

UNIVERSITY OF GHANA

COLLEGE OF HUMANITIES

REGULATORY GOVERNANCE AND TAXATION OF E-COMMERCE IN GHANA

BY

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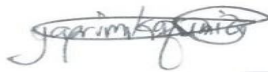
**THIS THESIS IS SUBMITTED TO THE UNIVERSITY OF GHANA, LEGON IN
PARTIAL FULFILLMENT OF THE REQUIREMENT FOR THE AWARD OF DEGREE
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NOVEMBER, 2021

INTEGRI PROCEDAMUS

DECLARATION

I, Eunice Kafui Aprim, hereby declare that this thesis has not been documented earlier for presentation in this University or any other University. I therefore declare that this thesis is my own work and all references have been acknowledged accordingly.



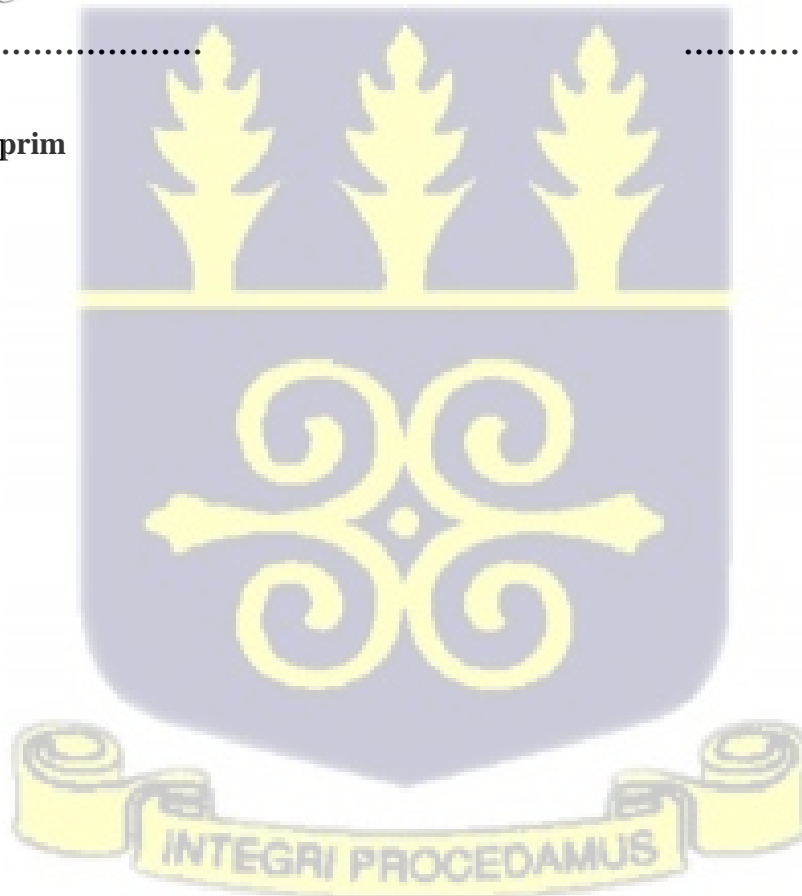
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CERTIFICATION

I hereby certify that this thesis was supervised in accordance with procedures laid down by the University.




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DEDICATION

I dedicate this thesis to the Almighty God for His faithfulness and loving-kindness.



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ABSTRACT

This study aims to understand the regulatory governance of e-commerce entities and how such businesses are taxed, which is limited to the country Ghana. The study considers the regulators of e-commerce and the other institutions that are linked to obtain their perceptions of the regulatory governance and taxation of e-commerce. The qualitative approach is utilized for this study to enhance the depth of the study. Interviews were conducted to ascertain the views of the regulators. In addition, the perceptions of other institutions like practicing firms and other civil society organizations were gathered by way of interviews to broaden the scope of our understanding of e-commerce in Ghana. A within and across case analysis has been performed on data gathered to identify consistencies or otherwise. An extant synthesis of related literature and a review of the websites of the regulators and their regulations supported the content analysis done in this study to understand the concept of regulatory governance and the nature of regulatory governance and taxation of e-commerce in Ghana. Results indicate varied results on the presence of factors supporting regulatory governance in some regulatory institutions, however, this is consistent within and across respondents. Also, results from the taxation of e-commerce indicated the issues in taxing e-commerce and the apparent lack of enforcement of related tax laws, which is primarily because of difficulty in tracing e-commerce entities. In light of the results, some regulatory governance factors should be improved to ensure better regulatory governance. It also brings to the fore the need for revision of tax laws to clearly identify e-commerce entities for tax purposes as there is a growing need to raise more tax revenues in Ghana.

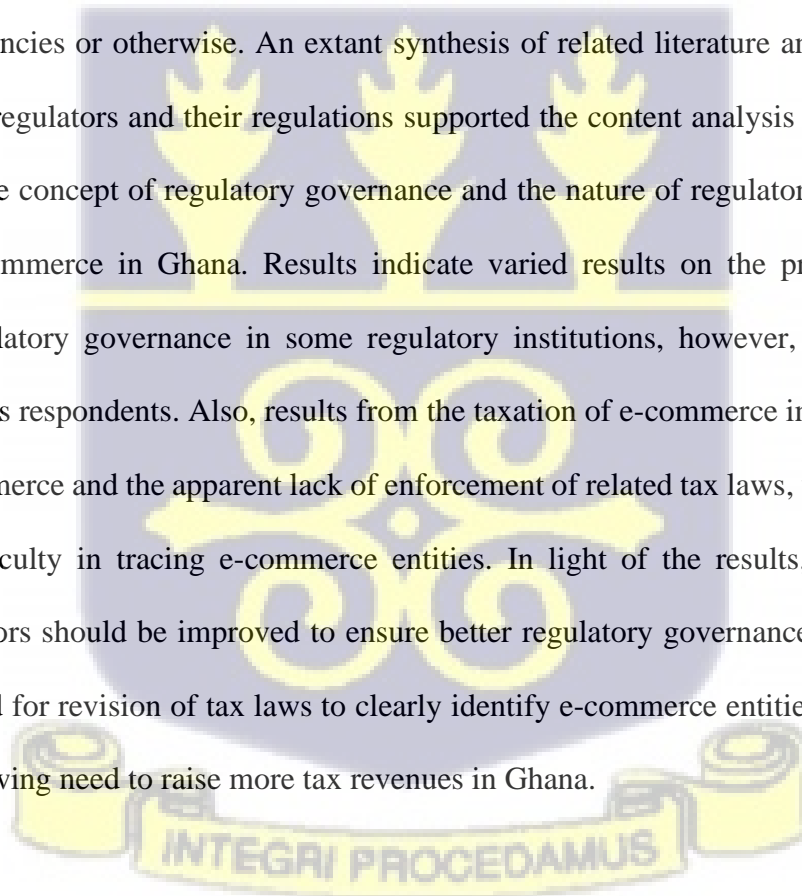


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LIST OF ABBREVIATIONS

GRA	Ghana Revenue Authority
DPC	Data Protection Commission
NCA	National Communication
OECD	Organization for Economic Co-operation and Development
IMF	International Monetary Fund
GDPR	General Data Protection Regulation
eIDAS	electronic Identification Authentication and trust Services
MoFEP	Ministry of Finance & Economic Planning



CHAPTER ONE

INTRODUCTION

1.1 Background

Africa is the second-largest continent after Asia, both in population and land area (Internet World Statistics, 2018), but was lagging in access to the internet and internet-related technologies – that was in the early 2000s. In recent times, however, statistics show improvements in the areas of penetration of the internet and user growth. For instance, Internet World Statistics (2018) indicated an internet penetration of 36.1% as compared to the global average of 55.1% for the period June 30, 2018. With a little over 4.5 million internet users in 2000, the number has increased to over 453.3 million in 2017. User growth over the period (2000-2018) was 10,199% as compared to the global percentage of 1066% within the same period (Internet World Statistics, 2017).

Ghana equally showed a similar trend in internet and user growth as Africa did. Ghana had an internet penetration of 34.3% and an internet growth rate of 33,600% over the period 2000 to 2017. The number of internet users in Ghana in the year 2000 was 30,000, but this drastically rose to 10,110,000 in 2017 (Internet World Statistics, 2017).

Access to the internet has accounted for new types of business transactions over the internet, called e-commerce. From accommodation to clothes to supplies, e-commerce has spread across various areas of traditional physical businesses to even include areas that are non-traditional such as mobile money (Jack & Suri, 2011) and online sports betting (Aflakpui & Oteng-Abayie, 2016).

Also, according to eMarketer's most recent forecast in March 2018, retail e-commerce sales worldwide amounted to 2.3 trillion US dollars for 2017, and e-retail services are projected to be 4.88 trillion US dollars in 2021 (Statista, 2018). Indeed, the rate of transactions conducted over the internet has expanded globally, of which developing countries are gradually catching up with (Reardon et al., 2021; Ayob et al., 2021; Ayob, 2021). This is confirmed in the study conducted by Kaplan (2018) where Africa is identified as the next emerging E-commerce market. Publicly available information confirms Kaplan's claim as statistics from Statista indicated that current revenue generated from e-commerce in Africa was approximately USD 16.5 billion in 2017 and is projected to be USD 29 billion in the year 2022.

There appear to be several benefits and opportunities available with the increased use of e-commerce such as the reduction in transaction and coordination costs (Datta, 2011) as well as the enhancement of the bargaining power of producer firms (Gereffi, 2000). Other benefits include the reduction in production costs and the development of new products and services (Morrison, 2001). Such benefits were achieved by utilizing cheap coordinative transactions, online databases, and interconnected networks.

However, some issues that require attention in the adoption of e-commerce. Some of the issues identified in the literature include privacy and security (Desai et al., 2003; Vakeel et al., 2017; Harris et al., 2003), taxation (Basu, 2016; Chan, 2000; Polezharova, & Krasnobaeva, 2020), infrastructure and policy-related issues in expanding the usage of e-commerce (Tigre & O'Connor, 2002; Ma et al., 2018; Cho & Lee, 2017). Therefore, this study explores the regulatory governance and taxation issues associated with the practice of e-commerce in Ghana.

1.2 Problem Statement

Several studies have been done in e-commerce in the wake of the potential issues it brings about, particularly about its regulation. Concerning e-commerce taxation, the studies done so far have shown the difficulty of taxing e-commerce businesses, with an emphasis on how this practice has affected tax revenues generated by countries (Basu, 2016; Chan, 2000; Bacache Beauvallet, 2018; Han, 2018). This is so because e-commerce businesses have a lot of peculiarities that distinguish them from other traditional forms of business; one of which is the apparent lack of physical presence in some countries. These challenges and complexities resulting from e-commerce and the like cause tax avoidance and tax evasion on a global scale (Hermawan, & Sinaga, 2020).

Several suggestions have been made over time to resolve this, one of which is to tax e-commerce businesses based on the concept of permanent establishments, which would imply taxing e-commerce businesses based on the country of origin (Chan, 2000). However, concerns have been raised to such suggestions, as they do not favour developing countries since most e-commerce businesses do not originate from such countries thus missing out on the tax-generating opportunities when they rely on them for development (Cockfield, 2001; Polezharova, & Krasnobaeva, 2020). Another suggestion is to tax based on the destination principle (Agrawal & Fox, 2017). This is to show that there has been no conclusive means to tax e-commerce businesses that have been accepted by all countries.

Still concerning the taxation of e-commerce, arguably, most studies primarily focused on arguments that are on the 'conceptual' level, without any gathering of data. It has also been limited to analysis of tax laws and the implications in light of those laws (McLure, 2000; Chan, 2000). Other studies in this area gathered data from other available information to discuss the

various issues on e-commerce and taxation. In McLure's (1997) study, for instance, he discussed tax issues raised by e-commerce in the light of the increasing role of services and tangible products which were not supported by any empirical evidence.

Other studies done on the governance of e-commerce especially on the regulation of security and privacy have also followed a similar fashion. In Saraf and Kazi's (2013) study, for instance, focus was placed on the Brussels I as a regulation for e-commerce businesses in the European Union while the study carried out by Polański (2018) equally considered various regulations adopted such as the General Data Protection Regulation (GDPR) and electronic Identification, Authentication and trust Services (eIDAS) as an assessment of the country of origin principle in the European Union. Van (2017) also considered the European Commission's geo-blocking proposals such as the 2015 online content portability proposal and the 2016 general geo-blocking proposal to regulate e-commerce.

However, per OECD's publication on the principles for the governance of regulators (OECD, 2013), it was identified that regulatory outcomes did not depend entirely on well-designed rules and regulations but rather on some elements such as rules and regulations that are efficient and effective, the presence of high quality and empowered institutional capacity and resources—especially in leaderships and finally, appropriate institutional frameworks and related governance arrangements. Drawing from OECD's publication, it indicates that a study on the regulatory environment of an area should not be limited to only an analysis of the regulations alone, as some studies have done, but should include the regulators as well.

The International Monetary Fund (IMF) in 2004 issued a framework on good regulatory governance principles. The IMF framework focused on four characteristics: regulatory

independence, accountability, transparency, and expertise. Regulatory independence, according to McCabe and Nowak, (2008), is the level of autonomy in making financial and regulatory decisions. Regulatory accountability has also been described as a mechanism by which the regulator must explain and account for its actions (IMF, 2004). Regulatory transparency is a conscious effort by the regulator to consult all stakeholders on any regulatory decisions with adequate justification for such decisions whereas regulatory expertise refers to the concept that regulators should be highly trained to enable them to pursue the regulatory agency's goals without compromise due to their lack of knowledge (Dinar, 2000). However, in further studies done by Parker (2002), he explained that regulatory independence, accountability, and transparency were two sides of the same coin whereas regulatory expertise supported the three mechanisms.

In consideration of the above factors, it appears there has been no assessment of the entire regulatory governance and taxation framework for e-commerce. Also, studies done do not offer a holistic account of the regulations in relation to e-commerce, which include the issues on security, privacy, infrastructure for e-commerce as well as taxation of e-commerce.

Also, despite the statistics on internet penetration and the projected growth of e-commerce in Africa, there have been limited studies in developing countries. Current studies still focus on the challenges of e-commerce with regards to its adoption and development (Tekin et al., 2018; Khan & Uwemi, 2018) while others focus on some of the emerging business lines and products as a result of the adoption of e-commerce in Africa such as mobile money (Jack & Suri, 2011) and online sports betting (Aflakpui & Oteng-Abayie, 2016).

1.3 Research Purpose

Given the above discussions, this study seeks to explore the governance and taxation arrangements for e-commerce, using evidence from Ghana.

1.4 Research Objectives

From the above purpose, this study specifically:

1. Examines the regulatory independence, regulatory accountability, and regulatory transparency of e-commerce,
2. Examines the level of regulatory expertise for e-commerce, and
3. Examines the taxation mechanisms and expertise for e-commerce.

1.5 Research Questions

The research questions that guided the researcher in achieving the research objectives include the following:

1. What is the regulatory independence, regulatory accountability, and regulatory transparency arrangements for e-commerce?
2. What is the regulatory expertise for e-commerce?
3. How is e-commerce influencing current taxation mechanisms and expertise?

1.6 Significance of the Study

The regulatory governance of e-commerce and the taxation of e-commerce has been partially carried out in separate studies with no empirical support in both instances. In view of this, this study adds to literature by resolving the gaps identified, particularly on the lack of empirical support for prior studies conducted. Specifically, this study offers a combination of the various regulatory requirements of e-commerce to have a holistic view of regulations under e-commerce.

The study also seeks to offer the current tax mechanisms and expertise for e-commerce in Ghana. In addition, carrying out this study in the context of a developing country such as Ghana is a useful addition to literature as most developing countries rely on taxation for development and are equally looking for means to increase their tax bases by widening their tax bracket (Mwencha, 2019). Arguably, no study has been carried out in the context of developing countries and this study seeks to set the pace for other studies.

To practice, this study offers deeper insight into the complexity of e-commerce business activities, particularly in developing countries. This is so because this study considers the principles of good regulatory governance of the regulators of e-commerce such as the regulatory independence, accountability, and expertise of the regulatory institutions. The study also sheds some light on some of the tax regulations, requirements, and challenges of taxing e-commerce.

The results of the study would enable policymakers to identify and understand the dimensions of the regulatory governance of e-commerce. It also helps to identify the possible areas for improvement for regulators of e-commerce businesses, especially for businesses that lack permanent establishments in the country. Also, the findings of the study engender conversations on better approaches to regulating e-commerce businesses, especially on taxation of such businesses. This is especially important since the government is currently considering various means of widening the tax bracket to increase tax revenue bases.

1.7 Scope of the Study

This study explores the regulatory governance and taxation arrangements for e-commerce, using evidence from Ghana. In view of that, the study is limited to the regulatory institutions in Ghana such as the Data Protection Commission, the National Communications Authority, GRA as well as other civil society organizations and practicing firms such as PwC, KPMG, and Deloitte. This implies that only the institutions that are related to the regulation and taxation of e-commerce were involved in this study.

This is so because the interaction with such organizations offers a deeper insight into some of the regulatory governance arrangements for e-commerce and helps in evaluating the level of regulatory expertise for e-commerce. It also enables the researcher to examine the taxation mechanisms for e-commerce and to identify the possible challenges in taxing e-commerce.

1.8 Organization of the Study

This study is organized into five chapters. This chapter offers the background of the study, the research problem identified through the review of literature, and the gaps identified. We then identified the research purpose, research objectives, significance, and scope of the study.

Chapter two reviews relevant literature under regulatory governance and taxation of e-commerce in Ghana. It covers areas such as the definition of key concepts in the study and the issues of e-commerce pertaining to privacy and security. The chapter also reviews regulatory studies carried out as well as the development of a theoretical framework applicable to the study.

Chapter three, which is the methodology, explains the research paradigm, research design population, and sampling technique. It also includes the data collection and analysis approach, the reliability and validity of data as well as the ethical concern.

Chapter four, which is the presentation and discussion of results, details the findings from the data gathering process. This has been categorized based on the themes that were arrived at, based on the objectives of the study as well as the outcome of the data gathering process.

Finally, Chapter five - Summary of findings and conclusions, offers the summary of the findings discussed in chapter four and offers a conclusion. It also gives recommendations for future studies.



CHAPTER TWO

LITERATURE REVIEW

2.0 Introduction

This chapter offers an in-depth review and synthesis of significant literature on regulatory governance and taxation of e-commerce businesses in Ghana. This includes, but is not limited to, the definitions of key terms identified in this study, the implications of e-commerce, and the nature of e-commerce regulation and taxation in Ghana. This chapter also considers the conceptual framework for this study.

2.1 Definition of Terms

This section considers the definition of key terms within the study. Particularly, this section offers definitions of e-commerce as well as issues on e-commerce such as the issues of privacy, security, and infrastructure for e-commerce.

2.1.1 E-Commerce

The term 'e-commerce' has no generally accepted definition. For instance, the Organization for Economic Co-operation and Development (OECD) defines electronic commerce as "business occurring over networks which use non-proprietary protocols that are established through an open standard-setting process such as the Internet" (OECD, 1999, p. 28). Coppel (2000) offers a simpler definition by defining e-commerce as buying and selling goods and services online (including payment) which may be delivered offline or can be digitized and delivered online depending on the type of product. From the definitions, e-commerce broadly covers engaging in commercial activities over the internet.

However, the definition is not only limited to the above, as it includes e-businesses such as advertising products on a website, communicating electronically with suppliers and customers,

and transmitting digitized products electronically (Morrison, 2001). Some of the areas that e-commerce can be found include retail, education services, manufacturing, agriculture, healthcare, and media.

2.2 Implications of E-Commerce- The Need for Regulation

This section offers greater insight into the implications of e-commerce and the need for the regulation of e-commerce. Particularly, this section considers issues in the areas of privacy, and security as well as the apparent lack of infrastructure for e-commerce as indicated by literature.

2.2.1 Implications of E-Commerce: The Case of Privacy

There is no general definition for privacy, the word having different meanings across various disciplines. For instance, in giving a legal definition, Warren and Brandeis (1890) defined the privacy of an individual as the right to be left alone. Privacy can be defined as the interest that individuals have in sustaining a 'personal space', free from interference by other people and organizations (Clarke, 1999).

2.2.1.1 Dimensions of privacy

Privacy can be divided into three dimensions: decision privacy, information privacy, and residence privacy (Piao et al., 2016). Of the three dimensions, Shen (2013) is of the view that information privacy is central to the three dimensions. Information privacy is defined by Belanger and Crossler (2011) as the desire of individuals to control or have some influence over data about themselves. Earlier definitions of information privacy also emphasized control as being a key element concerning personal information (Mason, 1986; Culnan & Armstrong, 1999).

Still, on e-commerce, the application of communication and information technologies has led to increased concerns, particularly concerning information privacy (Piao et al., 2016) since consumers are unable to control their private information from misuse by unauthorized persons or institutions. This is was earlier identified in the studies of Kelbert, et al. (2012) and Boritz and No (2011) who were of the view that there are threats to the individual privacy of users on the internet particularly in using e-commerce.

2.2.1.2 Privacy Concerns

According to Culnan and Armstrong (1999), there are two privacy concerns by consumers: the risk of secondary use of personal information given for unauthorized purposes and concerns on unauthorized access to personal data due to weak internal controls and security breaches. This has been discussed extensively by Sipior et al. (2014) that some applications on phones even tend track, access the address book, identify the phone's unique identifier (UDID), as well as share data obtained with analytics companies and advertising companies. This highlights that privacy is a real issue in e-commerce.

Concerning to e-commerce, privacy remains one of the key issues (Bélanger & Crossler, 2011). Personal data and browsing preferences in combination with other personal data are gathered and used to generate detailed profiles of users (Boritz & No, 2011; Desai et al., 2003; Kelbert et al., 2012). This is then shared with marketing companies that use the profiles to generate some form of personalized advertisement for the users. Such entities also store that information over a virtually unlimited period. This is usually done at the blind side of users and this raises some concerns.

2.2.2 Implications of E-Commerce: The Case of Security

According to Brooks (2010), security is multidimensional in nature and diverse in practice. Given this, it is difficult to have a definition that encompasses all the areas of security. Security is defined by the exclusion of quantifiable and qualifiable risks (Röhrig & Knorr, 2004). It is also understood, as “freedom from the prospect of a sudden or violent attack on one's person or property” (Rothschild, 1995, p. 62).

2.2.2.1 Security Objectives

Security objectives, as explained by Abrams et al. (1995) refer to the contribution to security that a system or a product is intended to achieve. It refers to the goal that is to be achieved to attain security (Röhrig & Knorr, 2004). The classical objectives of security were identified by FIPS80 (1980). The security objectives include confidentiality, integrity, and availability.

Per the explanation in FIPS80 (1980), confidentiality, refers to the protection of data from unauthorized disclosure; integrity refers to the absence of alteration of the system data and availability refers to the level of authorization in data accessibility. In recent times, however, there has been an addition to the security objectives; accountability (Röhrig & Knorr, 2004). Accountability is the confidence that communication partners are who they claim they are when communicating with communication partners.

2.2.2.2 Security Issues of E-Commerce

The phenomenal growth of the internet and its commercial usage has led to an increasing need for security for both customers and merchants (Knorr & Röhrig, 2001). The lack of adequate security measures is e-commerce's most important obstacle. Security, especially the perceived security of the internet, remains a fundamental obstacle to e-commerce (Vladimir, 1996). Tan and Thoen (2000) even agreed that no electronic system for payments of transactions online is

completely secure. Swaminathan et al. (1999) also asserted that consumers may not be willing to give out information when transacting on the internet for fear that private information may be sold, thus, preventing them from engaging in e-commerce. Also, unsatisfied customers cannot get refunds for damaged goods or no delivery at all (Barkatullah, 2018). Knorr and Röhrig (2001) proposed a structured approach to analyze security measures and to quantify the overall security of an electronic business application.

