Amendments to the UN Guidelines for Consumer Protection Project – South Africa

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In other words: We have just completed preparatory work
Research plan in a nutshell

- Conducting primary and secondary research work
  - **Secondary:** Collecting and analysis of laws, regulations, industry codes, policies, white papers etc. that support proposed new guidelines on A2K as well as identification of gaps
  - **Primary:** Consumer surveys, interviews, use of existing data to complement secondary research

- Identification of implementation priorities for South Africa
  - Has implementation in these priority areas taken place?
  - How can implementation best be done?

- Delivery of draft and final research paper
  Compilation and analysis of findings; formulation of recommendations supporting the amendments
Some initial thoughts and observations

- **A timely intervention: consumer protection is a hot topic in SA**
  - New SA Consumer Protection Act (CPA) since 2009, introducing far-reaching consumer rights
  - Based on a 2004 National Consumer Survey indicating that South African consumers were not aware of their rights contained in several pieces of legislation & to align South Africa with international consumer protection standards
  - CPA lists **eight fundamental consumer rights:**
    - the rights to: equality in the consumer market; privacy; choose; disclosure and **information**; fair and responsible marketing; fair and honest dealing; fair, just and reasonable terms and conditions; fair value, good quality and safety
Some initial thoughts and observations

- Areas in which SA law appears to not fully encompass the proposed amendments to UN Guidelines on Consumer Protection
  - Physical safety
  - Economic interests (some restrictions on digital products and services)
  - International cooperation
  - Industry codes: Only certain industry codes (e.g. Direct Marketing Association (DMA)) have compiled such codes
Some initial thoughts and observations

➢ ... and most importantly:

- A2K & IPRs

This is the area we are going to focus on.
Some initial thoughts and observations

On the other hand, it is worth noting that especially the new CPA does already encompass some of the proposed amendments; particularly in the context of contract law.
**Why South Africa**

- As an isolated, undemocratic state, largely unmindful of consumer rights, South Africa was not involved in drafting of the UN Guidelines.

- South Africa returned to the UN in the mid-1990s

- South Africa is now an influential and respected emerging economy with a leadership role on the African continent in as far as law and policy making is concerned

- South Africa participates in many multinational fora such as IBSA