

Social Commerce: A New Age of E-Commerce

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From traditional brick-and-mortar commerce to online shopping websites, in this technology-based era where everything is at the touch of your fingertips, the e-commerce industry has evolved day by day to play an increasingly important role in peoples' lives. One of the outcomes of the global pandemic has been the rapid growth in e-commerce. With the advancement of mobile connectivity, security and development of mobile applications, we saw the shift from shopping on a computer, to shopping and transacting from your mobile device – known as mobile commerce. In this current phase of e-commerce growth and development we see social media platforms playing an even greater role in e-commerce – a concept known as **social commerce**.

What is social commerce?

As the phrase suggests, it is the integration of e-commerce into social media platforms, which allows for a more streamlined shopping experience from product browsing to final checkout, without consumers leaving the social media platform.

Social media platforms, like Facebook and Instagram, launched their own marketplaces where brands (and/or sellers) can directly advertise and sell their products. These platforms aim to become the one-stop-shop for customers looking to purchase products online. The ease of access makes it more convenient for customers, by offering a quick and easy way to view products, look at reviews and opinions, choose their desired purchase, and even pay for it, all on the social media platform, in a seamless and efficient manner. This approach creates an enjoyable and efficient shopping experience remedying the lost pleasure of a hands-on, real-time experience in physical shopping whilst keeping social media platform users on the platforms, rather than navigating away to separate e-commerce platforms.

Advantages of social commerce

From a seller's perspective, the social media platform eliminates the need to manage a separate e-commerce platform or engage with a third party marketplace separate from their social media profile. Elements such as advertising, website management, product placement, advertising, payment processing are all in one place, managed by the social media platform. From a customer's perspective, they are already familiar with the social media platform and how it works, usually due to spending a good portion of their daily lives on the social media platform. For many sellers who already have their own e-commerce platform it opens up a new online channel to market.

The important aspect of social commerce is that sellers are actively selling on the social media platform itself, instead of driving traffic away from the social media platform. On the social media platform, depending on the marketing strategy adopted by the seller, a customer can either search, filter, and purchase the product directly on the social media platform, or a customer is directed to the seller's e-commerce platform to complete the transaction (i.e. the seller's website is embedded in the platform by

way of a microsite). In both cases, the customer never leaves the social media platform.

Unlike traditional e-commerce, social media platforms target customers by providing personalised products and brands to fit their needs. Additionally, there is a significant benefit for smaller brands, including start-ups, who are usually overshadowed by the bigger, more established brands in the market, to adopt the social commerce approach (whilst taking advantage of the cost efficiencies). Social commerce also allows customers to directly communicate with the brand, to assess the advertised product by asking questions and seeing other buyers' opinions and reviews, with a more streamlined and efficient experience of click and buy. This makes the shopping experience more like traditional commerce, and bridges the gap between offline and online shopping.

Legal aspects to consider

Who owns the consumer? Sellers entering into social commerce through social media platforms need to ensure that the terms with the social media platform clearly set out the structure of the arrangement with the consumer. Is the e-commerce transaction solely conducted on the social media platform or is there a handover point back to the seller's e-commerce site or a third party marketplace? At what point does the transaction pass back to the seller (for fulfilment)? This is important for a seamless consumer experience. It is also important from a consumer retention perspective. These are the seller's customers, and the seller needs to ensure that relationship is protected, and enhanced, by the social commerce experience. This is particularly important where the seller terminates its relationship with the social media platform and exits the social media platform, the terms with the social media platform need to clearly set out how this is to be effectively managed.

Who owns and protects the data? A key benefit to social media platform and sellers alike, is the huge amount of data generated by consumers' social commerce activity. This data has great value to both the social media platform and the sellers. The terms with the social media platform need to set out how the data is managed and protected (see data breach issues below), where it is transferred to and stored, what can be done with it (and by whom) (e.g. targeted marketing), what the consumer needs to be told about the data usage and how the seller and the social media platform share the value the data generates. As noted above, the extraction of the data, and what data remains with the social media platform and on what terms on the seller's exit, must be clearly set out in the terms with the social media platform.

Who monitors the content? Central to the success of social commerce is the dialogue with multiple consumers. This generates great user generated content (UGC) – content that brings consumers back to the social media platform and content that is used by consumers to make buying decisions. UGC needs continuous monitoring, particularly to ensure that the UGC complies with regional media content and other related laws (e.g. in relation to posting images, using intellectual property, etc.). Social media platforms are very focused on this due to the lack of intermediary or secondary liability in the region. Social media platforms generally put in place terms that govern UGC and/or a content policy. Sellers need similar focus to protect their brand and reputation, particularly with control for monitoring social commerce content used and created on the social media platform. Sellers need to ensure that their terms with the social media platform ensure that the social media platform is taking responsibility to effectively manage any content risks.

Who creates the UGC? A key part of the social commerce strategy adopted by sellers are advertisements. This could be done through sponsorships, product placement, social media tools or UGC. To distinguish one brand from another, in a unique way, sellers engage with existing, or new consumers (i.e. influencers) to promote their brand. As the content is created by the influencers, there are some issues to consider in terms of who owns the content, do the sellers have permission to use the UGC, is it paid for in-kind or in cash, etc. Social media platforms manage this risk through their various policies. Sellers need to mitigate these risks, as they directly contract with the influencers, by ensuring the advertising standards, disclosure requirements and other applicable guidelines are adhered to in the

region.

Who manages an issue? E-commerce brings with it increasingly stringent consumer protection requirements. New regional consumer protection laws are focusing on the e-commerce space. It needs to be clear whether it is the seller or the social media platform managing any e-commerce issues. Who resolves a dispute with the consumer and how is it handled? Are the consumer's rights properly communicated and managed? As noted above, the seller needs to protect its relationship with the consumer. How is a data breach handled and who is responsible for managing the breach? Are the roles of the seller and the social media platform clearly set out to ensure that legal and regulatory obligations are fully met?

More broadly, who is responsible for legal and regulatory compliance? Whether it is consumer protection, privacy, advertising or marketing, the Middle East e-commerce space is increasingly regulated. It is important that the terms between the seller and the social media platform clearly set out the parties' respective obligations and where social commerce legal and regulatory risk sits.

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