2.2.3 Infrastructural Limitations of E-commerce

Despite the issues identified in e-commerce, there are a lot of benefits to be harnessed from their operations. Some of the benefits of e-commerce include, but is not limited to the following: the reduction of business processes, in the long run, an increase in the quality of products, the development of new products and services, and the widening of markets for businesses (Morrison, 2001) across various jurisdictions.

In addition, despite the benefits of e-commerce and its rate of growth in Africa recently, it appears that some areas must be resolved to enable Africa to harness its full potential in e-commerce. Al-Tit (2020) identified barriers to e-commerce adoption such as employee technology knowledge, telecommunications, connectivity cost, technical expertise, and technology cost. This has resulted in the inability of some e-commerce platforms to syphon out fake products and misinformation to the public (Juneja & Mitra, 2021). Tigre and O'Connor (2002) have suggested seven elements to enable Africa to exploit the full potential of e-commerce. These elements are Digital Infrastructure, Access, Literacy, Entrepreneurship, Content, and Trust, collectively referred to as DIALECT.

According to their study, the benefits of e-commerce can be harnessed through the extension and upgrade of digital infrastructure using the latest digital and broadband technology. Also,

granting access through affordable internet service, deregulation, and basic literacy could exploit the potentials of e-commerce in Africa. They also added elements such as the useful content of the information as well as building trust for entrepreneurs in developing countries (Tigre & O'Connor, 2002). Sarangi and Pradhan (2021) also suggested that that to build on the capacity of e-commerce, especially for developing countries, there is a need to improve R&D support, technical support, deployment of probots, knowbots, and chatbots which are powered by artificial intelligence. This is so because, with the appropriate algorithms, recommendations can be made to customers to increase e-commerce sales and enable enterprises in poverty-stricken areas to generate sufficient funds to reduce poverty and improve their well-being (Fang & Huang, 2020; Sinha & Srivastava, 2021; Wang et al., 2020).

Based on the above discussion, the elements can be broadly classified under telecommunications infrastructure, competitive environment, and regulatory framework of e-commerce. By addressing these key areas, internet access will be made more affordable, thus encouraging e-commerce.

2.3 Overview of Regulatory Governance

This section considers various literature on regulatory governance in general as well as offers a synthesis of literature obtained in a bid to deepen our understanding of the regulatory governance of e-commerce. This section is sub-categorized into four subsections; the concept of what regulatory governance is, the need for regulation as well as a discussion into the framework on good regulatory governance as proposed by (Das & Quintyn, 2002) and a summary of regulatory governance of e-commerce.

2.3.1 The Concept of Regulatory Governance

According to OECD (2011, p. 17), “regulation is of critical importance in shaping the welfare of economies and society”. It is for this reason that various governments have established regulatory institutions with a mandate to regulate specific activities that the government has an interest in. In Ahunwan’s (2002) view, such institutions were established to serve the interest of the public. To fulfil their mandate, such regulatory institutions must ensure that the institutions being regulated can provide the required service to the public. This is achieved when the mechanisms for regulating such institutions are effectively designed and implemented (OECD, 2002), with no instances of deviations or deficiencies.

OECD (2013), however, identified that effective regulatory outcomes did not depend entirely on well-designed rules and regulations but rather on some elements such as rules and regulations that was efficient and effective, the quality and empowerment of institutional capacity and resources, especially in leadership, and appropriate institutional frameworks and related governance arrangements. An integral benefit of effective regulatory governance is its ability to support socio-economic development (Zhang et al., 2005), as well as to help determine what, whom, and how to regulate (Zhang et al., 2005).

On the scope of regulatory governance, the OECD (2002) identified the principles adhered to in the practice of good governance as well as the effectiveness of the design and implementation of the regulator’s ability to determine the extent of the impact of the regulations on the institutions being regulated. Good governance practices in the opinion of the OECD include transparency, accountability, adaptability, consistency, and efficiency.

Some identified responsibilities of regulators have been outlined, per Quintyn and Taylor’s (2003) study. They include the following: (1) the drafting of new regulations as well as

amending laws that govern institutions in line with stipulated laws and regulations, (2) the ability to ensure compliance with set regulations as well as the ability to ensure enforcement of same, and (3) monitoring and reporting on regulatory processes of the institutions and their various operations. Accordingly, Cariño (2004) suggests that the practice of good regulatory governance principles greatly alleviates the occurrence of corruption and rent-seeking behaviour to contribute, to some extent, to the mitigation of challenges of an economic and social nature (Zhang, 2010).

Despite the above responsibilities of regulators, there is a prerequisite to ensuring good regulatory governance – good public sector governance. Kaufmann (2002) identified the key components such as the judicial and legal system being effective, government ownership being at ‘arm’s length’, corruption being non-existent, and finally, an approach to ensure that policies that encourage competition have little possibility of undue advantage.

The term ‘good regulatory governance’ is difficult to define as explained by Dias and Nwete (2004). However, a good balance of accountability, consistency, and transparency encourages an effective regulatory governance regime (Parker, 1999).

Some studies, especially by the International Monetary Fund (IMF) in 2004, issued frameworks for good regulatory governance. The IMF framework focused on four characteristics: regulatory independence, accountability, transparency, and expertise. In Parker’s (2002) study, however, he explained that regulatory independence, transparency, and accountability are two sides of the same coin whereas regulatory expertise supported the three mechanisms.

2.3.2 The Need for Regulatory Governance

Various reasons can be attributed to the need for regulation based on the definitions of regulation. An earlier definition of regulation is given by Breyer in 1979 where regulations are defined as a set of rules, which is intended to govern, control, or conduct behaviour. Levi-Faur (2011, p. 9), also defines regulation to be “the promulgation of prescriptive rules as well as the monitoring and enforcement of these rules by social, business, and political actors on other social, business, and political actors”. This suggests that the need for regulation is to guide behaviour in a resourceful manner.

Barth et al. (2003) explain that, due to the privatization of businesses, which seek to maximize profits rather than protect the interest of the public, the need for regulation of such entities is important. Thus, Shleifer (2005) identifies that the purpose of government regulations is to protect public interests. In consideration of e-commerce issues identified in earlier sections of this study, this makes the need for regulation of e-commerce necessary.

From the aforementioned, there appears to be a rising need to regulate such businesses to protect users. Some regulations cover the areas of security, privacy, and taxation of e-commerce businesses. The laws vary across various jurisdictions. For example, some laws that govern e-commerce in the EU include Brussels I- for consumer protection, GDPR- for security and privacy, and eIDAS regulation and that of Ghana includes the Income Tax Act, 2015 (Act 896) and the Data Protection Act, 2012 (Act 843). Equally also, some studies have been done on the regulation of e-commerce businesses (Polański, 2018; Saraf & Kazi, 2013; Kim, 2019; Van, 2017). In Polański's (2018) study, for instance, he considered regulations such as the GDPR and eIDAS for an assessment of the country of origin principle in the European Union. Saraf and Kazi (2013) equally looked at Brussels I as a regulatory approach.

2.4 Good Regulatory Governance Framework

This section offers some discussion on the areas or components of good regulatory governance which covers regulatory independence, accountability, transparency, and expertise.

2.4.1 Regulatory Independence, Accountability and Transparency

2.4.1.1 Regulatory Independence

Regulatory independence, according to McCabe and Nowak (2008), is the level of autonomy in making financial and regulatory decisions. Das and Quintyn (2002) are of the view that independence from the political sphere and the supervised entities is one of the best ways of ensuring good regulatory governance, based on growing worldwide consensus, as this ensures a decreased extent of interference in the work of the regulators.

One way of demonstrating the presence of regulatory independence is the existence of financial autonomy. Financial autonomy arms regulators with the confidence to carry out their regulatory activities, with no form of interference (Crocker & Masten, 1996). Litan et al. (2002) even ascribed regulatory quality to the ability of the regulator to manage its finances and its budgets. The absence of financial autonomy to determine budgets, in this regard, affects the regulator's function of protecting the interest of the public (Tijjani, 2014).

Another indicator of regulatory governance from literature is the ability to make independent decisions. This ability is key in achieving good regulatory practices (Hellman et al., 1999) and ultimately, regulatory quality (OECD, 1998; Rossi, 1999). Regulatory goals, per Lodge and Wegrich's (2009) argument, can only be realised when regulators are independent and have no "undue intervention" in making regulatory decisions.

Regulators should also have the ability to sanction businesses that fail to comply with the set regulations as this indicates their level of independence to regulate. Tijjani (2014) explains that due to the aim of private companies to be profit-oriented, they would utilize all means to maximize their gains, hence the need for regulatory agencies to protect the interest of the general public from the exploitation of such businesses. Quintyn (2007) is also of the view that one way of achieving this is to bestow power in the regulators to sanction entities that violate guidelines provided by the regulators. This is also indicated in Large's (2003) study where he identified that the extent of the power to sanction companies by regulators had a potential impact on the effectiveness of regulatory governance.

Along with the regulator's ability to sanction business, is the need for limited interference in overruling such sanctions given to entities. Kaufmann et al. (2003) explain that regulatory governance will be rendered ineffective in the presence of interference in the regulatory process. This assertion is valid considering that undue interference ultimately affects the regulator's ability to act independently. Kaufmann et al. (2013) also indicate the importance of regulators to have the legal backing to sanction entities without them being overruled by another institution, except for the courts of competent jurisdiction.

The independence of regulators to independently recruit, deploy, promote, and discipline staff is relevant in assessing the regulatory independence of any regulator. OECD (2002) indicates that regulators have a responsibility of exercising autonomous regulatory power over the roles played by staff in a supervisory or regulatory capacity. The presence of this is relevant in achieving regulatory and policy objectives. Levine et al. (2005) in addition, describes it as fundamental for regulators to have the autonomy to recruit, deploy, promote, and discipline their staff to achieve regulatory governance. Any form of influence in this aspect could

potentially affect the credibility of the regulator which could likely result in regulatory performance that does not meet expectations (OECD, 2002).

2.4.1.2 Regulatory Accountability

Regulatory accountability is described as a mechanism by which the regulator has to explain and account for its actions (IMF, 2004). Das and Quintyn (2002) explained that accountability allows the regulators to justify their actions against the sole purpose for which the mandate was given to them. Regulators should provide enough justification for the factors influencing the decisions they make to the government and the general public since they have given them the authority to act in such a capacity.

Das and Quintyn (2002) indicated that accountability can be achieved in the presence of measurable and defined objectives. Given that, the regulator can achieve accountability by ensuring clarity in guidelines used to obtain permits, availability to the public, and compliance with set processes. IMF (2004) indicates the need for regulators to clearly publish guidelines to be used by stakeholders to ensure accountability. To ensure adequate accountability, appropriate accounting mechanisms are to be complied with as this would ensure the attainment of good regulatory governance (Andres et al., 2008).

To achieve accountability, one prerequisite is the disclosure of information by regulators (Ansell & Gash, 2008). To do so, the regulator must disclose its information to an oversight institution such as a parliament or a national assembly. This would ensure that the regulator accounts for regulatory activities over the period as well as the disclosure of other activities engaged by the regulators. Tijjani (2014) identified the communication of institutional activities to higher institutions (parliament) as one of the indicators of a presence of regulatory governance.

Disclosure to the public on the nature of activities of the regulators has a potential effect on the regulatory accountability of regulators. Earlier studies indicate that disclosure is fundamental for accountability purposes (Buchanan & Tollison, 1984). IMF (2004) also indicated that although the disclosure is made to parliament or the executive, regulators should go beyond that to disclose to the public as that would enable the regulators to achieve good regulatory governance. The regulators can use various approaches to ensure that the public is well informed of their activities to promote accountability.

Another way that regulators demonstrate regulatory accountability is in the disclosure of malpractices of entities being regulated. Once regulators can disclose such information to the general public, the regulated entities are kept in check and all relevant stakeholders are fully aware of the wrongful actions perpetrated by the entities.

Disclosure of revenue by regulators is relevant in assessing the regulatory accountability of the regulators. Tijjani (2014) describes it as an important mechanism in accountability for regulators. Botero et al. (2004) go-ahead to identify some disclosure requirements for such regulators indicating disclosures such as justifications for any expenditure incurred as well as the level of revenue generated. Regulators must account for revenue generated in carrying out their mandated roles. This is supported by Lopez-de-Silanes and Chong's (2002) study as they indicated that regulatory agencies should account for all revenue generated.

2.4.1.3 Regulatory Transparency

Regulatory transparency is a conscious effort by the regulator to consult all stakeholders on any regulatory decisions with adequate justification for such decisions. IMF's publication in 2004 defined transparency in regulatory policies as an environment in which objectives,

frameworks, decisions, and their rationale, data, and other information, as well as terms of accountability, are provided to the public in a comprehensive, accessible, and timely manner.

Das and Quintyn (2002) are of the view that increased transparency paves way for the achievement of the other regulatory governance components, which ultimately supports the credibility of the regulators.

One way of achieving this is by regulators increasing the nature, timing, and extent of the level of information that is readily available to the public as well as being responsive to the public interests. Holland and Foo (2003) are of the view that the policy of the regulators should take into consideration, the opinion of various parties who have an interest in the policy in question to ensure transparency, without which consultation cannot be achieved (Stern, 2000). Rotimi and Abdul-Azeez (2013) also indicated that the degree of public input also has an impact on the legitimacy of the regulation and not only the regulatory actions of the regulators.

One other component of transparency is consultations (Gilardi, 2005; Jacobs, 2004) which Baldwin et al. (2012) described as an important aspect of transparency. Tijjani (2014) believed that regulatory governance objectives can be achieved when regulators consult all legitimate stakeholders when making regulatory policies and decisions. Once consultations are done in effectively, Zhang and Thomas (2009) believe that will offer beneficial results as the regulatory process would be effective and support co-operation from all stakeholders.

Another basis for ensuring regulatory transparency is the practice of ensuring transparency in regulatory activities. This covers many aspects of the regulatory process such as details of the regulator's processes for registration and monitoring, charges in obtaining licences, and providing reasonable justification for non-disclosure to the public (Baldwin et al., 2012). This

should be available on all media outlets to reach out to the public. The absence of this indicates a deficiency in the regulatory transparency of the regulator.

Apart from providing general information to the public, the regulators must ensure that prospective entities that are desirous of registering or obtaining licences are fully aware of the approval process of such operations. The required documentation to be presented for application should readily be made available to them. Two-way communication should also be present for the entity to be fully aware of the progress of their applications in real-time to identify additional steps to be taken to complete the process. The effectiveness of this function can determine how business practices will best take place (Tijjani, 2014).

2.4.2 Regulatory Expertise

Regulatory expertise refers to the concept that regulators should be highly trained to enable them to pursue the regulatory agency's goals without compromise due to their lack of knowledge (Dinar, 2000). OECD (2005) indicated that good regulatory practises may be hampered in the absence of essential skills and capability by regulators. Given this, IMF (2004) recommends that regulators be highly trained as it is essential in achieving regulatory governance and better equips regulators with the requisite expertise to make regulatory decisions (World Bank, 2003).

Parker and Kirkpatrick (2007) also indicate that good regulatory objectives are difficult to attain in the presence of a lack of expertise and necessary skills on the part of regulators. Baldwin et al. (2012) confirm in their study that skilled personnel contributes towards achieving better regulatory objectives.

One other way of achieving good regulatory governance is the training of regulators. Duso and Röller (2003) identify training as imperative for personnel in regulatory institutions to receive the necessary training in governance and regulation. In doing so, the regulators would gain relevant expertise to develop and enforce an improved system of regulation and governance (Djankov et al., 2002). This was confirmed in Zhang's (2010) study, as training of regulators is identified to increase good regulatory governance.

Tijjani (2014) explains that for the prevention of conflict of interest and exploitation, there is also a need for a level of standard to guide the personal affairs of officials and staff of the regulators. Once the issue of conflict of interest can be put in check, the quality of operations can be promoted to maintain the integrity of operations as well as improve credibility to the world at large (IMF, 2004). World Bank (2003) also identified professionalism to be vital in ensuring consistency and reliability in regulatory governance.

Overall, regulators should demonstrate some level of efficiency in their framework for regulating entities. This is so because Djankov et al. (2003) assert that in the presence of efficient and effective regulation, the objectives of protecting the public interest are better achieved through the authority granted to regulators. By determining the level of efficiency in the framework for regulating entities, one is better able to determine if the mandate for which they were established is being achieved.

2.5 Nature of E-Commerce Regulation in Ghana

Some institutions in Ghana are responsible for the regulation of e-commerce especially in respect of the issues discussed in the preceding sections. The function of the institutions and the scope of their statutory authority sets the tone of the nature of regulations. The institutions

identified include the Data Protection Commission (DPC), National Communications Authority (NCA), and Ghana Revenue Authority (GRA).

2.5.1 Data Protection Commission

Data Protection Act, 2012 (Act 843) is the law under which the Data Protection Commission (DPC) was established. The Act was passed by Parliament as part of laws developed under the Information and Communications Technology (ICT) for Accelerated Development (ICT4AD) Policy to create an enabling legal environment for the development and use of ICT in the country (Falconer, 2017).

They are an independent statutory body established with a mandate to protect the privacy of the individual and personal data. This is achieved by DPC in regulating the collection, processing, use, and storage of personal and individual information by data collectors. The DPC was inaugurated as a governing body by the Ministry of Communications in November 2012.

2.5.2 National Communications Authority

The NCA was established under the National Communications Authority Act of Parliament, Act 524 of 1996. This was then repealed by the National Communications Authority Act of 2008, Act 769 to clarify the scope of communication regulation for orderly development. The NCA has several roles it plays due to the scope of work that they are mandated to do. Some of the roles include granting licenses and authorizations for the operation of communication systems and services, establishing and monitoring the quality of service indicators for operators and service providers, authorization of type approvals and enforcement of equipment standards, and finally educating and protecting consumers on telecom issues (NCA, 2019).

The NCA is responsible for the enforcement of Acts which include:

1. National Communications Authority Act of 2008, (Act 769),
2. The Electronic Communications Act of Ghana 2008, (Act 775),
3. The Electronic Transactions Act of Ghana 2008, (Act 772) and
4. Electronic Communications (Rules of Procedure of the Electronic Communications Tribunal) Regulations 2016, LI 2235. (NCA, 2019).

2.5.3 Ghana Revenue Authority

GRA was established as a semi-autonomous institution to replace four separate institutions; Customs, Excise and Preventive Service (CEPS), Internal Revenue Service (IRS), Value Added Tax Service (VATS), and the Revenue Agencies Governing Board Secretariat (RAGB) to achieve greater efficiency and effectiveness in the administration of taxes and customs duties in Ghana (GRA, 2019).

The GRA has three core divisions; Customs Division, Domestic Tax Revenue Division, and Support Services Division to ensure efficiency in revenue mobilization as the Customs and Domestic Tax Revenue Divisions would focus on the collection of revenue while the Support Services Division provides the support services such as human resource and administration.

The GRA is responsible for the administration of some acts which include:

1. Internal Revenue Act 2015, (Act 896),
2. Taxpayers Identification Numbering System Act 2002, (Act 632),
3. Stamp Duty Act 2005, (Act 689),
4. Internal Revenue (Registration of Businesses) Act 2005, (Act 684) and
5. Customs and Excise (Duties and Other Taxes) Act 1996, (Act 512).

2.6 Taxation of E-Commerce

Taxes are compulsory payments that citizens make, directly or indirectly, for services provided by the government (Smith, 1961). It is associated with income, consumption, or holding of property that individuals and corporations are required to make each year to the government. These compulsory levies could be direct or indirect, depending on key factors such as the incidence and impact of the tax payment. The incidence of taxation refers to the extent an individual or organization may suffer from the imposition of tax whereas the impact of taxation refers to the immediate result of an imposition of tax. Based on these factors that we have direct tax and indirect tax. Direct taxes - which implies bearing both the incidence and impact of taxes are levied at the source of the income while indirect taxes - which implies sharing the incidence and impact of taxes are levied at the place of destination.

Taxation is important, even crucial, for development, especially for developing countries. This is because most developing countries rely on the government for substantive development. One of the ways governments raise money to support development is through taxation. Over the years, various countries have tried to increase the amount of tax collected, either by widening the tax brackets or increasing taxes in general. The OECD has even recommended reliance on taxation to ensure accountability in democratic governments (OECD, 2008).

Ghana uses the worldwide income or residence-based tax system (PwC, 2017). Worldwide income describes an aggregation of a taxpayer's domestic and foreign income. Worldwide income is income earned anywhere in the world and it is used to determine taxable income. Based on that, citizens and resident aliens are subject to tax based on worldwide income and source income respectively.

Apart from the worldwide basis of taxation, other countries use the source or territorial basis of taxation. As a result, taxation of a given flow of income by both source and residence countries for business income generally results in double taxation, in the absence of steps to prevent it (McLure, 2000). The previous author further explains that to avoid double taxation of business income, foreign-source income exemption and foreign tax credits (FTCs) are given, giving priority to source countries. This is usually done by residence countries which tend to decrease revenue generated when applying the worldwide tax system. Given that e-commerce businesses may still operate without physical presence, it makes it challenging for residence countries to claim such taxes generated from the gains made. Based on this, the focus will be on e-commerce businesses that do not have a permanent establishment.

2.7 E-Commerce Tax Issues

Although the taxation of e-commerce appears not to be a priority for countries, there are signs that this may be so in the long run. For instance, Ghana appears to be making strives to increase tax revenues. In light of the inability to meet the revenue target for 2017, the country still raised revenue targets for 2018 and it appears various alternatives, including identifying and taxing e-commerce entities would be considered as a means of generating tax (MoFEP, 2018).

Based on the above, there is a need to identify the issues in the taxation of e-commerce in literature. Broadly, taxation issues relate to consumption tax, international direct tax as well as issues surrounding tax administration (Owens, 2000).

2.7.1 Consumption Tax Issues

Consumption tax issues arise when determining how to track consumption for tax purposes. This is especially so for transactions that are not limited to one country. For instance, with access to the internet and with the increasing nature of the sale of tangible and digital goods, it

is almost impossible to determine the consumption tax that is payable (Hellerstein, 2002). Along with the issue of determining consumption tax payable is the issue regarding the collection mechanisms to effectively collect consumption tax. This is so because transactions involving individuals appear to be the weakest link in the chain of tax administration (Hellerstein, 2002) thus some studies have expressed that the issue of consumption taxes requires more immediacy than the issues surrounding direct taxation.

2.7.2 International Tax Issues

According to Owens (2000), the international tax issues associated with e-commerce stems from the characterization of payments from various e-commerce transactions for taxation purposes. This is partly due to the vast nature of products that e-commerce covers. Also, considering the issue with clarifying the concept of permanent establishment further complicates tax assessments as its determination is crucial for tax purposes.

2.7.3 Tax Administration Issues

The administrative challenges of the digital space for transactions about tax include identification, determination of the extent of activities, information collection and verification, and identification of customers (Cracea, 2013; OECD, 2015). With regards to the issues identified, the presence of e-commerce makes it difficult to identify transactions when overseas businesses sell remotely to consumers. Even more worrying is the inability to determine the nature and extent or volume of such transactions. Although tax authorities can easily have access to documents when transactions occur locally, it is not always the case for transactions that are not within the jurisdiction of the tax authorities, as e-commerce can span across various jurisdictions. This could pose a lot of issues for tax administration.

