companies interviewed and industry reports.⁷⁰ Hence, expediting efforts to have global IPGs operating in the country is a critical point, and has been acknowledged by the Government as an aspect they are working on.⁷¹ Improving the standards of data servers and courier services are also critical needs of the sector in terms of infrastructure. Furthermore, national policies such as the National Financial Inclusion Strategy needs to address the financial concerns raised by e-commerce providers that are SMEs.

The lack of legislation relating to data privacy and consumer protection has been a long-standing need for the e-commerce sector, and is currently in the process of being addressed by drafting new legislation. However, ensuring such laws are drafted in a way that addresses key

concerns of the sector whilst not hampering innovation is essential in the technology industry. Even at present, the private sector has expressed various concerns over the provisions of the draft Cyber Security Bill, illustrating this point.⁷² Thus, a flexible bottom-up approach that incorporates the ideas of multiple stakeholders is important.⁷³ Furthermore, it is important to revise existing trade laws and regulations which cannot adequately address changes brought about by digitalization in the relevant industries that they govern.

In addition to the above, ensuring affordable access to the internet and increasing digital literacy are other aspects identified as important for Sri Lanka's e-commerce space. In 2018, only 0.4% of the nation's total annual retail sales took place on e-commerce platforms. Affordable internet access, improving digital literacy, clear and transparent online payment systems, ensuring privacy and data protection, and modernizing consumer protection laws have thus been identified as the main areas to be addressed to boost the e-commerce sector.⁷⁴

⁶⁹ Bandula Sirimanna, The Sunday Times, 'New Cyber Security Act soon', 2 June 2019, available at: <http://www.sundaytimes.lk/190602/business-times/new-cyber-security-act-soon-351385.html> [accessed on: July 2019].

⁷⁰ Sri Lanka Association of Software and Service Companies, 'SLASSCOM Strategy Document 2016', 6 October 2016, available at: <https://slasscom.lk/report/slasscom-strategy-document-2016> [accessed on: July 2019].

⁷¹ Economynext, 'Sri Lanka formulating strategy for digital economy', 20 March 2018, available at: <https://economynext.com/Sri-Lanka-formulating-strategy-for-digital-economy-3-10167-.html> [accessed on: July 2019].

⁷² Ruwandi Gamage, Daily FT, 'IT industry wants more say in Cyber Security Bill', 10 June 2019, available at: <http://www.ft.lk/front-page/IT-industry-wants-more-say-in-Cyber-Security-Bill/44-679709> [accessed on: July 2019].

⁷³ Anishka De Zylva and Ganeshan Wignaraja, The London School of Economics and Political Science, 'Is Sri Lanka missing out on Asia's digital economy boom?', 20 June 2018, available at: <https://blogs.lse.ac.uk/southasia/2018/06/20/is-sri-lanka-missing-out-on-asias-digital-economy-boom/> [accessed on: July 2019].

⁷⁴ Daily Mirror, 'Expert urges Sri Lanka to expedite reforms to drive e-commerce', 7 September 2018, available at: <http://www.dailymirror.lk/155156/Expert-urges-Sri-Lanka-to-expedite-reforms-to-drive-e-commerce> [accessed on: July 2019].



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