Indeed, the proliferation of e-commerce has created some rift in the tax system, which is being exploited by many businesses, both locally and internationally. It has also revealed some gaps that pertain to the current tax laws. Specifically, some of the challenges identified include an increased case of Base Erosion and Profit Shifting (BEPS) and the nexus for taxation.

2.7.4 Base Erosion and Profit Shifting (BEPS)

Concerning profit shifting, it involves moving profits to tax havens (Devereux & Vella, 2017) to decrease the amount of tax to be paid. Such acts are not considered to be illegal as they seek to take advantage of different tax regulations in the respective jurisdictions. Also, with the advent of e-commerce which allows businesses to operate in various countries, the opportunity to shift profit has become easier than ever (Smatrakalev, 2005).

The issue with BEPS is that it undermines the tax base and potentially increases the difficulty of reaching revenue goals for countries (Coppel, 2000). In addition, corporations operating locally may face competition with multinational companies since multinationals are more likely to engage in BEPS.

According to OECD, areas of BEPS opportunities include minimizing tax in the market country- achieved through minimizing the income attributable to the market or avoiding a presence liable for tax purposes, the use of intra-group contractual payments to eliminate or decrease tax in the immediate country, the avoidance of withholding tax and the reduction of tax in the country of residence through assets transfer to affiliates in low tax regimes (Englisch, 2015; OECD, 2015).

2.7.5 Nexus for Taxation

Although fundamentally, the act of trade has not changed, it appears the sale of digitalized products has led to transacting business on a wider spectrum, across countries and jurisdictions, of which Cracea (2013) is of the view that it challenges current international tax, particularly on the concept of permanent establishments. Although a model has been suggested by the OECD, classifying some activities as an auxiliary in determining whether or not a business is a permanent establishment has been debunked in the study of Olbert and Spengel (2017) as they argue that the determinants proposed by the OECD which specifies the criteria for not classifying a business as permanent establishments may rather be important in determining permanent establishment for tax purposes.

2.8 Taxation Mechanisms for E-Commerce

Over the period, various suggestions have been given to effectively tax e-commerce businesses. Earlier suggestions range from the Bit tax and European Union E-commerce Proposal for VAT. This section explains the proposals as well as highlights the possibility of differences in the approach in taxing e-commerce in various jurisdictions.

2.8.1 Bit Tax Proposal

The bit tax, proposed by Arthur Cordell, is a tax on the interactive digital traffic on the Information Superhighway as he views interactivity as a valuable exercise that is taxable (Cordell, 1997). Digital bits of information will be taxed based on its bit data flow volume, which will be collected by agents such as satellite networks, cable systems, and telecom carriers on behalf of the government. Taxation will be based on value-added to avoid double taxation.

The implication of this is that it would be extremely difficult for developing countries to adopt as it involves powerful technological logistics to be able to monitor data flow to detect tax

default and evasion. According to Chan (2000), the bit tax system places the burden on the agents, which in this case are the satellite networks, cable systems, and telecom carriers to collect and remit tax and which leaves room for uncertainty as to who should bear the majority of the tax incidence. Also, there may be issues in ensuring compliance by the agents and even the lack of willpower by the government to track such transactions since the consumption may not be carried out in the same country as the agent's country (Chan, 2000).

2.8.2 European Union E-commerce Proposal for VAT

The proposal by the EU suggests that the developers of e-commerce software should be required to track sales made (Kennedy, 1998). Also, since payments are usually paid online, banks are directly responsible for the deductions made from the bank accounts of the purchaser. Because of this, they suggest that the banks will withhold the amounts and pay to the government, government in turn will settle the banks for any collection costs.

The implication of this is similar to that of the bit tax proposal, as it would be extremely difficult to monitor banks to ensure that they are remitting the taxes at the right value at the right time. Chan (2000), describes the proposal by Europe in taxing e-commerce as placing an undue burden on the banks, to collect and transfer tax for various governments, when they are not government agencies. Also, it leaves room for potential fraud and abuse in the handling and disbursement of tax revenues by banks (Chan, 2000). Another key argument raised was the fact that there are issues on privacy since customer information would have to be moved from the software developer to the bank to assist in tax collection and allocation to governments as well as a possibility of software developers rewriting codes to track the location of sales made for tax purposes.

2.9 Theoretical Review

Creswell and Miller (2000) are of the view that qualitative research does not start with a theory to test; rather, a hypothesis may arise during accumulation and analysis of information gathered which is more akin to the inductive model of reasoning. Based on their study, a theory has been identified from the review of the literature and the analysis of data gathered from respondents, and this study embraces the public interest theory to explain the regulatory governance of e-commerce in Ghana.

2.9.1 Public Interest Theory of Regulation

According to Barr (1999), the public interest theory was developed by Arthur Pigou in 1932.

The focus of public interest theory is on the idea that those seeking to institute or develop regulations do so in the public interest rather than the interests of groups, sectors, or individual interests (Baldwin et al, 2012). “According to public interest theory, government regulation is the instrument for overcoming the disadvantages of imperfect competition, unbalanced market operation, missing markets, and undesirable market results” (Den Hertog, 1999, p. 225), and regulatory bodies are considered to be established to represent the interest of the society in which it operates, rather than the private interests of the regulators (Held, 1970).

On the regulation of e-commerce, this theory sits well with literature as instances of the issues of security and privacy have led governments to put in place regulations to protect citizens. Also, based on data gathered, Ghana’s e-commerce regulators are regarded as institutions set up by the government to protect the interest of the country and the public. Based on this, the Public Interest Theory was adopted in this study.

Although some studies believed that dependence of the market mechanism alone is efficient (Arrow, 1985), Bator (1958) was of the view that this resulted in the issue of optimizing the

allocation of resources and increasing the need to improve the allocation of such resources. Arrow (1970) believed that efficiency of distribution could only be achieved through government intervention- government regulation since they are presumed to be a neutral arbiter (Tijjani, 2014).

In the presence of regulation, the allocation of resources is improved. This is achieved by maintaining, facilitating, and imitating market operations (Braeutigam, 1989). Given that, monitoring is done to maintain the market operations as it intended to be (Baumol, 1977).

Stiglitz (1998) even considered the need for regulation to be critical as it served as a means for the interest of the public to be protected in the presence of market failure and amplifies the need for greater disclosure by businesses. Because of this, there is a greater need to protect the public, which can be achieved by regulating businesses. In the context of e-commerce, the ability of the business to easily gather information about the customer, for instance, poses serious privacy issues for customers hence the need for the regulation of such businesses to protect the customer.

2.9.2 The Application of the Public Interest Theory to E-commerce in Ghana

In the presence and practice of good regulatory governance by ensuring accountability, efficiency, and following the rule of law, a country can prosper by meeting the interest of the public. Given this, this study sought to determine how regulators of e-commerce in Ghana complied with such requirements to protect the interest of the public.

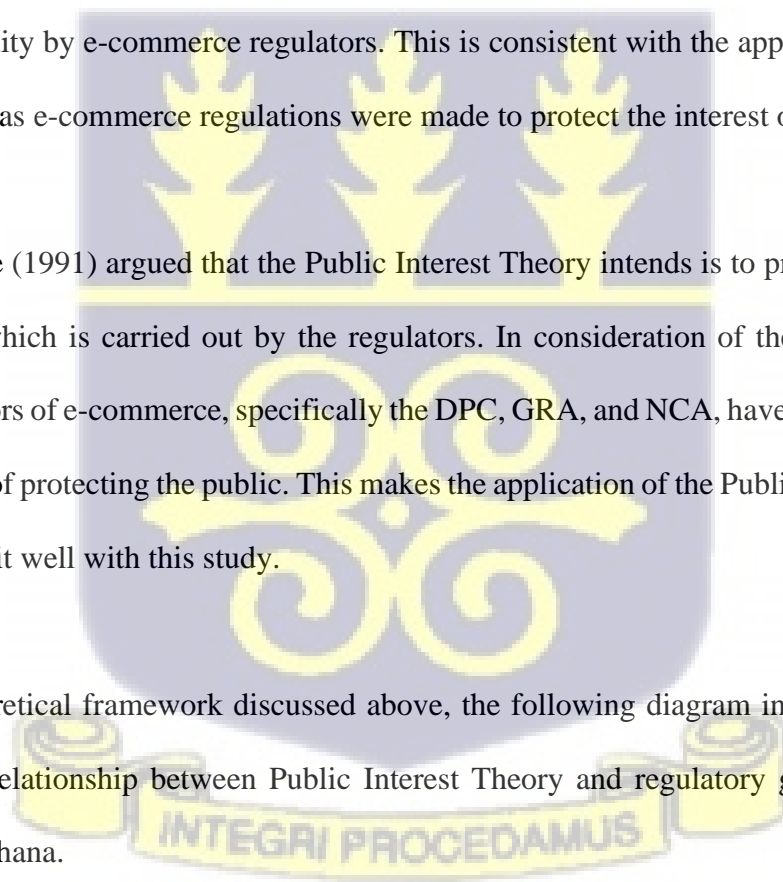
Masciandaro et al. (2008) are of the view that regulators should be independent of external influence and interference as it enabled the regulators to protect the interest of the public. Also,

Maxwell et al. (2000) suggest that regulators ought to have the skills relevant in performing their duties and have some form of autonomy financially to be able to carry out their regulatory obligations. Ghana's e-commerce regulatory agencies, therefore, would have to demonstrate the presence of factors indicated by Maxwell et al. (2000) and Masciandaro et al. (2008), in a bid to protect the public interest.

Another application of the Public Interest Theory to e-commerce in Ghana is found in Wilson's (1974) study, which indicates that accountability and transparency are required by the regulators to ensure that the public interest is at the core of the regulations made by the regulators. As some of the pre-requisites of good regulatory governance include transparency and accountability by e-commerce regulators. This is consistent with the application of public interest theory, as e-commerce regulations were made to protect the interest of the public.

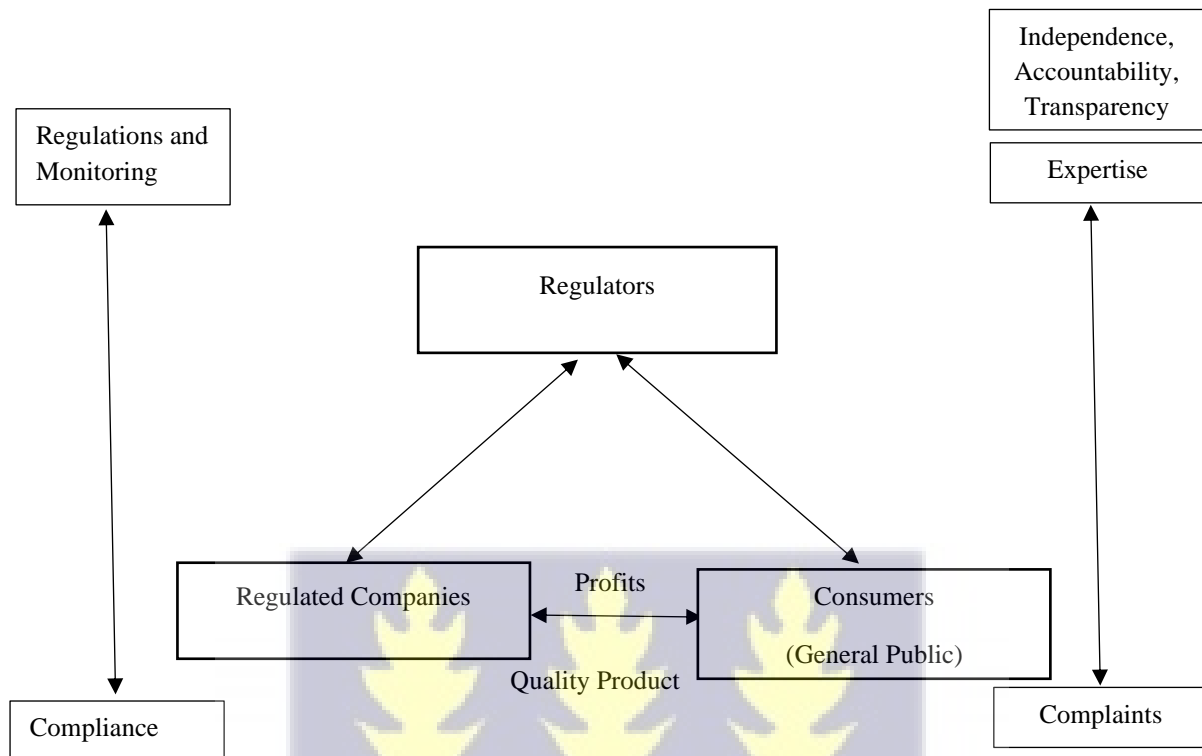
Finally, Majone (1991) argued that the Public Interest Theory intends is to protect the interest of the public which is carried out by the regulators. In consideration of the applicability to Ghana, regulators of e-commerce, specifically the DPC, GRA, and NCA, have been established with the intent of protecting the public. This makes the application of the Public Interest Theory of Regulation sit well with this study.

Given the theoretical framework discussed above, the following diagram in the next section illustrates the relationship between Public Interest Theory and regulatory governance of e-commerce in Ghana.



2.10 Conceptual Framework

Figure 2.1: Public Interest Theory and Regulatory Governance Relationship for E-Commerce in Ghana



Adopted from Tijjani (2014)

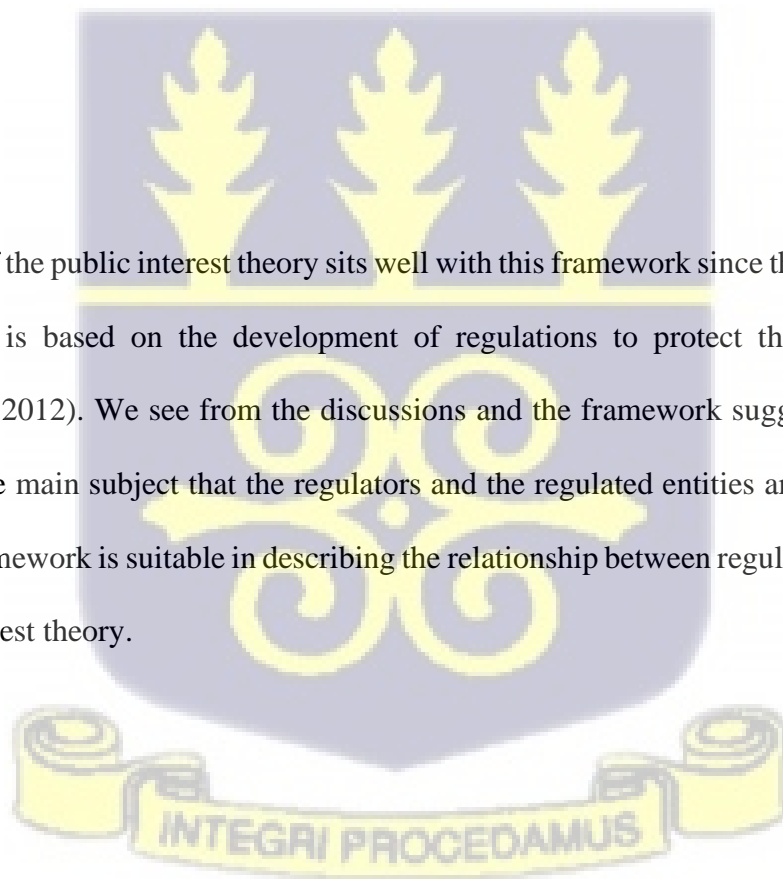
This conceptual framework has been adopted from the study conducted by Tijjani (2014), based on the analysis of literature and the theoretical review. The author merged the concepts of regulatory governance and the public interest theory which is consistent with the review of the literature.

The framework indicates the expectations of each party within the e-commerce framework. The consumers/public expect that the regulators would demonstrate good regulatory governance factors like regulatory independence, accountability, and transparency in their activities and also have the expertise to carry out their mandate in the interest of the general

public. Regulators also expect the public to report instances of issues noted in the service delivery of the regulated entities. Channels should be available for such complaints to be made.

Also, the regulator should have well-designed regulations for regulated companies as well as have in place adequate monitoring approaches to monitor the activities of the companies to ensure compliance. The regulations set by the regulators are based on the expectations of the public. By having such regulations and monitoring in place, the regulated entity would have to conform, and that is aimed at meeting the expectation of the public. The public also has some expectations of the regulated entities. Entities are required to provide quality products that should be in line with the requirements of the regulators.

The adoption of the public interest theory sits well with this framework since the focus of public interest theory is based on the development of regulations to protect the public interest (Baldwin et al, 2012). We see from the discussions and the framework suggested above that the public is the main subject that the regulators and the regulated entities are serving. Based on that, this framework is suitable in describing the relationship between regulatory governance and public interest theory.



CHAPTER THREE

METHODOLOGY

3.0 Introduction

This section considers the methodology used for this study. This is going to be done by focusing on the philosophical assumptions, research design, sampling technique, inclusion and exclusion criteria, data analysis approach, the reliability and validity of data as well as the ethical stance of the researcher. Importantly also, this chapter will offer the justifications of the approaches used in this study.

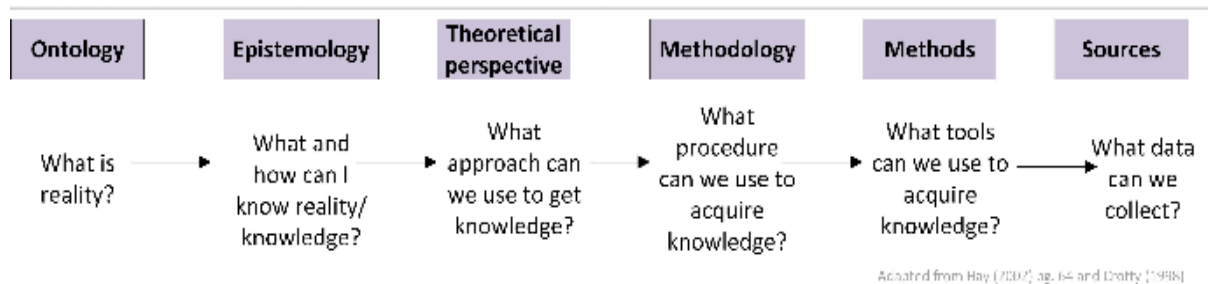
3.1 Philosophical Paradigm

Paradigms are explained as set of perceptual orientations and assumptions that are shared by research community members (Given, 2008). An earlier definition by Kuhn (1962) also defined research paradigm as the set of common beliefs and agreements shared between scientists about how problems should be understood and addressed.

In light of these definitions, it would not be surprising to note that there are several paradigms. However, the two most common paradigms are the positivists and interpretivism (Villers & Fouché, 2015) while the other paradigms serve as a continuum between positivism and interpretivism. Such paradigms include feminism, critical realism, constructivism, post-positivism and post-modernism (McKerchar, 2008). While the positivists believe that there is a single reality, the constructivist believe that there is no single truth or reality, requiring the need for interpretation. The researcher is greatly influenced by interpretivism paradigm where the researcher believes that there is no single reality or truth. In view of that, interpretation would be required.

Also, based on Guba's (1990) study, research paradigms broadly encapsulate ontology, epistemology and methodology. The diagram represents how each category feeds into the other.

Figure 3. 1 Research Paradigm

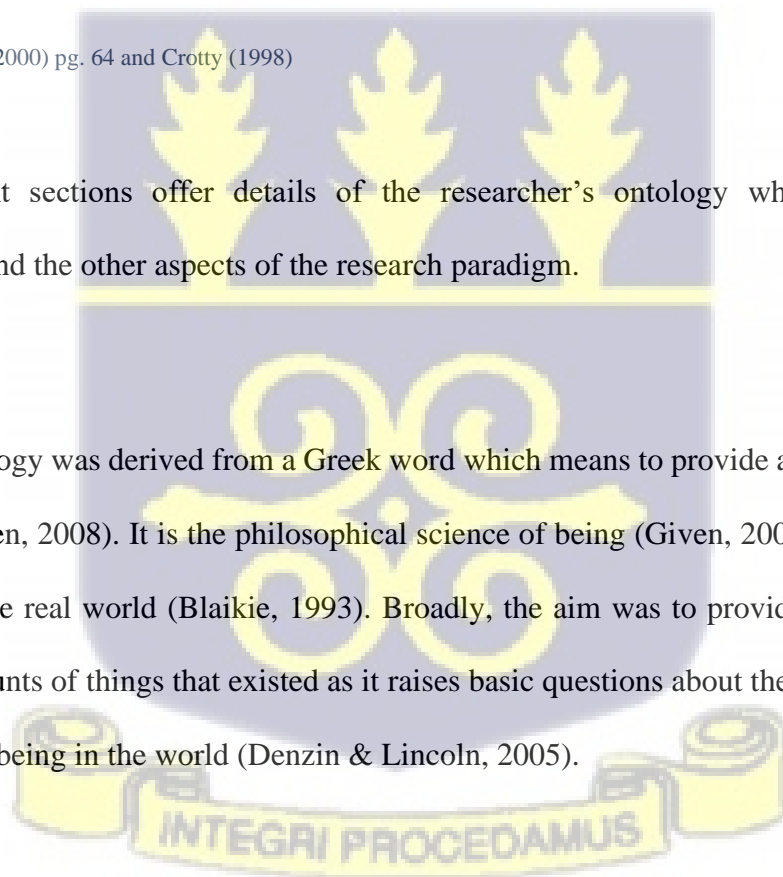


Adapted from Hay (2000) pg. 64 and Crotty (1998)

The subsequent sections offer details of the researcher's ontology which informs the epistemology and the other aspects of the research paradigm.

3.1.1 Ontology

The word ontology was derived from a Greek word which means to provide a rational account of a thing (Given, 2008). It is the philosophical science of being (Given, 2008), a supposition and claim of the real world (Blaikie, 1993). Broadly, the aim was to provide well-reasoned, deductive accounts of things that existed as it raises basic questions about the nature of reality and the human being in the world (Denzin & Lincoln, 2005).



The ontological position of positivism is one of common sense or realism (Scotland, 2012; Hudson & Ozanne, 1988). That is to say, the positivist attitude is based on a realistic foundationalism ontology, thereby viewing the world independently from the researcher as well as his knowledge of the world (McKerchar, 2008). Positivists believe that the only

phenomena that could produce knowledge are those which they can know through their senses, namely by, touch, taste, smell, sight, and hearing (Greener, 2008).

The ontological position of interpretivism, on the other hand, is not concerned with objective reality but is rather concerned with knowing and investigating subjective realities that is specific (McKenna et al., 2011, Villers & Fouché, 2015). In view of that, Geels (2010) was of the view that the ontological position of interpretivists is based on internal realism or broadly subjective. That is to say, reality is a personal construction or an intersubjective construction which would require making sense of the world through rationalizing, justifying, creating and interpreting phenomena (Smith, 2006).

In view of that, the interpretivist researcher intends to view the world through the eyes of the participants (Villers & Fouché, 2015). This opens up the interpretivist to various assessments of reality which is not possible with the positivist researcher as he believes that there is a single reality (Greener, 2008). In view of this, an interpretivist research would require that the researcher is not detached from the subject of study.

The ontological position utilized in this study is that of internal realism as the researcher seeks to make sense of the world through interpreting phenomena. Also, since this study is exploratory in nature as its purpose is to explore the regulatory governance and taxation arrangements for e-commerce, it is appropriate to rationalize and interpret phenomena as there may be elements of intersubjective construction as various institutions are being considered in this study impliedly.

From the diagram adopted from Hay (2000), we find that there is link between ontology and epistemology. Given the ontologies discussed, the subsequent section considers the various epistemological assumptions as well as the standpoint of the researcher on to the epistemological assumptions.

3.1.2 Epistemology

Cohen et al. (2013) explained that epistemology is concerned with the nature and forms of knowledge. Scotland (2012) also explained it as what it means to know, how knowledge can be created, acquired and communicated. Epistemology asks the question, “What is the nature of the relationship between the would-be knower and what can be known?” (Guba & Lincon, 1994, p.108).

For the positivist, the researcher enters the world independent of what is being researched, seeking to obtain absolute knowledge of an objective reality (Villers & Fouché, 2015). The approach used by positivists to acquire knowledge is that of empiricism, comprising of measurement and observation (Walliman, 2011). Such an approach requires deductive reasoning which is also informed by deductive logic; making the researcher move from what is known to what is unknown about a phenomenon, leading to the development of a hypothesis (Loseke, 2012). Also, the structure of the researcher’s approach could help identify connections through observations which would enable them to draw reasonable conclusions about an area of study (McKerchar, 2008; Repko, 2012).

However, the epistemological position of interpretivism is that of subjectivism, grounded in actual world phenomena (Villers & Fouché, 2015). The interpretivist paradigm does not offer an explicit explanation from which connections or predictions can be made (Walliman, 2011). In view of that, an appropriate approach would require inductive reasoning which is also

informed from inductive logic; starting from specific observations that is repeated and then drawing a general conclusion (Walliman, 2011). That is to say, the positivist epistemology is that of objectivism while the ontological position of interpretivism is relativism (Scotland, 2012), a view that reality is subjective and differs from person to person (Guba & Lincon, 1994).

The researcher, being influenced by the constructivist paradigm also believes reality is subjective. This would, to some extent direct the researcher on the approach to be used for data gathering and analysis which would be discussed in the subsequent sections. The area that this study seeks to address also necessitates the need for subjectivism.

3.2 Research Design

Research design is a plan that provides the logical structure that serves as guide to the researcher to address research problems and answers research questions (Given, 2008). It explains the data examination technique that the researcher expects to utilize (De Vaus & De Vaus, 2013). Based on the philosophical assumptions of the researcher, the researcher seeks to answer the research questions based on the research design explained.

The research design adopted by this study is that of the qualitative approach since the researcher seeks to make an effort to understand situations in their uniqueness as part of a particular context (Patton, 2002). This is so because, the taxation of e-commerce is still an emerging concept which is yet to be fully understood. Also, the apparent absence of a holistic study for the regulatory governance of e-commerce requires an understanding of their interactions to effectively govern e-commerce. Since this study seeks to understand phenomena deeply and in detail, which is aligned to qualitative studies, the researcher must obtain methods for discovery of central themes and analysis of core concerns of the study population (Atieno, 2009). Thus,

the researcher seeks to understand the regulatory governance and the taxation of e-commerce in much detail, as it has not been carried out fully in Ghana. This will be achieved by identifying central themes with regards to this from all e-commerce regulatory bodies.

The qualitative approaches available to the researcher includes narrative research, phenomenology, grounded theory, ethnography, and case studies (Creswell, 2012). For the purposes of this study, the researcher adopts case study as the qualitative approach. Johnson and Christensen (2019) are of the view that case studies describe one or more cases in-depth. For instance, case studies may be used to document success stories that are used to demonstrate the effectiveness of some programs (Creswell, 2012). More specifically, since the study is exploratory, an exploratory case study is used since little research has been done, which is in line with Yin's (1994) classification of case study research. In view of the approach selected, the methods of data collection available to the researcher include interviews, observations and documents (Johnson & Christensen, 2019).

The methods adopted in this study are interviews and publicly available documents. This helped the researcher obtain the perspectives of the various e-commerce regulatory bodies on how e-commerce is regulated as well as the expertise required to govern e-commerce in Ghana. It also enables the researcher to understand the arrangements for the taxation of e-commerce businesses as well as the level of expertise required to perform their roles. Additionally, by analysing the documents in relation to the regulation and taxation of e-commerce would help the researcher to obtain the documented requirements for the regulation and taxation of e-commerce.

3.3 Data Collection Process

Collection of data occurred after ethical clearance was received from the university. A consent form, as well as an information sheet, was sent to the potential institutions that would be consulted for the study. The data sources for this study are mostly comprised of both primary and secondary. The researcher's choice of the data sources was informed by Johnson and Christensen's (2019) methods used in the data collection for case studies which are primarily interviews, observations, and documents. Based on this, primary data was obtained using interviews and secondary information from documents such as the laws linked to e-commerce regulation and taxation. This is also done to achieve the benefits of data triangulation (Carter et al., 2014).

The primary source of data used in this study is that of interviews. There are various modes of interviews, some range from telephone interviews to face-to-face interviews (Edwards & Holland, 2013). Some benefits of telephone interviews include extended access to participants, compared to face-to-face interviews. It allows for wider geographical access unlike face-to-face and it enables the researcher the opportunity to reach hard-to-reach populations as well as obtain sensitive accounts which would be difficult under face-to-face interviews (Opdenakker, 2006).

Also, some benefits of face-to-face interviews include the advantage of obtaining social cues thus giving the interviewer a lot of additional information that can be added to the verbal responses of the interviewee. They have no significant time delays between questions and answers, allowing the interviewer and the interviewee the opportunity to react to what the other person does or says (Opdenakker, 2006).

Interviews may take the form of structured interviews, semi-structured interviews, and unstructured interviews (Jamshed, 2014). This study seeks to utilize the semi-structured interviews based on their benefits if giving some form of guidance and direction to the work. Since face-to-face interviews are used by most researchers when conducting semi-structured interviews (Edwards & Holland, 2013), a face-to-phase interview will be conducted.

Also, the benefits of the face-to-face interview approach informed the researcher to adopt this interview approach in the collection of the primary data. An interview guide was developed by way of a thorough review of literature, which led to the identification of the research questions as well as approval from the supervisors. This was used in interviewing the institutions that regulate and tax e-commerce.

The secondary source of data used in this study is that of documents such as the laws enacted by parliament for the regulation and taxation of e-commerce. This was obtained from internet searches with regards to all the relevant regulatory institutions. A thorough analysis was carried out on the documents with keywords such as regulation, privacy, security, chargeable income, e-commerce, permanent establishment, and many others were used, thus serving as the main focus of the analysis done. This was to enable the researcher to have some form of direction in analysing the regulatory documents.

3.4 Population and Sampling

Currently, separate studies have been conducted in the areas of security and privacy (Desai et al., 2003; Harris et al., 2003; Vakeel et al., 2017) and taxation (Basu, 2016; Chan, 2000) of e-commerce businesses. Arguably, in all separate studies conducted, no empirics (gathering of data) were made available in their work. This informed the researcher to consider the regulatory governance and taxation of e-commerce in a single study as well as obtain some empirics to

broaden our understanding of e-commerce. In view of that, various regulatory bodies of e-commerce were considered in this study. The researcher also included the tax authorities to obtain the tax requirements for such business practices as well as some civil society organizations to obtain a much fuller account of the regulatory governance and taxation of e-commerce in Ghana.

The regulatory institutions involved in this study include the Ghana Revenue Authority (GRA), the National Communications Authority (NCA), the Chamber of Telecommunications, some civil society organizations, practicing firms such as audit firms, and the Data Protection Commission. These institutions were selected based on the roles they play in the regulation and taxation of e-commerce. The Ghana Revenue Authority (GRA), for instance, is the institution in Ghana that has been mandated to collect the various forms of taxes on behalf of the government, the GRA is guided by the Income Tax Law, Act 896 and its amendments-which specifies the various basis of taxing business, investment, and employment income. The National Communications Authority (NCA), is also mandated to take legal action against unauthorized access to the airwaves which they are to monitor constantly and the Ghana Chamber of Telecommunication is a private initiative to promote better legislation and regulation of telecommunication industries, which warranted its selection for this study.

Given the relevance of the regulatory institutions in obtaining an understanding of the regulatory and governance and taxation of e-commerce in Ghana, some regulatory bodies were not included in this study as they do not directly relate to e-commerce and its regulation.

For the purposes of this study, the sampling techniques used included purposive sampling, and subsequently, snowballing was used. According to Patton (2002), purposive sampling is useful

for the selection of ‘information-rich’ cases in the presence of limited resources by selecting respondents who are knowledgeable of the topic to be addressed (Creswell & Plano Clark, 2011).

To ensure that this study was efficient in the presence of limited resources, knowledgeable persons with enough experience in the regulation and taxation of e-commerce within the organization were interviewed, ensuring as much as possible that their views reflected the views of the organization. The availability of the respondents was also taken into consideration as suggested by Bernard’s (2002) study. Based on the considerations made, the sample included all the regulatory institutions related to the regulation of e-commerce as well as the tax body in Ghana. They include the GRA, NCA, and Data Protection Commission.

The other sampling technique was snowballing. It is useful when the researcher initially identifies a relatively low number of respondents and thus, relies on the recommendations of the early respondents to identify other respondents which may be useful to the study. King et al. (2008) gave instances of when snowballing would be appropriate: when the population is difficult to access and when the population has been narrowly defined, which is applicable for this study, making snowballing appropriate in this instance.

In all, the sample size of this study from both sampling techniques totalled 12 which comprised of all the relevant regulatory institutions as well as the appropriate tax authority. Throughout the data collection, the researcher was mindful of data saturation and ensured collection of data was halted when that was arrived at.

Regulatory institutions specifically related to the regulation of e-commerce were interviewed but some regulators were excluded because although they may meet the inclusion criteria by being a regulator, they present themselves with additional characteristics that could interfere with the success of the study especially due to the scope of the study (Patino & Ferreira, 2018). It is based on the above study that influenced the researcher to exclude those regulatory bodies from the study as they would interfere with the results of the study.

3.5 Data Analysis and Interpretation

This section considers the data analysis and the interpretation of the data that was gathered. According to Veal (2011), by means of the creation of topics, feelings, ideas, points of view, subjects, and remembering monotonous subjects, subjective information could be obtained.

Data was analyzed using Miles and Huberman's (1994) qualitative data analysis approach for the examination of gathered data, thus using a topical approach for gathering connotations based on context. The approach requires data collection, data condensation, data display, and verifying or drawing conclusions.

For the entire study, the sample size was 13 respondents in 11 interviews, which represents the institutions concerned with the regulatory governance and taxation of e-commerce in Ghana which was emphasized in the prior section. The sample size arrived at was based on the concept of data saturation (Glaser & Strauss, 1967) as no new theme was apparent after the 12 interviews were conducted.

3.5.1 Interviews with Regulatory and Taxation Institutions

The interview with regulatory and taxation bodies was carried out on an institutional basis. A face-to-face interview was also adopted to make the interview as interactive as possible.

The interview aimed to:

- a) create a relaxing atmosphere, allowing the interviewee to be relaxed enough to speak freely (Alshenqeeti, 2014),
- b) allow the researcher to probe in greater detail (Lune & Berg, 2017),
- c) keep the interview within the parameters traced out by the aim of the study (Lune & Berg, 2017),
- d) listen to the responses of the respondent and not just speak (Alshenqeeti, 2014; Dömyei, 2007),
- e) prolong the interviewee's motivation by keeping boredom at bay (Lune & Berg, 2017),
- f) begin to identify key issues during the interview and to initiate the summarization process (Schutt, 2018).

The interviews were semi-structured, allowing for more flexibility and the face-to-face interview made the discussion an interactive one. The interviews conducted were between 30 minutes to 1 hour and were held at the offices of the regulatory institutions. All interviews conducted were recorded but only after permission was sought and obtained from the respondents, which is in line with the researcher's ethical stance. Notes were also taken to document key points and to serve as a backup should the recorder malfunction. The recorder was used as the first point of call for capturing the interview to obtain a word-for-word explanation of concepts that may be relevant in the analysis of the data which would have taken a long time to capture if only notes were being taken.

The recorded interviews were transcribed manually, ensuring a verbatim recount of the interview conducted. After transcription, analysis had to be done. To ensure that it was as seamless as possible, coding was done, first by using the open coding which was followed by the axial coding. The interview transcripts were then analysed after the coding the done.

3.5.2 Analysis of Secondary Data

For this study, secondary data was obtained mainly from internet searches. We first considered the laws and regulations that the regulators operated with, the websites of the regulators, as well as their social media handles such as Facebook, Twitter, and Instagram to assess the regulatory governance and taxation of e-commerce. The secondary data obtained were then analysed according to relevant themes, ensuring that it addressed some of the regulatory and accountability arrangements for e-commerce, the level of regulatory and accountability expertise for e-commerce, and the taxations mechanisms for e-commerce. This is covered extensively in chapter four in our presentation of results.

3.6 Reliability and Validity

The use of the concept of reliability and validity, which was traditionally limited to quantitative research has gradually found its way into the qualitative research paradigm (Golafshani, 2003). Joppe (2000), for instance, explained reliability to be the consistency of results over time which represents the entire population and can be replicated under a similar methodology. The definition indicates how relevant reliability is to any study carried out, irrespective of whether it is qualitative or not.

Validity on another hand is the determination of the level of accuracy for the measurements used and if the measurements can adequately measure what it has been developed to do (Golafshani, 2003), which is more or less like a qualifying measure for the research which some have argued may be subjective (Winter, 2000). Creswell and Miller (2000) for instance, posits the researcher's perception affects the determination of validity by means of the researcher's paradigm.

The validity and reliability are very crucial in any study as they can determine its ability to be generalized (Golafshani, 2003). One way to obtain the benefits of validity and reliability is through the application of triangulation, especially for qualitative studies. Patton (2002) further strengthens this argument of the use of triangulation by indicating that triangulation strengthens a study by combining methods.

In view of the above, the researcher intends to ensure validity and reliability in this study by ensuring that triangulation was adopted in gathering and analyzing data. This was achieved by conducting internet searches with regards to all the relevant regulatory institutions relevant to this study along with a thorough analysis of documents obtained. The internet search and analysis has been combined with face-to-face interviews, with the use of a semi-structured interview guide, developed with the approval of the supervisor. The interviews were conducted with the regulators of e-commerce business as well as the tax authorities since this study also considers the taxation of e-commerce businesses. As much as possible, the credibility of the responses was obtained by corroborating them with the internet searches done.

By adopting this approach, the researcher was able to ensure truthfulness and unnecessary bias in gathering data as well as analyzing data gathered to assess the regulatory governance and taxation of e-commerce in Ghana.

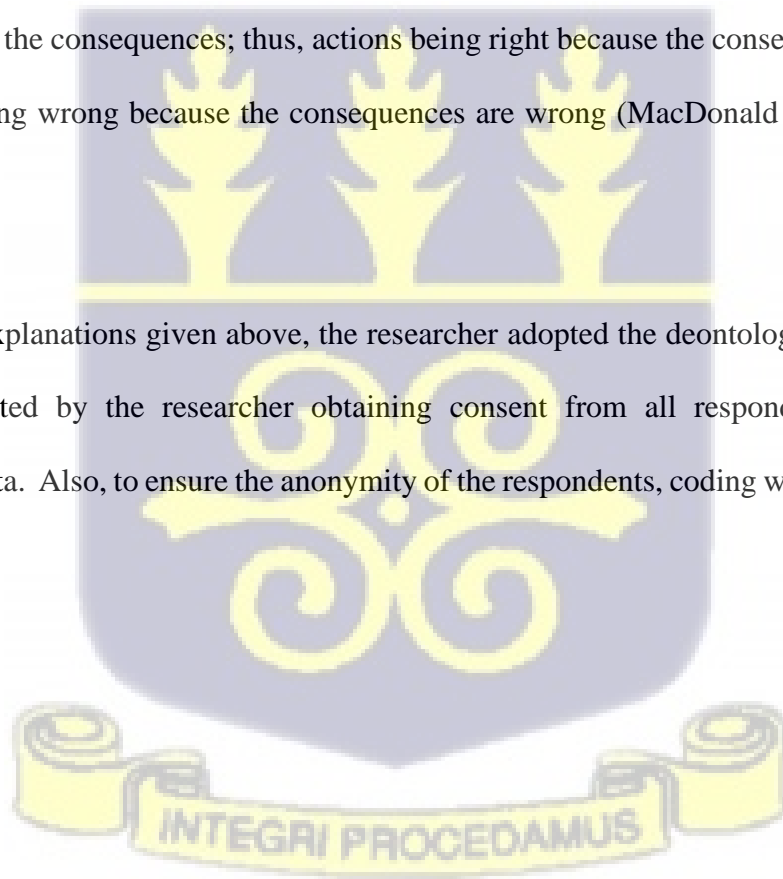
3.7 Ethical Stance

Currently, there are several ethical concerns in relation to research that the researcher has to be mindful of in the entire process of research. Ethical concerns must be addressed in research planning, gathering of data, analysing, and presentation of results. Zikmund (2000) asserts that the investigator's conduct is controlled by broader social benchmarks, emphasizing the ethical concerns that the researcher should consider in conducting a study.

Based on that, Fouka and Mantzourou (2011) emphasized the importance of research ethics in the endeavours of the researcher. It makes the areas of the protection of respondents imperative as well as ensuring that the account given is done sufficiently and appropriately manner.

There are several points of view in organization and business research but according to Saunders (2011), there are two dominant ones: teleology and deontology. Deontological ethics is concerned with compliance with universal norms. The actions, behaviours, and morality are determined by such norms; thus, it is a morality of principles, not of consequences (Van Staveren, 2007). Teleological ethics on the other hand involves assessing the morality of an action based on the consequences; thus, actions being right because the consequences are right and actions being wrong because the consequences are wrong (MacDonald & Beck-Dudley, 1994).

Based on the explanations given above, the researcher adopted the deontological stance. This was demonstrated by the researcher obtaining consent from all respondents before the collection of data. Also, to ensure the anonymity of the respondents, coding was done to ensure confidentiality.



CHAPTER FOUR

PRESENTATION AND ANALYSIS OF FINDINGS

4.0 Introduction

This chapter presents a detailed discussion of the data gathered for this study. The findings are also discussed in this chapter.

4.1 Nature of Regulatory Governance of E-Commerce in Ghana

4.1.1 Reviewing E-Commerce Regulation and Taxation Laws in Ghana

In line with the methodology of this study, the researcher reviewed the regulations that guide the regulators in performing their regulatory obligations. Other electronic media sources like social media platforms and websites of the institutions were also observed. This was to assess the presence of regulatory governance and taxation of e-commerce. The findings from the review have been documented in the tables (Table 4.1 to Table 4.3) below.

Table 4. 1: E-commerce Regulatory governance assessment of DPC regulations

DPC	RI	RA	RT	RE
Data Protection Act, 2012 (Act 843)	No*	No*	No*	No*
DPC website	No	No*	No*	No
DPC Social Media Handles	No	No*	No	No

*-Exists but is not related to e-commerce

Table 4. 2 E-Commerce Regulatory Governance Assessment of NCA regulations

NCA	RI	RA	RT	RE
National Communications Authority Act of 2008, (Act 769),	No	No*	No*	No*
The Electronic Communications Act of Ghana 2008, (Act 775),	No	No*	No*	No

The Electronic Transactions Act of Ghana 2008, (Act 772) and	No	No*	No*	No*
Electronic Communications (Rules of Procedure of the Electronic Communications Tribunal) Regulations 2016, LI 2235. (NCA, 2019 (b)).	No*	No	No	No
NCA website	No	No*	No	No
NCA Social Media Handles	No	No*	No	No

*-Exists but is not related to e-commerce

Table 4. 3 E-Commerce Regulatory Governance and Taxation assessment of GRA regulations

GRA	RI	RA	RT	RE	EC Tax
Taxpayers Identification Numbering System Act 2002, (Act 632)	No	No*	No	No	No
Stamp Duty Act 2005, (Act 689)	No	No*	No	No	No
Ghana Revenue Authority Act, 2009 (Act 791)	No*	No*	No	No*	No
Communication Service Tax Act, 2008 (Act 754)	No*	No*	No*	No	No
Customs Act 2015	No*	No*	No*	No	No
Income Tax Act, 2015 (Act 896)	No*	No	No	No*	No

Income Tax (Amendment) Act, 2016 (Act 907)	No	No	No	No	No
Value Added Tax Act, 2013 (Act 870)	No*	Yes	No*	No*	No
GRA website	No	No*	No	No	No
GRA Social Media Handles	No*	No	No	No	No

*-Exists but is not related to e-commerce

To ensure effectiveness in our review, some keywords and expressions were used. These keywords used were drawn from our review of literature in the areas of regulatory governance and taxation. The first level of assessment was using words such as “e-commerce” and “electronic” to ensure that the regulations made provisions for e-commerce regulation. The next level was to identify words indicative of the presence of regulatory independence, accountability, transparency, and expertise of e-commerce based on the factors indicated in (IMF, 2004). The researcher then denoted the presence of such words with “Yes”, “No” and “No*” for regulations that were indicated the presence of e-commerce regulatory governance, an absence of e-commerce regulation, and the presence of regulatory governance which is not related to e-commerce, respectively. GRA regulations were also reviewed for the presence of e-commerce taxation provisions (EC Tax). The “Yes”, “No” and “No*” coding was used to indicate the presence or absence of e-commerce taxation provisions.

Findings from the tables revealed that apart from the Value Added Tax Act, no single regulation speaks directly to e-commerce, e-commerce regulation, and e-commerce taxation although the regulators are involved in regulating such entities. An observation of the regulators’ websites and social media handles did not address e-commerce directly. As a result of the state of e-

commerce regulation and taxation from our analysis, subsequent sections seek to triangulate the results of the content analysis with the face-to-face interviews conducted. A discussion on the triangulated data would be performed on key themes under regulatory governance which include regulatory independence, accountability, transparency, and expertise. For e-commerce taxation, we considered key themes including GRA’s perception of e-commerce, e-commerce tax issues, tax laws and e-commerce tax issues, measures to address e-commerce tax issues and e-commerce taxation approaches.

4.2 Awareness Level of E-Commerce Regulatory Governance

This section sought to assess the regulators’ descriptions for e-commerce were collated from all respondents. The profile of the respondents has been indicated below:

Table 4. 4 Profile of Respondents

Organization	Interviews	Position	Experience (years)	Duration (minutes)
GRA	4*	Manager, STO audit unit	10	30
		Deputy Manager, MTO audit unit	11	30
		Deputy Manager, STO audit unit	13	45
		Commissioner/ Deputy Manager of Service Sector of the LTO audit unit.	12	60
DPC	1	Customer Support Officer	4	60

NCA	1*	Manager & Deputy Manager, Regulatory	6 and 10	40
KPMG	1	Senior Manager	13	60
Deloitte	2	Manager	10	40
PwC	1	Manager	12	45
CIT- Ghana	1	Registrar		42

* represents interviews with additional persons.

The researcher had a total of 11 separate interviews with 13 individuals who represented various regulatory institutions. Respondents were nominated by the institution to represent their responses.

4.2.2 Awareness of E-commerce

To build upon our assessment of the approach of taxing e-commerce, the descriptions for e-commerce were considered from all regulatory institutions. The results of their responses are consistent for all respondents on the definition of e-commerce. Focus is placed on elements of business and the internet that e-commerce exhibits. Explanations of e-commerce from the respondents are as follows:

DPC: *“E-commerce is basically when people do business online...”*

GRA 1: *“E-commerce for us is generally business transactions on the net [internet]...buying and selling on the net [internet]...is what you call e-commerce”*

GRA 3: *“...businesses that are facilitated through using mobile apps that payment are made through mobile apps...there is no need for physical presence of the parties involved... through internet and maybe the USSD commands.”*

GRA 4: *“e-commerce is how commercial activities are carried out through the internet between an entity and a potential buyer...it is trading with entities that have a virtual presence”*

4.2.2 Distinguishing Factors of E-commerce

Responses gathered during the interview indicated that there were some factors that differentiated e-commerce businesses from other forms of business. This gives an indication that e-commerce has some peculiarities which are not present in other forms of business. The identified differences will be discussed under the various sub-sections.

4.2.2.1 Lack of Physical Presence and Interaction

Lack of physical presence is identified as one of the distinguishing factors of e-commerce. E-commerce businesses have been described to exist without the need for any physical location for operations. The ability to trade on an online platform eliminates the need to have a physical location for business since customers would not be reached from such an outlet. There is also the absence of physical interaction between the buyer and the seller in such a transaction. Some of the respondents explained:

GRA 4: *“...the difference between e-commerce form other forms of business is that, one, it does not require any physical establishment of a business office for operations to be made possible...it does not involve any form of physical interaction between the entity and the potential customer...”*

GRA 2: *“...one does not need a place to operate such a business...you can run it anywhere provided you have internet”*

From GRA's standpoint, the lack of a physical location is usually tied to not having a documented location. All businesses are required by law to be registered either as a sole proprietorship, a partnership, or as a company. In registering such businesses, the location of the business is identified and documented. The ability of e-commerce entities to operate without this makes it difficult to be traced. A respondent from the GRA explained:

GRA 1: *"It all has to do with the location... generally with e-commerce it has to do with the location. It is difficult to pin the person down to a permanent location while with other forms of business ...we have their addresses and as and when the need arises, we go to visit them..."*

4.2.2.2 IT Backed Virtual Presence

In the absence of a physical location for e-commerce to conduct business, transactions are conducted on the internet. This factor prompted the respondent to describe the presence of e-commerce to be virtually supported by the internet. One respondent described it as follows:

GRA 4: *".... it largely occurs through a virtual platform which is driven by IT"*

4.3 Regulatory Independence, Accountability and Transparency of E-Commerce

4.3.1 Regulatory Independence of E-Commerce

This section discusses the findings obtained from the data gathered for this study. Areas to be considered include financial autonomy, the ability to make independent decisions as well as the ability to sanction businesses that fail to comply with regulations. In addition, we analyze the responses on the ability to independently recruit and the mandate to overrule sanctions which are to be given only by the court of law.

4.3.1.1 Showing Financial Autonomy in Determining Entities Budget

Most regulators indicate some form of dependence on the respective ministries that they fall under, especially with regards to the approval of budgets. Preparation of budgets is within the regulator's purview, in that, they are able to prepare their budgets as an institution based on the guidelines given by their respective ministries.

GRA for instance is found to be subject to the Ministry of Finance when it comes to determining their budget for the period although the authority generates most of the country's revenue. Responses from the GRA are as follows:

GRA 1: *"we are able to determine our own budget over here...but the Ministry of Finance will have to approve the budget. We are semi-autonomous since the Ministry of Finance can determine what we finally get"*

GRA 2: *"...for our budget, we are given the amount to raise... as you know we are under the Ministry of Finance and we collect taxes for the development of Ghana. So, we can't do the budget on our own...yes, we may present our own budget, but the Ministry can still slash it."*

GRA 3: *"GRA depends on the Ministry of Finance in determining our budget...we follow the guidelines the Ministry provides... we prepare a budget, but it has to be presented to the Ministry of Finance."*

GRA 4: *"GRA is an authority...set up under the act which clothes us with power...driven by the constitution...we work under the Ministry of Finance and given the structure of the GRA...our management structure comprises of the Board, the CG [Commissioner General], three Commissioners; one for revenue, another for customers and then for services and other*

members ...the board reports to the Ministry of Finance...the Ministry of Finance and the board sits and comes out with targets given to the CG to meet. The CG is required to do the day to day activities to ensure that the objectives are met for revenue mobilization for national development. The CG is mandated to do or delegate day to day activities ...strategic decisions are taken by the board on how GRA should be...to link the goals of GRA to Ministry of Finance, logistics are adequately provided to GRA. The Board, GRA and the Ministry of Finance carries out its mandate overtime ...through concerted effort...they take independent decisions on operational decisions over the period.”

The budget of NCA is also found to be generated by entity personnel of NCA and approved by the Board that has oversight on the institution. However, final approval of the budget is subject to the approval of the Ministry of Communication although, NCA generates its own revenue through the licenses given to entities. From the responses gathered, this explanation was given:

NCA: *“...we prepare the prepare our budgets here annually...no one prepares it for us...but as you know for many governmental institutions, our budgets are subject to the approval of the board and our ministry, which is the Ministry of Communication”.*

The responses given by GRA and NCA, indicate that their approach to determining their budget does not encourage regulatory independence as (Crocker & Masten, 1996) posits that financial autonomy gives regulators the power to conduct their designated responsibilities without interruption thus increasing the confidence to discharge their duties. This limits the regulator’s ability to conduct their regulatory obligations without undue interference.

Other regulators indicated that there is no interference in determining their budget for the year. Specifically, DPC was found to have some form of financial autonomy in determining its budgets on the grounds that the commission is able to internally generate income from fees collected when data collectors register with the commission. A small percentage of revenue generated goes to the Ministry of Communication and the commission is occasionally supported by the Ministry of Communication and the Ministry of Finance until stricter enforcement of their Data Protection laws. This can be found in the explanation given below:

DPC: “Here in DPC we generate our revenue independently as people register there is a fee that they have to pay... sometimes the ministry of Finance also assists us because we just started”

Based on the response given by DPC, it indicates that the institution’s approach in relation to determining their budget encourages regulatory independence. This is due to OECD’s (1997) paper which identifies the benefits of financial autonomy for regulatory independence. They indicate that that financial autonomy gives regulators the power to conduct their designated responsibilities without any form of interruption. This ultimately increases the confidence to discharge their duties (Tijjani, 2014). This encourages the DPC to conduct its regulatory obligations without undue interference from other institutions or individuals.

4.3.1.2 Ability to Make Independent Decisions

Findings indicate that most regulators of e-commerce are not able to make decisions on their own. Such regulators are able to make decisions that have been approved by the respective ministries that they operate under. GRA for instance is accountable to the Ministry of Finance and key decisions would have to be channelled to them for approval. This was explained by the respondents as follows:

GRA 2: *“GRA can only make decisions to some extent...but when it comes to key decisions, we have to consult with the Ministry of Finance....as far as e-commerce is concerned, GRA has not been able to make a firm decision on how to regulate e-commerce business...looking at the way e-commerce can be... unless they come to our offices.”*

GRA 3: *“GRA is a body that is under the Ministry of Finance, so we don't do things in isolation. We are accountable to the Ministry of Finance. In terms of independence ...we are accountable to them, so we are not independent, but we are dependent on the Ministry of Finance...and their decisions and their laws affect us directly... we comply with whatever their directives are.”*

GRA 4: *“...the GRA takes independent decisions on operational decisions over the period...The Ministry of Finance and the board sits and come out with targets which are given to the Commissioner General to meet”*

One respondent went ahead to consider the role that other stakeholders of e-commerce play in their ability as an institution to regulate e-commerce effectively. The unavailability of information is identified as a barrier that affects GRA's ability to make such decisions. This is indicated in the response given:

GRA 1: *“Not really because GRA cannot independently sit and make such decisions even though the law mandates us to ... but this can only be done when we are able to bring on board the telecommunication providers because of disclosures ...I think they also think they have a duty to not disclose customers business or transactions ...”*

Responses from NCA also indicate that the institution relies on the Ministry of Communication to make important decisions in regulating e-commerce. A two-way communication exists where the Authority periodically sends reports to the ministry and receives final authorization for decisions to be made. This can be found in the response given:

NCA: “we prepare reports on a quarterly basis...reports which are prepared is also subject to the approval of the Ministry of Communication...so although we are an authority we are still under the ministry and we are subject to them”

Other responses gathered indicate some form of independence in decision-making for other regulators. For instance, responses from DPC indicate that they are able to make decisions without the prior approval of the Ministry of Communication under which they fall under. Activities and decisions are communicated by way of quarterly reports which are sent to the Ministry of Communication. This was explained by the respondent as follows:

DPC: “ ...yes, we are an independent body so we are able to make decisions on our own because we have been given that mandate to make decisions without approval from the Ministry of Communication... we still have to report to the Ministry of Communication ...we only make them aware of the decisions made”

Hellman et al. (1999) and OECD (1998) indicate that independence in decision-making is necessary to attain good regulatory governance practice. In view of their studies, it appears the GRA and the NCA may struggle to arrive at good regulatory governance since major regulatory decisions in relation to e-commerce would have to be approved by the ministries that the

regulators operate under. The responses from DPC on the underhand, give a strong indication that the institution can achieve good regulatory governance since they are able to make independent decisions.

4.3.1.3 Ability to Sanction Non-compliant Businesses

Responses indicate that the regulators have the ability to sanction e-commerce businesses that fail to comply with set regulations by the institution. Although the nature and extent of sanctions vary from regulator to regulator, the aim of such sanctions is to deter other businesses from doing same. Although there is a consensus that e-commerce businesses that failed to comply with the tax laws are sanctioned, the specific responses were mixed in their approaches for sanctioning. Majority of responses given indicate that the same sanctions that apply to other forms of business also applied to e-commerce as well. This was indicated in the responses below:

GRA 1: *“The sanctions are the same for every business...because the law says that every income ...whether the worldwide basis... every income you make you are expected to pay tax”*

GRA 2: *“...there is a provision in the tax laws on e-commerce ...but it seems there is no particular sanction for them...so the same laws that apply to any business can also apply to them. ...when you read the tax laws you will find the punishments for any offence like for the penalties and others.”*

GRA 3: *“We are able to sanction businesses... the provision of the tax laws allows us to apply the due punishments for disregarding the laws. For e-commerce for instance the general sanctions that apply to other business.... also applies to them... the tax laws are for all to comply with.”*

Another respondent from the GRA explained that although the tax laws were not specifically sanctioning e-commerce entities, there were a number of international tax laws that GRA applied which had indicated the due punishment for not applying the tax laws appropriately. Specifically, tax laws such as the Double Taxation Agreement and Exchange of Information Agreement were mentioned. This can be found in the response below:

GRA 4: *“...the Double Taxation Agreements and the Exchange of Information Agreement may have sanctions and procedures for not following the provision in the agreement. Some sanctions can vary from penalties, fines, interest payment...abrogation of business...”*

The responses given by the DPC indicate that the commission is able to sanction defaulting entities by way of fining the business or data controllers directly or by allowing the courts to decide on an appropriate compensation from the data controller to the individual or the data subject who has suffered damage or distress due to the contravention by a data controller of the requirements of the Data Protection Act. This is explained by the respondent:

DPC: *“We are able to sanction businesses directly and indirectly. We are able to sanction business directly per the Data Protection Act... the sanction is based on penalty points so based on the penalty points, the final amount to be paid is computed for the entity to pay...if the breach causes distress, the person can follow through from the data protection to the court... with this other option, the customer is allowed to directly sue the entity that is not going in accordance with the data protection laws and the person may receive settlement when they win... also, another approach we use as Data Protection Commission is to warn people on giving their personal information to the business, since doing so may be at their own risk.”*

NCA also indicated its ability to sanction businesses. Their responses indicate that a document is in place that clearly indicates the sanctions that applied to businesses for misconduct. This is indicated in their response:

NCA: *“Yes...NCA can sanction businesses...we even have a schedule of penalties documented which clearly stipulates the appropriate sanctions for non-compliance that even the businesses are required to know once they intend on getting a license from us”.*

In consideration of all the responses from the respondents, it indicates that the regulators have the authority to sanction businesses. In consideration of Large's (2003) study which suggests that an independent regulatory body should be able to sanction entities engaged in improper or prohibited conducts, we can argue that the regulatory institutions indicate some form of regulatory independence.

4.3.1.4 Authority to Overrule Sanctions Limited to the Court of Jurisdiction

Sanctions given by the regulators of e-commerce are only overruled by the court of law. This finding was noted from the responses gathered from the interviews conducted on the regulatory governance of e-commerce. GRA for instance indicates that the law courts can give judgement based on the interpretation of the tax laws used in the assessment of the taxpayer. This is indicated in the following responses given:

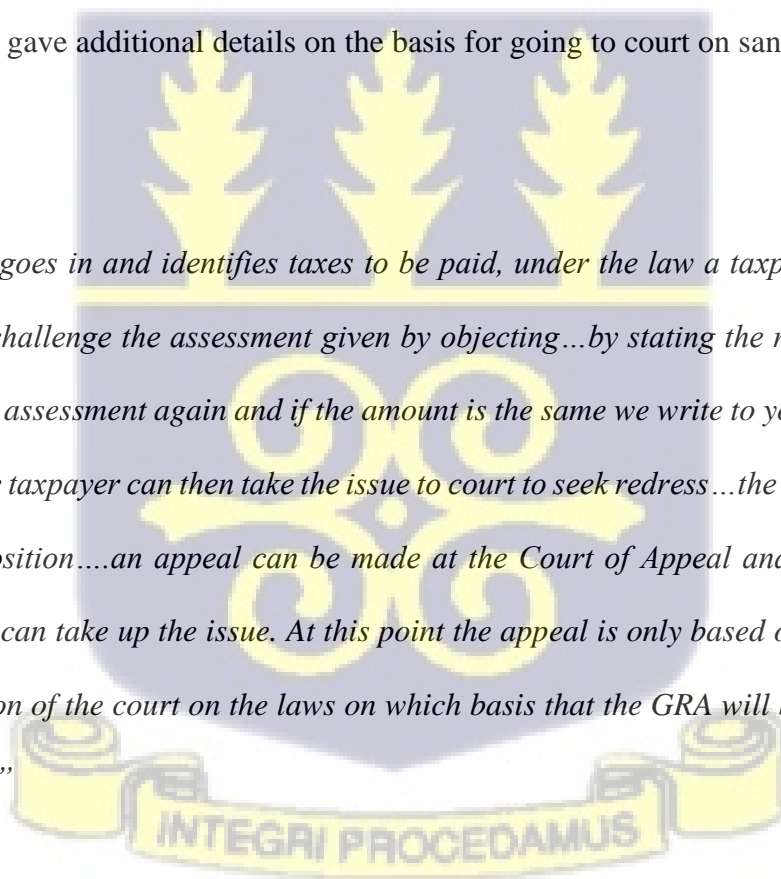
GRA 1: *“...for us, we can ask you to pay a penalty for late payment... but no other institution can stop us from enforcing the law...the Ministry of Finance cannot step in on your behalf...because we have been given the mandate and no institution can interfere with this...unless you take us to court.”*

GRA 2: *“The sanctions given by the GRA is final, no institution can cancel the rulings we give, unless of course you follow due procedure as stated in the Administration Act... this can go as far as the law courts. It is there that the assessment may change. This is for all forms of business and applies to e-commerce too”*

GRA 3: *“Actually, it is only the law courts can overrule sanctions given by the GRA...this is even stated in the tax laws...there are due processes that must be followed to even have that option...this is all in the tax laws.”*

One respondent gave additional details on the basis for going to court on sanctions levelled to entities:

GRA 4: *“GRA goes in and identifies taxes to be paid, under the law a taxpayer has sixty to ninety days to challenge the assessment given by objecting...by stating the reasons...another person does the assessment again and if the amount is the same we write to you to reaffirm the assessment. The taxpayer can then take the issue to court to seek redress...the court may accept or reject the position....an appeal can be made at the Court of Appeal and then finally the Supreme Court can take up the issue. At this point the appeal is only based on the grounds of the interpretation of the court on the laws on which basis that the GRA will be forced to redo the assessment.”*



The DPC and NCA also had similar responses in relation to the level of authority to overrule sanctions. It was found that the court can overrule on an issue of misconduct by e-commerce entities raised by DPC and NCA. This is indicated in their responses below:

DPC: *"... one can take the business which has breached the data protection laws to court...so if the ruling is against the individual who took the person to court, then you can say that the courts has overruled whatever case the person presented...even with the penalties given, one can go to the law court.no other institution can overrule the penalties unless through the law courts."*

NCA: *"...[sanctions] can be overruled by the court... they will determine if the sanctions are within the confines of the contract and if it does, the sanctions will still hold...if not then they overrule... the Ministry of Communication cannot intervene in such a matter"*

The responses give an indication of the effectiveness of the regulatory institutions in this regard. This ensures that no other body should have the authority to overrule sanctions given, except for a court of competent jurisdiction, thus encouraging the regulatory body to be effective (Kaufmann et al., 2003; Tijani, 2014).

4.3.1.5 Authority of Regulator to Independently Recruit, Deploy, Promote and Discipline Staff

Findings indicate that the regulatory institutions can independently recruit, deploy, promote, and discipline staff of their respective entities. The Ministry has no influence on the staff selected during the recruitment process. Most responses also indicate the presence of a manual that guides staff and specifies appropriate sanctions depending on the severity of the misconduct. This is indicated in the responses below:

GRA 1: *"...we can recruit on our own without another institution... we don't outsource...we do the interviews ourselves and we also promote ourselves. The Ministry of Finance also plays a*

role...for some of the higher positions...as you may know, our head must come from the government of the day...but we handle everything ourselves.”

GRA 2: *“...we have the ability to recruit, but usually the Ministry of Finance grants the approval for us to go ahead to recruit. For the promotion, we do that to some level...the remaining positions is influenced by the party in government. For discipline, we have a code we have to follow”*

GRA 3: *“...the recruitment is also internal we don't outsource it... we do it ourselves...it is done is by the GRA...everything is done in-house...and recruitment is based on merit...so we go through the usual means like the mass media like newspapers...usually newspapers is what we use to advertise to get people who are qualified for the position. For disciplining staff too we have something we call...CBA, that's a Collective Bargaining Agreement... we have it internally, these are rules that we the employees of GRA need to abide with ...so that if you have been found to have contravene any of them you are sanctioned because it spells out what is exactly you are supposed to do. If you go against what you are supposed to do the kind of penalty or sanction you attract is there ...so those are the things done and it has been effective over the years...I will say that a number of staff who have been found in such situations... it has brought about court issues because they have to send the issue to court to rectify it...it takes a long time.”*

GRA 4: *“yes, it is, apart from the CG and the other commissioners we have what you call the support service division. They are in charge of the non-core aspect of GRA like the staff recruitment, administration and the accounts...it is up to the staff support division to review the staff strength of GRA and make a case to the CG to liaise with the Board of Directors and*

the Ministry of Finance and make a compelling case to conduct their core mandate... For promotion and disciplining, once again the support service division is also in charge of monitoring performance... they come up with a Collective Bargain Agreement on the requirements for the promotion....they also have a disciplinary procedure for defaulting staff for misconduct and sanctions are also serve as a deterrent for others... we also have code of ethics... ”

DPC: *“We as the Data Protection Commission we can independently recruit our staff...we do not have any interference from the Ministry of Communication or any other institution for that matter.”*

NCA: *“Recruitment and promotion is done by the NCA for some time now... Disciplining is based on work ethics ...the HR manual guides the institution.”*

OECD (2002) suggests that regulators, as part of their regulatory capacity, should have some authority over certain areas of their staff. This includes the area of recruitment, deployment, promotion as well as disciplining of staff as it is vital in achieving regulatory objectives (Tijjani, 2014).

4.3.2 Regulatory Accountability of E-Commerce

4.3.2.1 Permits: Clarity, Availability, and Compliance with Set Processes

Broadly, the regulatory institutions interviewed indicate that their guidelines to obtain permits with them had clarity and were available on various media platforms to make it accessible. Also, they ensured that that as an institution, they follow the set process for obtaining such permits. Some of the responses given were as follows:

DPC: *“The guidelines is on our website...details like the Tax Identification Number and other questions may be asked to help us determine whether or not we should give you the certificate and the fee you should pay...once a while we publish in the newspapers on what we do as Data Protection Commission...all the processes are followed for every person that registers with us”*

GRA 1: *“...our guidelines have clarity...even if you do not understand we have the staff to explain things to you...anyone can walk in here for assistance...our website also gives details on how to register with us...”*

GRA 2: *“Once you want to register with us as GRA, you can walk here and we will assist you...also if you go to our website...you can find the way to register the business over there. For its clarity...we can say it is clear for all to understand.... for e-commerce, there is no special registration for it...this applies to all forms of business that we have here in Ghana.”*

GRA 3: *“Our guidelines for registering with us is quite clear...even if you go to our website what you need will be there...also it is in a manner that everyone can understand but when in doubt...they can always come to our offices for help.”*

GRA 4: *“If you want to register with us, the procedures to register is published on our websites...occasionally we publish in the newspapers and other media outlets.”*

One response was specific in indicating the source of the requirements needed to obtain the requirements for interested businesses:

NCA: “...requirements must be met to obtain a license... when you go to our website www.nca.org.gh and you would see the requirements...so you are prepared when registering”

The ability of the regulators to demonstrate some form of clarity in guidelines used to obtain permits and ensure availability to the public suggests that regulatory accountability is better achieved (Das & Quintyn, 2002). This was arrived at considering the responses given as well as relevant literature sighted.

4.3.2.2 Communication to Higher Institutions [Parliament]

The regulatory institutions interviewed indicated that communication to higher institutions, specifically the parliament is done through their various ministries. That is to say since each regulatory institution is under a particular ministry, the institution is generally represented by the ministry, thus communicating to parliament through the ministries. This is indicated from some of the responses given during the interview:

DPC: “We are under the Ministry of Communication; we give quarterly report to the Ministry. When it comes to urgencies, like things that that we need, we communicate it.”

NCA: “We communicate through the Ministry of Communications to the parliament...we also have a Parliamentary Select Committee on communications and once in a while they come to see what we are doing”

GRA 1: “We do communicate to parliament, but that is through the Ministry of Finance. Since we are under them and we send them reports, they are better able to communicate to parliament on our behalf.”

GRA 2: “... we are under the Ministry of Finance...as you may be aware of, we communicate to them through reports. We send these reports to the Ministry of Finance, the ministry then communicates to parliament on our behalf...you see that during budget readings the Ministry would provide figures on taxes generated...so the Ministry of Finance is well aware of what is going on here in GRA.”

GRA 3: “GRA reports directly to the Ministry of Finance because we are under that Ministry...so it is the Ministry that communicates directly with parliament. So, you can we say we communicate to parliament in a way. So, I think we are accountable to both the Ministry of Finance first, followed by parliament and then the general public.”

GRA 4: “The GRA mainly communicates with the Ministry of Finance in this regard. It is rather the Ministry that communicates to parliament. So, in one way or the other, we are able to get something across to parliament.”

The existence of communication by regulators to an oversight institution such as the Parliament of Ghana is an indicator of some form of regulatory governance as specified in the study of Tijjani (2014).

4.3.2.3 Disclosures to the General Public

Various media are used by regulators in disclosing the nature of activities to the public. While others used a good mix of various platforms, others took to traditional media platforms like newspapers and websites as well as social media to educate the public. Overall, the regulators ensure that the public is aware of their activities. Responses given to that effect include the following:

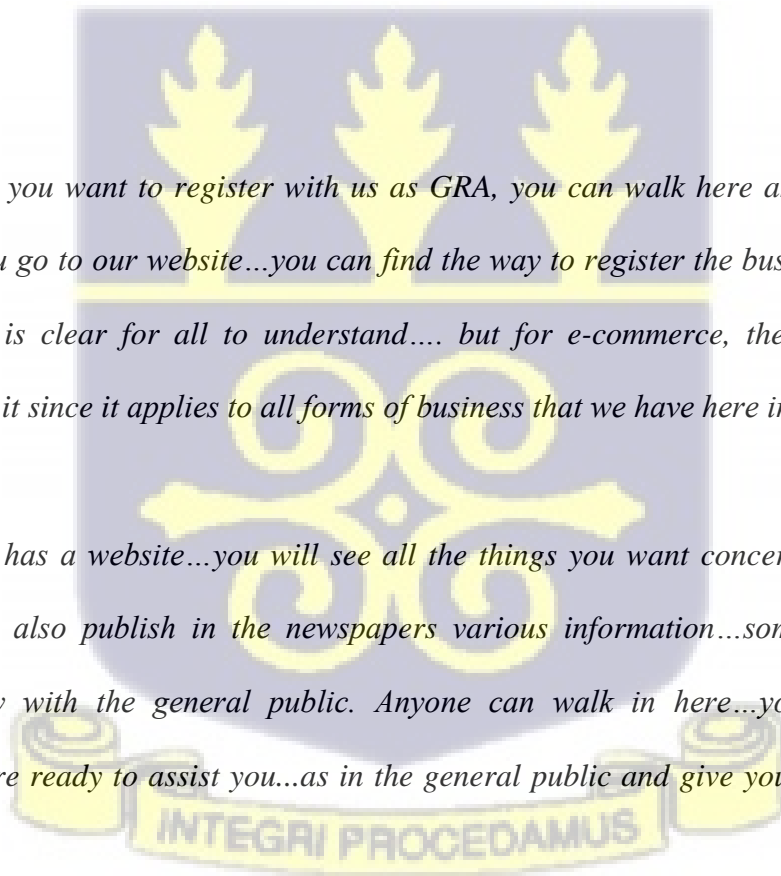
DPC: *“From time to time we educate the public ...we offer some stories on data protection, we upload...on Facebook and twitter we are there.... we post like once in a month...”*

NCA: *“we have a website where you can find information about us...we also do outreaches on what NCA does and how to lodge complaints...for such complaints, its more on issues like slow internet and wrongful deductions...”*

GRA 1: *“We engage the public a lot... anyone can walk in here and be assisted...our website is also there so anytime you need any information you can get it there...even the newspapers we sometimes put some information there for the general public to be aware of what we are doing here.”*

GRA 2: *“Once you want to register with us as GRA, you can walk here and we will assist you...also if you go to our website...you can find the way to register the business over there. We can say it is clear for all to understand.... but for e-commerce, there is no special registration for it since it applies to all forms of business that we have here in Ghana.”*

GRA 3: *“GRA has a website...you will see all the things you want concerning us and our operations...we also publish in the newspapers various information...sometimes we even engage directly with the general public. Anyone can walk in here...you see our staff around...they are ready to assist you...as in the general public and give you the information you need.”*



GRA 4: *“The activities of the GRA is published on our website...once in a while, we go in for the newspapers and other forms of media platforms. Defaulters are also published there, for both individuals and businesses so the public can see we are working.”*

The presence of this is an indication of better regulatory accountability which is consistent with (IMF, 2004; OECD, 2002) as their studies suggest the disclosure of regulatory activities to the general public and not only the executive arm of the government promotes better regulatory governance.

4.3.2.4 Disclosure of Non-Compliant Entities

Generally, malpractices of e-commerce are disclosed by their respective regulators. This is done using approaches such as rankings, warnings to the public, and distress actions. By such disclosures, the public is aware of the specific e-commerce businesses which are failing to comply with set regulations specified by the regulator for proper action. Responses given in the interview were as follows:

DPC: *“...once you are not complying, we would communicate to the public that it is unsafe to disclose your personal information to them and that you do so at your own risk”*

GRA 1: *“Sometimes in the newspapers you see a list that GRA has prepared indicating the defaulters to the tax laws...even sometimes on TV you will see us locking shops or businesses with big locks so that everyone will know you are not fulfilling your tax obligations.”*

GRA 2: *“...we disclose the malpractices of businesses generally not only for e-commerce...even the number of e-commerce businesses who have registered with the GRA is limited. As an example, I cited that our office does not have any e-commerce taxpayers.”*

GRA 3: *“we occasionally disclose people who are not complying with the tax laws...not just e-commerce...the laws are meant to be followed by all so if you do not follow it then we will have to find ways of getting the tax...so we can send you a letter ...then we may choose to inform the general public... but we are supposed to follow the tax laws”*

GRA 4: *“ ...if a taxpayer is refusing to pay the taxes after several reminders the law gives us a mandate to do a distress action...we get the police to help to lock the place up...to prevent further operations...TV stations or newspapers may be invited to cover that story.”*

NCA: *“we issue out assessment reports quarterly on the performance of businesses registered under us...the quarter one report is out now on the NCA website...you can narrow down to your district to see which network is working well”*

4.3.2.5 Disclosure of Revenue Generated to Stakeholders

Responses given during the interview seem to indicate that the revenue generated by the regulators is included in revenue generated in their respective ministries that the regulators operate under. This is then included in the annual budget readings done every year by the Minister of Finance on behalf of the President. This is due to the fact that these regulators are public institutions that serve under their respective ministries. Responses given to that effect include the following:

GRA 1: *“Our revenue is known by the general public and all other stakeholders...the budget is read every year, so the public is aware of how much we generate for every year.”*

GRA 2: *“Revenue generated by the GRA is communicated to the Ministry of Finance... we send periodic reports to the Ministry on the taxes collected. It is then the Ministry that discloses the total taxes collected at the end of the year to parliament.”*

GRA 3: *“Since GRA is under the purview of the Ministry of Finance, we report all taxes that we have received to the Ministry...we do this throughout the year...we are in constant communication with the Ministry...so monies collected are known and disclosed to the Ministry of Finance. Other stakeholders are able to know the amount generated by us through the budget readings every year.”*

GRA 4: *“...every year, the revenue generated is included in the budget read to the parliament and the general public...so all revenues generated is known by the ministry and the general public”*

DPC: *“Although we are able to generate revenue on our own... we still disclose the monies generated to the Ministry of Communication since we are under the Ministry. This is included in the quarterly reports I mentioned that we send...to the Ministry of Communication.”*

NCA: *“All the revenue generated here is communicated to the Ministry of Communication through the reports we prepare to the ministry.”*

The presence of this is an indication of better regulatory accountability which is consistent with the studies of (Botero et al., 2004) which support revenue disclosure as an important mechanism of regulatory accountability.

4.3.3 Regulatory Transparency of E-Commerce

4.3.3.1 Consultation of Legitimate Stakeholders in Major Regulatory Decisions

All regulators indicated that major regulatory decisions are made based on extensive consultations with stakeholders. However, the scope and nature of their stakeholders differ from institution to institution. GRA for instance has varied responses as some responses indicate that the institution consulted the Ministry of Finance and Directors of GRA for decision making, while others included the input of the public in the consultation process. This is indicated in the responses given:

GRA 1: *“...with our tax population we engage them in the newspaper. I think we have a program coming on next week.... So once in a while we engage them, we educate them and at the end of the year to we organize press conferences on the targets we have been given and the amount that we collected”*

GRA 2: *“For e-commerce, we are now trying to get them on board. The e-commerce companies that pay tax are a few...so for decisions on e-commerce...the board will have to consult with the Ministry of Finance to find the way forward.”*

GRA 3: *“... the board makes all decisions, but we consult with the Ministry of Finance when it comes to making regulatory decisions. More often, it is the Ministry of Finance that makes the bigger decisions which are then passed on to the board who then make decisions based on Ministry of Finance has given.”*

GRA 4: *“...proposals for changes in tax laws come from the Ministry of Finance ...in collaboration with the Board of Directors and the Commissioner General.”*

NCA also indicated that they engage the stakeholders such as mobile operators, the general public, and consumers are consulted in major decisions. This is indicated in the response given:

NCA: *“A consultative process is done in relation to our dealings ...before decisions are made, broad consultations are done with all appropriate stakeholders so that the laws will be all inclusive...regulations that affect operators...before drawing, we agree with the regulators, civil society organizations...to give their input”*

The responses of the regulators indicate the presence of consultation in decision-making, which is relevant in regulatory transparency (Baldwin et al., 2012).

4.3.3.2 Transparency in Regulatory Activities

There is a general consensus by regulators of e-commerce in ensuring transparency of their activities. Methods used by DPC indicate some efforts to be transparent, although the frequency is quite limited. The respondent asserted that:

DPC: *“By user participation we encourage transparency and user participation by being open to the public...once in a while we publish in the newspaper and we go to the offices... we also post on our websites on how to protect your personal information... also, we are going to start enforcement very soon and we would also give public notice to that effect...registration can also be done online...this makes it possible to register anywhere. All information required to register is available on our website... if you don't have internet access you can still come here to our offices and we will provide you with what you need to register like a computer and others to do so”*

GRA 1: “... we ensure transparency by engaging with the public...we also use websites and newspapers to make them aware of what we do”

GRA 2: “The things we do here is available...we have a website and sometimes GRA posts in the newspapers...so if you want to register, all you need is on our website...so I can say we are transparent.”

GRA 3: “We have this information on our websites...with the websites anyone can have access to this information...the activities of the GRA is known to all but we still use other means to communicate with them.”

The NCA also indicated that transparency is ensured in their operations from the response given:

NCA: “...we communicate with the general public on our website where we upload useful information, we have the laws that mandate us to do our work...there is a link on customer care for the general public or interested persons can get additional information on our work...”

The responses given are not specific to e-commerce regulation as the regulators believe that the same communication platform will be used to communicate all regulatory activities. In consideration of the studies of Baldwin et al. (2012), it indicates that regulators have made general efforts to encourage transparency and no additional efforts have been made in the area of e-commerce regulation and monitoring in spite of its peculiarities.

4.3.3.3 Transparency in Approval Process to Prospective Entities

Granting approvals to prospective e-commerce entities is found to be transparent for all the regulatory institutions based on the responses given. Some methods used to ensure transparency include the disclosure of documents required for registration on their websites as well as the procedure to apply for permits and licenses online. This is indicated in the response given by DPC:

DPC: *“...you see when you go to our online platform for registration and you enter your Tax Identification Number... there are some basic questions that we ask you...we ask of your institution, what does your institution do, what type of personal information do you collect what is your annual turnover...all that is letting the organization or the individual inform us on what they do...we also ask of the security in place to secure the personal information... and if this does not meet the standardized requirement for securing personal information we will not give you the certificate...we will reject it...and later on we call you or e-mail you that you have been rejected and based on the information given, we correct you on what you are supposed to do.”*

A similar response was given by the NCA in their approach to ensure transparency:

NCA: *“A review process is done to ensure that you comply with the requirements stated on the website...a checklist is used for the assessments done and the results is communicated...also, when the resource is not available, the license cannot be given”*

Responses given by the GRA are in a similar fashion, as responses indicate transparency in their registration process. This is indicated in the following responses:

GRA 1: *“The GRA has always been transparent and will continue to be transparent...every taxpayer that comes to our offices will go through the same process for registering...so we are transparent”*

GRA 2: *“...GRA is open to anyone that comes forward to register...we will direct you as to what you should do to register. We don't send anyone away...we do the same thing for everybody, so e-commerce is definitely part.”*

GRA 3: *“Our processes for getting registered is clear and we apply it on all our taxpayers. Every person that walks in here will have to register the same way.”*

Based on the responses above and with literature (Tijjani, 2014), it indicates that the presence of transparency in giving licenses, thus promoting regulatory transparency.

4.4 Perceptions of Regulatory Independence, Accountability, and Transparency of E-Commerce

This section considers the perceptions of civil society organizations as well as the practicing firms on the regulatory independence, accountability, and transparency of e-commerce. In particular, this study considers various responses gathered over the interviews conducted.

4.4.1 Perceptions of Regulatory Independence of E-Commerce

4.4.1.1 Showing Financial Autonomy in Determining Entities Budget

Responses indicate that regulators, particularly GRA is perceived to not have autonomy in determining their annual budgets. The Ministry of Finance ultimately determines the budget of the GRA. Reasons cited for this were that GRA is responsible for the collection of taxes on

behalf of the country and the ministry would have to have oversight over their affairs to ensure that tax collection targets are met. This is indicated in the responses below:

Deloitte 1: *“The GRA does not demonstrate that they have financial autonomy, it is clear that they are subject to the Ministry of Finance...for instance in the determination of their revenue targets...some level of approvals is granted by the Ministry to enable GRA operate as they are.”*

Deloitte 2: *“The GRA performs under the instruction of the Ministry of Finance...the government has a full hand in its operations.”*

KPMG: *“For financial autonomy, the GRA is subject to the Ministry of Finance, only a percentage of revenue generated can be retained by them. They would have to prepare a budget which has to be approved by the Ministry of Finance so I would say they are not financially autonomous. For instance, if you compare the GRA to EC, the EC is more autonomous as they can determine how much they need without any form of interference”*

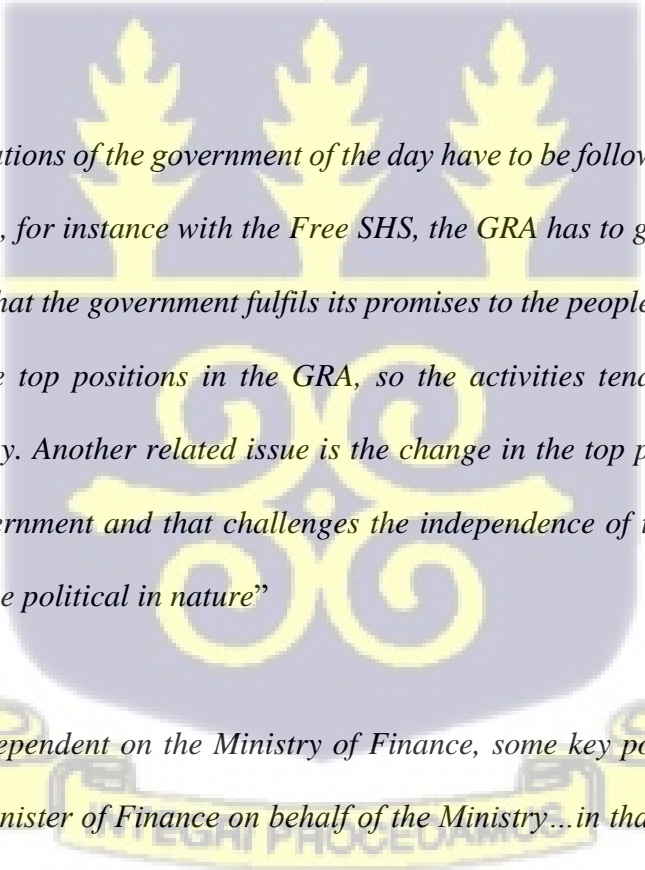
PwC: *“GRA is subject to the Ministry of Finance, they have to include the input of the Ministry of Finance in the preparation of their budget...the role that GRA plays in the collection of the nation’s revenue makes them dependent on the Ministry in determine their budget.”*

GIT: *“... since they are a governmental institution, they are subject to the Ministry of Finance and the Parliament. The Ministry of Finance determines how much should be spent in the budget and parliament must give approval to the budget.”*

The responses given indicate that regulatory independence is perceived to be on the low. Taking into consideration the studies of (Crocker & Masten, 1996), where they indicate that the presence of financial autonomy gives regulators the confidence to carry out their regulatory activities, may be absent based on the perceived responses.

4.4.1.2 Ability to Make Independent Decisions

All responses indicate that the GRA had no ability to make independent decisions in any area of regulating businesses. One basis for this perception is centred on the appointment of some key positions by the Minister of Finance for the purpose of meeting the revenue targets of the government in power for national development. Details of the responses given are indicated below:



KPMG: *“The expectations of the government of the day have to be followed, and this limits the freedom the GRA has, for instance with the Free SHS, the GRA has to generate more revenue to be able to ensure that the government fulfils its promises to the people. Also, the Ministry of Finance appoints the top positions in the GRA, so the activities tend to lean towards the government of the day. Another related issue is the change in the top position of the GRA at every change in government and that challenges the independence of the institution as such positions have become political in nature”*

Deloitte: *“ GRA is dependent on the Ministry of Finance, some key positions in the GRA is determined by the Minister of Finance on behalf of the Ministry...in that sense we cannot say that the GRA is independent since the key persons who are appointed would also have to serve the interest of those who appointed them”*

Deloitte 2: “...there is no possible way that the GRA can make independent decisions...because it is the Commissioner General who would ultimately make decisions on behalf of the institution, but even they are appointed by the government of the day and the person would be subject to the board which also comprise of government appointees”

PwC: “...The GRA, like I indicated is subject to the Ministry of Finance, they depend on the directives of the ministry with regards to their operations and policy guidelines... the decision makers are mainly appointed by the Minister of Finance since the Minister is responsible for ensuring that resources are available to meet the targets of the ruling government.”

One response however indicates that GRA lacks the capacity to make independent decisions due to the unavailability of resources to tax e-commerce businesses. This is indicated in the response below:

GIT: “...like I said earlier, GRA does not have up to forty percent of the resources to take up the task of taxing e-commerce businesses.”

Responses given indicate that the regulator is not perceived to be independent in making decisions due to their reliance on the ministry the regulators operate under. This affects the ability to attain good regulatory governance practice as indicated by Hellman et al. (1999) and OECD (1998).

4.4.1.3 Ability to Sanction Non-Compliant Businesses

Broadly, responses given indicate that regulators, especially the GRA have the ability to sanction businesses that fail to comply with the set regulations. However, in respect of the sanctioning of e-commerce businesses, the GRA has issues of enforcing such authority on such

businesses considering the issue of the identification of such businesses for tax purposes.

Responses given are as follows:

KPMG: “...once the entity cannot be identified it would be difficult to trace, it would equally be difficult to collect the taxes as well and you cannot be punished for something if you cannot be traced. It is difficult to hold people accountable and this is mainly because of the intangible nature of their processes”

Deloitte 1: “...the tax laws for example, allows GRA to charge penalties on businesses for late filing of returns among many others...but that is for any other business...there is really no separate sanctions for e-commerce businesses...is may be why such businesses are getting away with it.”

Deloitte 2: “All e-commerce institutions are liable to sanctions since they are required to file their tax returns...GRA has the authority alright but have difficulty in tracing them”

PwC: “Our Tax laws grants the GRA with the ability to sanction businesses...GRA has some authority in that regard”

The responses indicate that the regulators are perceived to have the authority to sanction businesses that fail to comply with regulatory guidelines as suggested by Large’s (2003) study. This indicates that the regulatory institutions do have some form of regulatory independence. Although the regulators have such authority, they are not able to fully exercise them due to the limitation of tracing e-commerce entities.

4.4.1.4 Authority of the Institution to Independently Recruit, Deploy, Promote, and Discipline Staff

Findings indicate that the GRA has some limitations in its authority to recruit, deploy, promote, and discipline staff, especially in respect of doing so independently. This may be a result of the inability to make independent decisions and the reliance on the Ministry of Finance. Key positions especially are perceived to be based on appointment by the ministry, while other recruitments are approved by the board. These have been highlighted in the responses below:

KPMG: “...the GRA would have to get approval from the Ministry of Finance on the number of people to be recruited. It does not depend on the GRA alone to do recruitment. However, for disciplining staff, they have autonomy to do so. For promotions, there is autonomy to a certain level, after which the GRA would only be limited to recommending to the Ministry of Finance, as they would have to determine who fills those slots”

Deloitte: “... key positions in the GRA is determined by the Minister of Finance on behalf of the Ministry- so that is not independent recruitment, in the sense that GRA does not have total control of this process. However, for the other roles in the GRA, they appear to have some level of control ...there may be some limitation especially as you get higher in the ranks since it may become political at some point...for discipline , they may be a code of conduct they abide by just like any other organization”

Deloitte 2: “...from our interaction, you can see that, overall GRA is not as independent...there is some level of interference from the ministry in most of the areas, especially when it directly affects the expected output of the GRA”

PwC: *“For areas such as recruitment, from all indication, there is some form of limit that the GRA has in independently recruiting, after which the Ministry has a say...same applies to the promotions as well...the Ministry will have a say in some promotions...the key ones I mean.”*

GIT: *“In terms of recruitment of personnel, the Board of Directors should be able to recruit personnel.”*

Responses given suggests that the regulators are perceived to not to have authority over certain areas of their staff in a supervisory or regulatory capacity as suggested by OECD (2002) due to the involvement of the Ministry and the Minister of Finance, thus affecting the achievement of regulatory objectives by the regulators.

4.4.2 Perceptions of Regulatory Accountability of E-Commerce

4.4.3.1 Permits: Clarity, Availability, and Compliance with Set Processes

Perceptions on the clarity of guidelines given by the regulators of e-commerce were sought from the practicing firms and civil society organizations. The responses from the interviews conducted indicate that there is some clarity on the guidelines given by the regulators. However, they added that this still had some room for improvement. This was indicated in the response given by the respondents:

KPMG: *“GRA is doing well... They also issue directives such as practice notes on their interpretation on how the tax laws should be applied. However, the GRA can do more...”*

GIT: *“They occasionally advertise in the newspapers...that way they are able to reach more people”*

Deloitte 1: *“They are doing well...they use social media apart from the traditional forms of media”*

Deloitte 2: *“...doing well in the areas of the workshops and seminars to educate the taxpayer as having well as the stakeholder meetings during the budgeting period which are organized to discuss the policies and the tax implications of such policies...”*

4.4.2.2 Communication to Higher Institutions [Parliament]

The perceptions of the nature of communication to higher authorities did not differ from the responses given by the regulators. Practicing firms and civil society organizations disclosed in their responses that the regulators are accountable to their respective ministries. Responses included the following:

KPMG: *“the GRA is subject to the Ministry of Finance...they present to parliament on their activities”*

Deloitte 1: *“...it is clear that they are subject to the Ministry of Finance...for instance in the determination of their revenue targets....some level of approvals is granted by the Ministry to enable GRA operate...”*

GIT: *“they are subject to the Ministry of Finance and the Parliament. The Ministry of Finance determines how much should be spent in the budget and parliament must give approval of the budget”*

PwC: *“GRA is subject to the Ministry of Finance, they have to include the input of the Ministry of Finance in the preparation of their budget”*

Regulators are perceived to disclose constitutional activities to an oversight body which happens to be the parliament. The presence of this, according to Tijjani (2014), indicates some form of accountability that would improve regulatory governance.

4.4.2.3 Disclosure of Non-Compliant Businesses

On disclosures of e-commerce malpractices by regulators, the perceptions of practicing firms and civil society organizations indicate that it is difficult for the regulators to identify and punish defaulting e-commerce businesses simply because the regulations are inadequate and not specific enough. One of the respondents explained:

KPMG: *“There has been difficulties in disclosing malpractices because they [GRA] are not able to conduct an audit on such businesses”*

Deloitte 2: *“...you can't really disclose issues of non-compliance if the actual wrongdoing cannot be identified...the perpetrator cannot even be identified...”*

GIT: *“...GRA does not have up to forty percent of the resources to take up the task of taxing e-commerce businesses so the disclosure bit cannot hold”*

Deloitte 1: *“In relation to [tax] audits...name and shame followed when institutions defaulted in tax payment especially after the tax amnesty...they locked offices and published some names”*

4.4.2.4 Disclosure of Revenue Generated to Stakeholders

Revenue generated by regulators has been perceived to be included in the budget readings organized at the end of the year by both practicing firms and civil society organizations. Through that medium, revenue is disclosed appropriately to all stakeholders. One of the respondents explained:

KPMG: *“Revenues are disclosed in the budget readings for the subsequent year...”*

Deloitte 2: *“Taxes collected on behalf of the state is communicated to the general public through the annual budget readings... even before the readings when targets are being met or not, communication is sent.”*

Deloitte 1: *“GRA’s revenue is taxes, revenue collection is on behalf of the country...they have a responsibility to disclose all of such monies collected which they do”*

PwC: *“Revenue, which is in the form of the taxes collected by GRA is communicated to the general public...the reading of the national budget is one of such means that taxes collected are communicated”*

Responses indicate that revenue is perceived to be disclosed by regulators. This indicates the presence of some form of regulatory accountability as indicated in the studies of Botero, et al. (2004) and Chong and López-De-Silanes (2002).

4.4.2.6 Regulatory Accountability – Regulators and Perception of Regulators

The perceptions of the regulatory accountability of regulators of e-commerce differed slightly from the responses given by the regulators themselves. Especially in the area of communication

to higher institutions, disclosure of information to the general public, and the disclosure of revenue generated in a period, we find some corroboration between the regulators and the practicing and civil society organizations.

However, for areas such as the level of clarity of regulations, the regulators' response does not fully harmonize with the perceptions, as responses do indicate some existence of clarity but not in absolute terms, considering the fact that the respondents indicate more room for improvement in the regulator's efforts. Also, specifically in relation to the regulation of e-commerce, the perceptions of the practicing firms and the civil society organizations were clear on the difficulties the regulators faced due to their apparent lack of resources.

4.4.3 Perceptions of Regulatory Transparency of E-Commerce

4.4.3.1 Consultation of Legitimate Stakeholders in Major Regulatory Decisions

The perceptions of practicing firms and civil society organizations differ slightly from the responses given by the regulatory institutions concerning the consultations done for regulatory decisions. The responses given indicate that the regulators do not always consult all the relevant stakeholders in decision-making. The response was consistent within and across respondents' responses. This was indicated in the response given as follows:

KPMG: *"...you have instances where there are no consultations done in bringing up certain laws which lead to difficulty in the application of such laws. In this regard, they have to engage more"*

PwC: *"GRA has more room for improvement when it comes to the consultation of relevant stakeholders when making regulatory decisions..."*

Deloitte 2: *“There are some forums which have been created for consultation by the GRA...to say that it is done for all major regulatory decisions, I may beg to differ...”*

Deloitte 1: *“We have interactions with GRA...but it is not as frequent as it should be”*

Although an important component of transparency has been identified to be consultations (Gilardi, 2005; Jacobs, 2004), it appeared regulators are lacking and had to improve on their approach in doing to improve overall regulatory transparency.

4.4.3.2 Transparency in Entity Activities

Transparency on e-commerce regulation is perceived to be low for regulatory institutions according to the responses given by the respondents. The practicing firms gave strong arguments to the effect that transparency was low, especially in the regulation of e-commerce. This was indicated in the response given:

KPMG: *“Transparency in information given by the GRA is on the low...as we do not exactly what they are doing to close the gap...no publishing of information on how they are targeting such persons, revenue generated, the companies classified under e-commerce, the issues relating to them and what they are doing to resolve them”*

Deloitte 2: *“...there is really not much information being provided by the GRA with regards to this...apart from the provision specified in the VAT Act on e-commerce.”*

PwC: *“... for e-commerce taxation, we have not come across any guidelines specific to the taxation of e-commerce. This is most likely because there isn't any guideline to that effect”*

The responses, in light of the study of Baldwin et al. (2012) suggest that the regulators have made minimal efforts to encourage transparency of e-commerce regulation and monitoring.

4.4.3.3 Transparency in Approval for Prospective Businesses

The process of granting approvals by the regulators has been seen to be consistent across respondents, based on their responses. The general process of registering a business is perceived to be limited to information provided on electronic and print media. The progress status of the registration processes is perceived to be non-existent. No specific response was given on e-commerce under the assumption that all businesses had to register to operate. Some of the responses have been indicated below:

PwC: *“the process for registration is available for all citizenry, especially if you have access to electronic and print media”*

Deloitte 2: *“The process of being registered with the GRA is limited to the information required for registration...there is really no transparency beyond that.”*

One respondent suggested ways of ensuring transparency of regulators, especially for GRA.

GIT: *“to ensure transparency, the effectiveness of the following current methods have to be in place. The issuance of the TIN, the Ghana card, the SSNIT Biometric card and the DVLA biometric system. The effective monitoring of such systems would ensure transparency”*

The responses indicate that the process of registering a business is existent, although limitations existed with regards to accessibility as well as the progress of registering. This, in light of the study of Tijjani (2014) has an overall impact on the level of transparency of the regulators.

4.5 Regulatory Expertise of E-Commerce

4.5.1 Capacity of Entity to Regulate

Findings indicate that the capacity to regulate is varied between and across regulators. Responses from GRA were varied. One of the respondents expressed the issue of limitations of the tax laws during the interview:

GRA 4: *“GRA is limited... the Exchange of Information Agreements are not with every country and the Double taxation Agreement can go only after some taxpayers...GRA is limited in terms of taxing businesses with virtual presence”*

Another respondent also gives insight as to the approach that is currently being used by the GRA in absence of the apparent lack of expertise and a direct plan to regulate e-commerce tip-offs.

GRA 1: *“.... I explained that the GRA has not been able to rope in a lot of them except of course on tip off...as we speak there are a lot of businesses on the net [internet] without paying tax....Once in a while we get this tip off..., GRA is in-house thinking about how to perhaps get access to these people...”*

Other responses from the GRA indicate that the level of expertise to regulate e-commerce is not across all taxpayers offices as the offices which had no e-commerce taxpayers were not able to demonstrate any expertise in regulating e-commerce based on the response given:

GRA 2: *“For GRA as a whole...we may have the capacity to regulate but this is not for all taxpayers’ offices...our office like this... we don't have that capacity. The larger offices may be fully equipped to regulate e-commerce. I am saying this because I am aware that some of them have taxpayers who are e-commerce businesses.”*

On the other hand, one respondent was confident in the ability of GRA to regulate e-commerce on grounds of the recent recruitment done by the GRA. The response is as follows:

GRA 3: *“We are equipped in taxing e-commerce because we have the man power... there was recently a mass recruitment of qualified personnel to add up to the existing personnel ...so it also helps us to go all the areas we couldn't cover in the past... we are also going electronic... we are migrating most of our systems to an online platform so that everything can be easily done and...these are some of the measures that makes the tax collection easier...”*

Other regulators indicated that they have the capacity to regulate e-commerce. This was found in the responses given:

DPC: *“...basically...we regulate them by monitoring their online platforms...we have a lot of websites we monitor...e-commerce is basically business online so we may choose to visit your website...if there are any gaps in the website we will inform you so you can take necessary action to resolve them”*

The responses given suggest that some regulators appear to have the capacity to regulate e-commerce whereas others appear to face some difficulty in regulating e-commerce. In consideration of the study conducted by OECD (2005), good regulatory practices may be

hampered in the absence of capability by regulators, which may be the case for regulators lacking some capacity to regulate. However, this would mean better regulatory practices for the regulators who have the capacity to regulate.

4.5.2 Appropriate Level of Skill of Staff to Conduct Regulatory Activities

Responses given on the presence of adequate expertise to regulate e-commerce are varied across respondents. Some respondents were of the view that their institution has the capacity to regulate e-commerce business while other respondents were of the view that they did not have the adequate expertise to regulate.

For respondents who were of the view that GRA had the capacity to regulate e-commerce their argument in support of their claim during the interview are as follows:

GRA 1: *“...as for the wanting, we want to... the skill required for e-commerce we have it... it's is all about IT and we have an IT department... which can deal with this”*

GRA 2: *“...we don't have the skills here in our office. I think the offices who have some e-commerce businesses as taxpayers may have the skills ...but I am not aware of any in this office. The Large Taxpayers Office may have the skills. We in this office have no e-commerce taxpayers so we don't know how that is dealt with.”*

GRA 3: *“...things that influence the level of skill of staff we can talk about training... training is very important it is core in ensuring the staff performs very well. Also... the level of the mastery of the tax laws like the VAT, the Income Tax laws... the mastery of them enables staff to collect taxes or perform our duties.”*

Strong responses given on the lack of adequate expertise of the GRA, argued that:

GRA 4: "... experience of staff, the level of training and the qualification of staff would be required to regulate e-commerce but that is unavailable".

NCA: "For staff strength, I must say we do have the numbers. We have various departments here which serve various functions to ensure that whatever infrastructure we provide is available...we have the appropriate level of skills to do what we do...like I explained every department has a special role to play to achieve the overall objectives of the Authority."

DPC: "the level of skill of our staff is good...since data protection is new in the system...National Service Personnel, permanent staff, contract staff, Directors...once at the entry level we orient you...we train you to understand what data protection is and how to function in our assigned role...since we have been trained we have the ability to do the work...we are equipped... the only issue may be with the staff strength...our staff strength is poor...for now we are doing what we can with our numbers. "

As Baldwin et al. (2012) confirmed in their study done, skilled personnel were identified to be relevant in their contribution towards achieving better regulatory objectives. The responses of NCA and DPC indicate that regulatory objectives can be better achieved. However, the inconsistent responses given by the GRA indicate that may be some difficulty in achieving regulatory objectives.

4.5.3 Frequency of Training

From responses given on the regulatory expertise of e-commerce, there is no apparent training for e-commerce regulation. Training organized is general and not specific to any particular regulation of sectors of business regulated by the GRA. One respondent explained that various training may be organized based on requirements set by the individual tax staff to achieve their target. This was expressed in the responses as follows:

GRA 4: *“Trainings are mostly frequent. It can be done on weekly, monthly or biweekly... trainings are also organized based on the needs of the staff. Staff are required to set targets and based on that; the skills set to achieve those targets can be done by way of trainings to achieve their targets...”*

GRA 3: *“Our trainings are done I think yearlyit is tied to whatever rank you have...so we have to be trained to be abreast with the latest trends. Apart from trainings, we have seminars which are also part of the training process since we organize trainings, workshops and seminars for our staff. Those ones you have to be called before you can attend.”*

GRA 2: *“Trainings are organized frequently here...we even have one this afternoon. But we don't only have trainings here... we have other forms like workshops and seminars that staff members are made to attend. At least every month we have any of the ones I have mentioned...like the trainings, workshops and then the seminars. Sometimes you can even be sent abroad for some form of training.”*

Apart from the training done to meet the needs of the staff, training is organised frequently in GRA. According to one respondent:

GRA 1: *“I have been in several offices due to transfers and almost every week we do what we call a technical meeting... where a resource person or most often one of us presents on a topic then we all discuss and if there is any information from outside we also discuss it.”*

NCA: *“The trainings organised here is more geared towards the technical staff since they are the core reason why the authority is operating as it is. The other staff members also have trainings but it is not as frequent as the technical staff...for the frequency of trainings it depends on how urgent the issue is...looking at actual frequency, we can say within a quarter we may have one or two trainings.”*

DPC: *“Apart from the orientation we give when you are employed, we have periodic trainings... our training is done in every quarter”*

Although there are trainings organized by regulators that would result in an improved system of regulation and governance (Djankov et al., 2002), more trainings specific to e-commerce should be done to improve upon the system of regulation and governance of e-commerce.

4.5.4 Effectiveness of E-Commerce Framework

Responses given on the current framework for e-commerce regulation are found to be mixed. The causes of inefficient frameworks varied from one respondent to another. One of the respondents' focus was on the lack of availability on information of e-commerce. This is expressed the following:

GRA 1: *“... as for doing that we want tobut it is not that straightforward because the information you require you can't get it if the information is not available to you ...so unless they cooperate, for now we can only rely on tipoff”*

Another respondent attributed the inefficiency of the GRA to the lack of clarity of the tax laws in relation to e-commerce regulation, rendering it inadequate. The respondent explains:

GRA 4: *“The GRA works with the tax laws which are complex in terms of wording and this affects the ability of the GRA to collect taxes...the taxpayer is unable to understand the tax laws...especially for e-commerce, there is a provision in the law to tax e-commerce businesses but there is a problem in interpreting the laws. GRA is simplifying the tax laws to clearly make it possible for GRA to register entities with virtual presence in Ghana.”*

Some other respondents also noted the existence and effectiveness of a framework to regulate e-commerce. This was indicated in the responses given below:

GRA 2: *“I think there is... although our office does not have any taxpayer being an e-commerce business I have not heard of any instance where there were any issues from the audit done...so I would say that GRA is efficiently able to tax e-commerce.”*

GRA 4: *“... they have their own different system and people who are actually established and have permanent structures will also have their own framework.”*

DPC: *“We are trying to work hand in hand with GRA and some other regulatory authorities to get their members to register to us...NPRA for instance has one of their requirements for their licences being a Data Protection Certificate...more and more regulators are including it*

as part of their requirements for their licence to have a Data Protection Certificate...so gradually we are working...”

NCA: *“Our approach in regulating the infrastructure for e-commerce has no issues for now...we can say it efficient since a lot of stakeholders are involved in the processes we have adopted. We consider the general public as well in what we do...we receive feedback or complaints from them and that is helping to shape our approach here.”*

This indicates that regulators are of a view that there is some form of framework guiding e-commerce regulation, however, issues of clarity and lack of information for tax purposes have hindered the full realisation of the mandate as indicated by Djankov et al. (2003) for regulators to protect the public interest.

4.5.5 Measures to Ensure Professionalism and Confidentiality

Ensuring professional and confidential conduct by the GRA has been fully incorporated into the entity’s regulatory activity. Responses given indicate that there is documentary evidence to support this as guidelines are available to monitor conduct. This was indicated in the response given by the respondents:

GRA 1: *“...staff of GRA are guided by a code of conduct which spells out the requirements for conduct....every staff member is bound by the codes, failure to comply comes with punishment which may be suspension, dismissal or any other punishment stated in the codes.*

GRA 2: *“We do have a code that every staff member is to comply with...it is known by all staff and we are aware of the possible sanctions for not following the code...one may be punished*

if found culpable...you can receive verbal queries from your superior or you can even be suspended....”

GRA 3: “... we have guidelines for conduct but also we need to talk about motivation because if our staff are not well motivated...you see because we are dealing with money, they might end up conniving with the taxpayer to harm the state.”

Another respondent cited other mechanisms used by the GRA to ensure professionalism. This is indicated in the response given:

GRA 4: “Staff are encouraged to conduct themselves well and get rewarded with being the best staff and promotions...those who do not comply could face dismissal, temporal suspension or being surcharged with cost of causing financial loss to the state.”

Other regulators had similar responses as well. Responses indicated the presence of a manual for staff and access controls to ensure professionalism and confidentiality. This was indicated from the responses below:

NCA: “...we have an HR manual... it guides the employees of this institution and ensures we have proper work ethics... staff are disciplined appropriately based on the severity of the misconduct and that ensures we all do the right thing.”

DPC: “...we are practising data protection and we encourage our staff to do same. We monitor our staff...we even have CCTV cameras and we have a register...we have policies on how we

gather personal information of anyone who walks in here... when it comes to access, there are some staff who have privileges to access the registration system...”

The regulators’ ability to ensure professional conduct of staff is found to be consistent with the study of World Bank (2003), where the professionalism of regulatory staff members is seen to be vital to improve the credibility of the regulator and ultimately to ensure consistency in regulatory governance.

4.6 Perception of Regulatory Expertise of E-Commerce

4.6.1 Capacity of Entity to Regulate

Responses on the perception of preparedness in regulating e-commerce suggest that regulators may not be fully equipped to carry out their regulatory obligations effectively. Varied responses used to arrive at the finding is indicated below:

Deloitte 2: *“...some attempt has been made by GRA... but it is not comprehensive enough to generate the much-needed revenue for the country”*

Deloitte 1: *“They are not equipped at all... even if you walk to some of their office they may have only one computer that is functioning and the others may be faulty... the new laws attempt to capture such businesses but it is inadequate... OECD is developing a framework to prevent shifting of revenue”*

GIT: *“not all the revenues made can be able to be traced by the GRA because some of them are done electronically”*

KPMG: *“Although the tax laws indicate that e-commerce should be taxed, the GRA is still attempting to work on a framework to address this. It still remains an issue for the GRA...”*

The responses given, in light of literature, indicates that good regulatory practices may be hampered in the absence of capability by regulators (OECD, 2005). Regulators would have to be equipped to better achieve regulatory objectives.

4.6.2 Appropriate Staff Skill to Conduct Regulatory Activities

Responses given on the perception of staff skills to regulate e-commerce indicate that the level of skill of staff is low, especially for GRA. This potentially limits GRA’s ability to regulate e-commerce in an adequate manner to enable the institution to generate enough revenue. This was indicated in the response given as follows:

KPMG: *“The skill set of GRA staff is low in this area of regulating e-commerce...if so, there would have been an approach to address this area”*

GIT: *“E-commerce businesses generally, are taxed just any other business. GRA would need to obtain expert knowledge in this field to tap into e-commerce business to maximise the revenue being generated”*

PwC: *“...GRA would have to improve on that...so that it can enable them collect taxes in a better manner”*

Deloitte 2: *“More has to be done by GRA in this regard...I believe more trainings and consultations can be done to improve their current state.”*

Deloitte 1: *“Resourcing, training and other things are restricted to the urban areas... it is mostly run in Accra”*

Based on the responses given, it appears that the regulators, in relation to good regulatory objectives would find it difficult to arrive at better regulatory objectives due to their perceived lack of expertise and skills (Parker & Kirkpatrick, 2007).

4.6.3 Perception of Current Framework in Regulating E-Commerce

Some practicing firms interviewed indicate that the regulators of e-commerce do not have a strong framework for regulating e-commerce, resulting in inefficiencies in regulating such businesses. They believe that the method currently used is not efficient enough as they lack clarity. This is shown in the responses given:

KPMG: *“...e-commerce businesses see it to be complicated and not clear enough, and not dealing with how they should comply. It affects their inability to determine tax payable... and how to comply with the tax laws”*

GIT: *“They are still making progress to do this although more has to be done by them”*

Deloitte 2: *“The tax laws itself are not clear on how e-commerce should be taxed...without that it would be difficult to tax such businesses in a fair manner”*

PwC: *“...well, there has to be a clear and concise add-on for taxing e-commerce to say there is some form of efficiency...for now, that does not seem to be the case.”*

Responses indicate that additional work needs to be done to improve upon the current framework for regulating e-commerce as it ensures that the objective of protecting the public interest is better achieved (Djankov et al., 2003).

4.6.4 Measures to Ensure Professionalism and Confidentiality

Perceptions of staff professionalism and confidentiality are generally inconclusive. Practising firms were of the view that the level of professionalism and confidentiality is on an individual staff basis. Thus, the levels may vary across staff members of the regulatory institution. This is indicated in the responses given as follows:

KPMG: *“...in terms of professionalism, the staff are professional, others are not. However, the clients complain that the GRA staff do not understand the business well enough to determine the right tax assessment to be done thus leading to unsustainable assessments that the business cannot keep up with”*

Deloitte 1: *“some GRA staff are professional, other are unprofessional...it depends on the person you encounter”*

Deloitte 2: *“A number of GRA staff I have encountered are very professional in their dealings but there are some who do not behave in a professional manner”*

GIT: *“GRA is making progress to ensure that staff of the institution act in a professional way”*

The responses given indicate that professionalism is on an individual staff level as some regulatory staff may be professional whereas others do not demonstrate that. This may limit the credibility of the regulators to the individual encounters with such regulatory staff, resulting

in inconsistencies and issues with the reliability of the regulatory governance of the regulators (World Bank, 2003).

4.7 Taxation of E-Commerce

This section of this research considers the other aspect of the study which is the taxation of e-commerce businesses. Generally, this section seeks to understand the tax environment of e-commerce and will be discussed covering areas such as e-commerce tax issues, e-commerce and tax laws, and finally e-commerce tax approach adopted by the GRA.

This section also considers the perception of civil society organizations and practicing firms such as GIT, KPMG, Deloitte, and PwC since they are in a better position to offer a more precise view of how GRA is performing. In this discussion, we considered their views on e-commerce and e-commerce taxation. Specifically, areas covered include the perceptions of e-commerce tax issues, perceptions of the approach used by GRA in taxing e-commerce, and suggestions on how e-commerce can be tracked for tax assessment purposes.

4.7.1 E-Commerce Tax Issues

Some tax issues were identified over the course of the interviews conducted. The issues identified give an indication that the institution has clearly identified the areas of e-commerce that would make taxing such entities a daunting task. Issues with the identification of the taxpayer and assessing e-commerce entities to tax were identified during the interviews conducted. Details of these issues will be discussed in the following sub-sections.

4.7.1.1 Identification of the Taxpayer

One key tax issue identified was the difficulty in identifying e-commerce entities as well as tracing the location of operation. Per the tax laws of Ghana, any income earned from business, investment or employment is assessable for taxes, also institutions with permanent establishments in Ghana are required to pay taxes. Ghana also uses the worldwide income or residence-based tax system (PwC, 2017). However, without the need to have a physical establishment for such entities, they may be located in one country but be operating in other countries without registering the business in the countries that the business is operating in. This is achieved with the assistance of the use of the internet which encourages seamless transactions.

As a result, this makes some e-commerce businesses appear to be permanent establishments, which by law should be paying taxes when such businesses in fact are not. This raises concerns because such businesses are enjoying the benefits of being a ‘permanent establishment’ but are not fulfilling their tax obligations of an actual permanent establishment. As some respondents rightly explained:

GRA 3: *“there is a possibility that we can’t track revenues from other countries because it would be difficult...the Ministry of Communication should have some measures in place to track such transactions but as it stands now there is no way of tracking such transaction, so...it becomes difficult...”*

GRA 2: *“It is difficult to identify exactly who the taxpayer is...you may not know whether the person is in Ghana or abroad...if you can’t tell where the person is then how can we get the person to pay taxes”*

One respondent gave further detail into the ongoing issue with regards to taxing e-commerce as follows:

GRA 4: *“The GRA is governed by the Income Tax Act (Act 896), the Revenue Administration Act (Act 915), and the VAT Act (915). The Income Tax Act for instance provides that if one is doing business in Ghana and derives income in Ghana then the person is subject to tax. Also an entity in Ghana deriving income from outside Ghana is also subject to tax...so far as that income is traced to Ghana then taxes should be paid on them. Unlike traditional businesses which the GRA can locate and visit that cannot be done for such e-commerce businesses. Also it is difficult to ensure that the entity is registered with the GRA. There is a difficulty in identifying the company and its location as well as determining the income made and to assess for tax purposes.”*

The response given is consistent with the factors that could potentially affect tax administration as a result of e-commerce as identified by Cracea (2013) as well as OECD (2015). They identified factors such as the identification of e-commerce and identification of their customers as an issue in tax administration in e-commerce.

4.7.1.2 Assessment of the Taxpayer

The resulting effect of the inability of the GRA to identify e-commerce is the difficulty in assessing the e-commerce entity to tax. Most respondents linked the difficulty in identifying the taxpayer as the cause of the difficulty in assessing such businesses for tax purposes. One respondent described the issue briefly:

GRA 1: *“...yes, because we are not able to locate them to their permanent place of operation or wherever they may be operating from. It is quite difficult to draw them into the tax net.”*

Also, another issue in the assessment of the taxpayer is with the interpretation of the laws on what type of income that it is and how it should be assessed for tax purposes. One respondent explained:

GRA 4: “...so generally, there are challenges in identifying the location of the company and assessing such companies as to whether the law gives the mandate to regard that income generated by the e-commerce business to be subjected to tax.”

This is consistent with the study of Hellerstein (2002), who described the difficulty of determining the consumption tax payable as a result of the access to the internet by more people and with the increasing nature of the sale of tangible and digital goods. Cracea (2013) as well as OECD (2015) identified the determination of the extent of activities as a tax administration issue and this has been supported from evidence gathered on GRA.

4.7.2 Tax Laws and E-Commerce

The issue of e-commerce taxation has brought to the fore, gaps in the tax laws and tax administration that were not noticeable under taxing traditional forms of business. These issues identified has been discussed in the subsequent subsections.

4.7.2.1 Inadequate Tax Laws

In the presence of the current tax issues on e-commerce, one other key issue was identified. The inadequacies of the current tax laws have been revealed as a result of the operations of e-commerce. The lack of clarity of the tax laws has made it easier for e-commerce entities to evade taxes. Some responses given to that effect are as follows:

GRA 4: *“The inadequacies of the tax law, the lack of clarity of tax laws...has hampered the attempt of the GRA to clearly identify that stream of income.”*

GRA 2: *“the issue has to do with our tax laws, they are complex and difficult to understand...we have a provision in our tax laws for e-commerce but what is there is inadequate”*

GRA 3: *“our laws are a bit complex for some to understand...there are also some ambiguities that would require some level of understanding of tax...at the moment we are finding ways of addressing this.”*

4.7.2.2 Practicality in Locating Taxpayers

The practicality of locating taxpayers is identified as an issue based on responses gathered. The nature of the business makes it difficult to identify and track such businesses for tax purposes. One of the respondents explained:

GRA 4: *“...also another issue has to do with the practicality of locating the taxpayer and the ability of the GRA to approach management of the entity to pay taxes...the physical location of the entity which is almost impossible to obtain...in the absence of that, the GRA would find it difficult, as such instances include businesses that are not set up in Ghana... a business being set up abroad and operating without an agent in Ghana. This results in difficulty in locating such businesses and the question is can the GRA pursue such businesses? ...The answer would be extremely difficult.”*

Still on the practicality of identifying e-commerce entities, by virtue of them having a virtual presence in Ghana, without any possible means of enforcing such businesses to register with

the Registrar General Department and the GRA, it makes it difficult to trace such businesses.

One of the respondents explained:

GRA 1: “...income generated in Ghana should be subjected to tax, however there is difficulty in identifying the location and the difficulty in making the entity register...”

4.7.3 Measures to Address E-Commerce Tax Issues

Some measures have been identified to address the issues that arise from the operations of e-commerce. Most approaches focus on resolving the issue of identifying the taxpayer since its paved way for GRA to assess such businesses to tax. Others are more focused on the tax laws. The following subsections offer a discussion on them.

4.7.3.1 Registration of Businesses

Registration of e-commerce entities has been identified as the key approach that distinguished e-commerce businesses from other forms of businesses. Registration in Ghana involves registering with the Registrar General’s Department as a business operating in Ghana. By officially registering in Ghana as an entity, the GRA can clearly identify entities for tax assessment purposes. Also, the process of registering with the Registrar General requires a Tax Identification Number, which is issued only by the GRA. This binds the entity to pay taxes.

One respondent explained:

GRA 4: “One way to correct this is that companies should be registered. This can be done by going to the Registrar General’s Department to register the company. In doing that, relevant information like the location, capital contribution and shareholders is gathered. Once the registration is done, you will be required to come to the GRA to pay taxes.”

GRA 1: “... once they are able to register then we can identify them so that we can assess them...if they don't register it will be difficult for us to chase them to pay taxes...”

4.7.3.2 Clarity of Tax Laws

Responses indicate that the simplification of the tax laws would offer some form of clarity on the interpretation of tax laws pertaining to e-commerce. Once there is clarity in the tax laws for e-commerce, GRA can then adopt an appropriate strategy to identify and assess e-commerce for tax purposes. From responses gathered, this has been identified as an issue and some responses given indicate that some processes are currently on going by them to make taxing of e-commerce easier. Some of the responses given to that effect are indicated below:

GRA 4: “GRA is simplifying its tax laws to clearly make it possible for GRA to register such entities with virtual presence in Ghana...there is even a possibility of engaging with competent authorities where it is registered...to provide details on the streams of income they are making”

GRA 2: “ The laws are there is just that it is difficult to understand it...so as that aspect is improved then more and more people can be held accountable to pay taxes...so once the law is made simpler then we can get them to pay their taxes ”

4.7.3.3 Capacity Building of GRA Staff

Building the capacity of GRA staff has been identified to be relevant from the measures discussed. Responses indicate that for e-commerce tax assessments to be done properly there would be a need to build the capacity of GRA staff. This is indicated in the response given:

GRA 4: “...the capacity of the officers should be developed to analyze e-commerce businesses and provide direction to determine if income is taxable and what measure to capture them...officers can be sent abroad to scale up the skills set to handle this”

It could be found that not all Taxpayers Office has the expertise in e-commerce taxation assessment. This is based on the response given:

GRA 2: “...we may have the capacity to regulate but this is not for all taxpayers’ offices...our office like this... we don't have that capacity. The larger offices may be fully equipped to regulate e-commerce.”

4.7.3.4 Availability of Information

One key limitation identified in the ability of GRA to perform their duty of taxing e-commerce is the lack of information. The unavailability of information from the telecommunication providers on transactions has been identified as an issue that has to be resolved to enable them to perform their duties well. By having access to the transactions made by customers, the GRA will be better able to track down individuals and e-commerce alike for tax purposes. This has its own inherent limitations, as the telecommunication providers are unable to disclose information of their customers due to privacy concerns. This was gathered from the responses given which are as follows:

GRA 3: “in the instance of maybe MTN mobile money ... if MTN also makes available their records of transactions...it helps because it is a medium the person sends the funds...if we have those records then we can see the transaction that went on.”

GRA 1: *“this can only be done when we are able to bring on board the telecommunication providers because of disclosures ...I think they also think they have a duty to not disclose customers business or transactions ... so for us it goes to the operators for them to liaise with GRA before perhaps whatever can be created to be done to track all those who are transacting business...other than that it will be difficult for GRA to just go to them for them to give you whatever transaction you want. It is not easy for them to disclose information”*

4.7.4 E-Commerce Taxation Approaches

Responses indicate that GRA has no clear basis for taxing e-commerce operating in Ghana.

This is based on the responses gathered from the respondents:

GRA 1: *“... this issue... it has not been resolved... as for resolving you see the way the e-commerce business is now ...it is now growing so in our own small way... we are finding ways to handle it”*

GRA 2: *“...we do have it in our tax laws that every e-commerce business should be taxed...but for now, it is only the registered ones that we have access to”*

GRA 4: *“...for now, it is only some of the international tax laws that we can use to tax such businesses”*

In spite of the above, GRA relies on some other approaches for taxing e-commerce which is not absolute in its coverage of e-commerce taxation based on responses given. This is broadly classified under formal and informal approaches which have been discussed in the proceeding subsections.

4.7.4.1 Double Taxation Arrangements

Double taxation arrangements have been identified as one of the formal approaches to tax e-commerce businesses. By having such agreements, countries involved would eliminate the incidence of double taxation of income and property. The respondent identified a number of countries that Ghana has a double taxation agreement with:

GRA 4: *“we have double tax arrangements with some countries like Switzerland, UK, Italy, Belgium, UK, South Africa, Mauritius and Belgium...we did this to prevent being taxed excessively”*

4.7.4.2 Exchange of Information Agreement

Another formal approach for taxing e-commerce businesses has been identified to be the Exchange of Information Agreement. One respondent offered an explanation of the Exchange of Information Agreement below:

GRA 4: *“...an exchange of information agreement is a multilateral platform that brings together countries that have pledged to ensure that information on entities doing business can be shared between interest parties within the group...they are the processes and procedures for counties to access information on taxpayers activities across various jurisdictions.”*

By signing of the Exchange of Information Agreement by Ghana, it allows the GRA to have access to the information available on this platform. This is being used as a temporal measure by GRA.

4.7.4.3 Tip-Offs and Honesty

One informal approach GRA relies on to ensure they identify potential e-commerce taxpayers and then assess them for tax is by way of tip-offs. Once the GRA is able to get wind of e-commerce entities that are failing to honour their tax obligations, they are then able to identify the taxpayer and ensure that they fulfil their tax obligations. One respondent explained:

GRA 1: *“...the GRA has not been able to rope in a lot of them except of course on tip-off.... As we speak there are a lot of businesses on the net without paying tax...once in a while we get this tip-off...”*

Another approach is the reliance on the honesty of taxpayers to fulfil their tax obligations. Although laws require e-commerce to pay taxes, the inability of GRA to enforce the law has placed the institution in a state where they would have to rely on the honesty of e-commerce operators. Once the owners of e-commerce realize the need to fulfil their tax obligations, the business will present itself willingly for tax assessments. One of the respondents explained:

GRA 3: *“there is no way of tracking such transactions, so...it becomes difficult and it depends...unless the taxpayer or the person involved is honest and discloses everything to us.”*

4.8 Perceptions of Taxation of E-Commerce

This section considers the perceptions of other institutions on the taxation of e-commerce. In particular, discussions would cover how e-commerce is perceived by such institutions for the purposes of understanding how e-commerce entities are taxed. This will be covered in the subsequent sections.

4.8.1 Perceptions of E-Commerce

To better understand the basis for the responses given by the respondents, descriptions of e-commerce were sought. The responses given are mainly focused on the use of the internet for transacting business. Responses given were as follows:

KPMG: “...e-commerce is transacting business online...it is the use of online platforms in the buying and selling of products without the need for any personal interaction...it is a means where a buyer and a seller interact through electronic means...it also involves a person ordering at a site of a seller, allowing the buyer to look at the price and the product to make payments without seeing the buyer.”

GIT: “...e-commerce is the process of doing business electronically without the use of documents. It is more like a paperless system of engaging in commercial activities...like buying and selling”

Deloitte 1: “...they are internet-based transactions...it's more of trading of goods and the delivery of services via the internet”

4.8.2 Perceptions of Differences between E-Commerce and Other Forms of Business

4.8.2.1 Absence of Physical Location for Operations

Institutions interviewed are of the view that the main difference between e-commerce and other forms of business is the absence of the physical location for e-commerce. Also, it eliminates the need to be in the same jurisdiction to do business and it also encourages trade without boundaries. This is indicated in the responses which are as follows:

GIT: “...the need of physical interaction which is required for traditional businesses is not required for e-commerce.”

PwC: “...e-commerce transcends borders, anyone anywhere can transact business irrespective of the location. For instance, a person in the US can easily transact business with someone here in Ghana with the use of e-commerce which would not likely be the case if it was the traditional mode of business.”

Deloitte 1: “...with e-commerce you do not need a physical location, you can operate virtually anywhere you have internet connectivity”

4.8.2.2 Improved Visibility of Goods and Services

E-commerce is also described as improving the visibility of products sold mainly as a result of its audience – users of the internet. With the growing number of people who have access to the internet worldwide, products and services have a better chance of reaching a wide range of people all over the world. Some respondents explained:

KPMG: “...another difference has to do with the visibility of the products or services being sold. Under e-commerce the products can be seen everywhere, with the use of the internet. However, this is not so for traditional businesses.”

4.8.3 Perception of E-Commerce Tax Issues

Institutions interviewed highlighted a number of tax issues that have come to the fore as a result of e-commerce operations. Some of the issues relate to the issue of permanent establishments, income tax issues, and finally VAT issues. These issues have been discussed in the subsequent subsections.

4.8.3.1 Permanent Establishment Issues

One key tax issue identified during the interview is the issue of permanent establishments. E-commerce entities have been identified to be operating as permanent establishments when in fact they are not. One respondent explained:

KPMG: "...some of the tax issues of e-commerce is the issue of permanent establishment... such e-commerce businesses are not registered in Ghana but are operating fully in the country as if they are registered in the country. So, an e-commerce business operating in the US may be able to operate in Ghana without being registered but still make profits. So, such businesses act like they are a permanent establishment without actually being one- so that raises permanent establishment issues."

4.8.3.2 Identification Issues

Another issue identified had to do with the issue of identifying the taxpayer. From the data gathered, the resulting effect of this would be the inability to collect taxes and even sanction e-commerce businesses that do not register with GRA. Some respondents explained:

KPMG: "...for identifying the taxpayer, we can relate that to e-commerce and say that it is difficult to identify the exact taxpayer. It is difficult to identify and track them when they transact business online...also, once the entity cannot be identified it would be difficult to trace, it would equally be difficult to collect the taxes as well and you cannot be punished for something if you cannot be traced. It is difficult to hold people accountable and this is mainly because of the intangible nature of their processes."

GIT: “...identifying the taxpayer is a challenge because ...not all the revenues made can be able to be traced by the GRA because most of them are done electronically... the GRA has not reached up to forty percent in their efforts to rectify this.”

4.8.3.3 Tax Assessment Issues

The assessment of operations of e-commerce for tax purposes has been identified as one of the e-commerce taxation issues. This is contingent on the ability of the GRA to assess the true income of such businesses to be able to assess them for tax. This was indicated in the responses below:

KPMG: “Due to the nature of e-commerce, it makes it difficult to design a structure to adequately tax them...it is also difficult to arrive at the true income gained from e-commerce. How sure are we that the amount they are disclosing is the real income made?”

Deloitte 2: “... once you cannot identify the taxpayer then it would be difficult to assess the person for tax...this also applies to e-commerce...GRA’s inability to trace them will definitely make it difficult to assess them.”

4.8.3.4 Tax Collection Issues

One other issue identified was the collection of income tax as e-commerce businesses did not necessarily have a physical place of operations. Their ability to sell their products to customers anywhere inhibited the ability to trace them for tax collection. Some respondents explained:

KPMG: “Along with permanent establishment issues comes along with income tax issues as it is difficult to get such e-commerce businesses to pay their taxes. Even if they have to pay their taxes do, they have to get a representative here to file their returns?”

Collection issues are not only limited to income taxes but VAT, as well as consumption taxes, cannot be collected as a result of the inability to trace e-commerce and determine their sales for VAT purposes. Although the response indicates that some attempt by the GRA has been made to tax e-commerce business by including it in the tax laws, there is non-compliance. One respondent explains:

PwC: *“...another issue is that it raises VAT issues. Similar to how it would be difficult to get the businesses to pay their income tax, it is also difficult to pay VAT. The GRA laws have made a provision that every e-commerce business should be registered for VAT but that is not being complied with.”*

4.8.3.5 Base Erosion

With the operations of e-commerce that transcends borders, it makes it easier for such businesses to shift revenue from one country to another without being assessed for tax in the country that revenue was originally generated in. This is tied to the inability to trace such businesses. This was based on responses:

KPMG: *“Another issue also has to do with base erosion. Base erosion is when income is transferred from one country to another country. With the operations of e-commerce, this is normally the case, as most monies made in the country are taken out of the country without any payment of taxes. This boils down to the identification and the collection of taxes in relation to the income generated.”*

Deloitte 1: *“...the activities of e-commerce brings about what we call base erosion...that’s when foreign companies operate here in Ghana and generate revenue but ensure they have*

mechanisms to ship the monies to their home country...e-commerce can encourage things like that to occur and you know what that means for us as a country.”

4.8.4 Perception of GRA’s E-Commerce Taxation Approach

4.8.4.1 Lack of Clarity of Tax Laws

A lack of clarity of the tax laws on e-commerce has been identified from the responses obtained from the respondents. They however mentioned that they believed GRA is making strides to resolve this. Some respondents explained:

KPMG: “GRA has not come out with a clear-cut provision for the regulation of e-commerce, as there are difficulties in tracking and reporting. Although the tax laws indicate that e-commerce should be taxed, the GRA is still attempting to work on a framework to address this. It still remains an issue for the GRA...they are currently making contact with consultants and other specialists to help them to monitor.”

PwC: “...well the laws has made some provision for it but that addresses the issue in a partial manner. GRA is trying to work on regime for e-commerce...there is a need for the GRA to get a dedicated office for this...generally the GRA has not done so much. Although there is a provision in section 16 of the VAT Act 2013, Act 870, that e-commerce must register under VAT to be able to account, but the how has not been addressed...during a seminar organized by the GRA we raised concerns on how e-commerce business can be made to pay their taxes as that was not clear in the tax laws, so it is a concern that has to be addressed.”

Some suggestions were offered on how e-commerce could be potentially tracked for tax purposes. Having access to information by telecommunication companies would help in resolving the issue of tracking e-commerce transactions. For instance, when people transact

business online, information could be provided on the details of the transaction by the internet providers in Ghana. One of the respondents explained:

GIT: “... *being more specific in the description in the transfers done as well as providing that information to the GRA would help them identify the amounts that represents transactions for which taxes would have to be paid for.*”

4.9 Discussion of Findings

4.9.1 Regulatory Independence, Accountability and Transparency

4.9.1.1 Regulatory Independence of E-Commerce

For regulatory independence, our findings indicate that all the regulatory institutions considered in this study have the ability to sanction businesses that failed to comply with regulations, whereby the only institution that could overrule such sanctions was identified to be the law courts. Though adequate, the issue of identifying e-commerce entities is perceived to be a limiting factor. Also, regulators indicated that the regulators have the ability to independently recruit, deploy and reprimand staff. However, key positions in GRA have some form of government influence. This is based on the response below:

GRA 1: “...*we can recruit on our own without another institution... we don't outsource...we do the interviews ourselves and we also promote ourselves. The Ministry of Finance also plays a role...for some of the higher positions...as you may know, our head must come from the government of the day...but we handle everything ourselves.*”

However, differences have been noted in factors such as financial autonomy in making budgets and the ability to make decisions independently based on regulator responses and the perceptions on their financial autonomy. This was noted for GRA and the NCA as their

respective ministries had some influence in their operations. This may make them struggle to arrive at good regulatory governance in light of the studies of Hellman et al. (1999) and OECD (1998).

NCA: “...we prepare the prepare our budgets here annually...no one prepares it for us...but as you know for many governmental institutions, our budgets are subject to the approval of the board and our ministry, which is the Ministry of Communication”.

KPMG: “The expectations of the government of the day have to be followed, and this limits the freedom the GRA has, for instance with the Free SHS, the GRA has to generate more revenue to be able to ensure that the government fulfils its promises to the people. Also, the Ministry of Finance appoints the top positions in GRA, so the activities tend to lean towards the government of the day. Another related issue is the change in the top position of the GRA at every change in government and that challenges the independence of the institution as such positions have become political in nature”

DPC, on the other hand, has the ability to determine the budget for the period without interference since they are able to internally generate and spend most of their income from fees collected and had the ability to make independent decisions without interference from their ministry. This is based on this response:

DPC: “ ...yes, we are an independent body so we are able to make decisions on our own because we have been given that mandate to make decisions without approval from the Ministry of Communication... we still have to report to the Ministry of Communication ...we only make them aware of the decisions made”

4.9.1.2 Regulatory Accountability of E-Commerce

Findings on the regulatory accountability of the regulatory institutions indicate that the guidelines for obtaining permits have clarity and are available across various media. There is constant communication to higher institutions on regulatory activities and any revenue generated was disclosed to relevant stakeholders. Also, we found that the regulators communicate to the public, considering that they disclose defaulting entities using various media platforms. Perceptions were that although GRA demonstrates some form of accountability, they inherently have limitations in identifying and assessing e-commerce for tax.

KPMG: *“There has been difficulties in disclosing malpractices because they [GRA] are not able to conduct an audit on such businesses”*

This is an indication of better regulatory accountability for NCA and DPC which is consistent with the studies of (Botero et al., 2004; IMF, 2004) who supported revenue disclosure and regulatory activities disclosure to the public as an important mechanism of regulatory accountability. GRA would have to improve its capacity to have better regulatory accountability.

4.9.1.3 Regulatory Transparency of E-Commerce

The responses given on the various indicators of regulatory transparency seem to indicate the presence of regulatory transparency of regulatory institutions. Regulatory institutions explained that a consultative process is used when making regulatory decisions and the means to obtain an understanding of the entity’s operations is available across various media

platforms. Perceptions on transparency, especially for GRA, however, indicates that the regulators did not always consult all the relevant stakeholders in decision making but could do more to resolve this.

KPMG: “...you have instances where there are no consultations done in bringing up certain laws which leads to difficulty in application of such laws. In this regard, they have to engage more”

The responses given by regulators were also not specific to e-commerce regulation, as the regulators believed that the same consultation process and communication platform could suffice for the regulatory transparency of e-commerce. In consideration of the studies of Baldwin et al. (2012) and Tijjani (2014), it indicates that regulators have made general efforts to encourage transparency and no additional efforts have been made in the area of e-commerce regulation and monitoring in spite of its peculiarities.

4.9.2 Regulatory Expertise of E-Commerce

Findings on the regulatory expertise of e-commerce suggest that all regulators have guidelines to ensure professional and confidential conduct, thus improving their credibility and ensuring consistency in regulatory governance (World Bank, 2003). This is based on the following responses:

GRA 4: “Staff are encouraged to conduct themselves well and get rewarded with being the best staff and promotions...those who do not comply could face dismissal, temporal suspension or being surcharged with cost of causing financial loss to the state.”

NCA: “...we have an HR manual... it guides the employees of this institution and ensures we have proper work ethics... staff are disciplined appropriately based on the severity of the misconduct and that ensures we all do the right thing.”

DPC: “...we are practising data protection and we encourage our staff to do same. We monitor our staff...we even have CCTV cameras and we have a register...we have policies on how we gather personal information of anyone who walks in here... when it comes to access, there are some staff who have privileges to access the registration system...”

However, on the capacity to regulate and its effectiveness, GRA had some shortcomings. Their current means for regulating e-commerce are alternative measures in the absence of clear guidance on e-commerce.

GRA 4: “GRA is limited... the Exchange of Information Agreements are not with every country and the Double taxation Agreement can go only after some taxpayers...GRA is limited in terms of taxing businesses with virtual presence”

GRA 1: “... as for doing that we want tobut it is not that straightforward because the information you require you can't get it if the information is not available to you ...so unless they cooperate, for now we can only rely on tipoff”

This was the same with the perceptions on their capacity to regulate and its effectiveness:

KPMG: “Although the tax laws indicate that e-commerce should be taxed, the GRA is still attempting to work on a framework to address this. It still remains an issue for the GRA...”

Findings suggest that NCA and DPC have demonstrated that they have the skills set for e-commerce, which contributes towards achieving better regulatory objectives (Baldwin et al., 2012), although DPC is limited by their staff strength. However, the inconsistent responses given by the GRA on their skills set for e-commerce indicates that may be some difficulty in achieving regulatory objectives. Perceptions of the skills set of GRA provides further backing on GRA's limitations:

GIT: *"E-commerce businesses generally, are taxed just any other business. GRA would need to obtain expert knowledge in this field to tap into e-commerce business to maximise the revenue being generated"*

It is worth noting that the public interest theory provides an explanation for the findings as the regulators are expected to have better regulatory governance to protect the interests of the public (Baldwin et al, 2012).

4.9.3 Taxation of E-Commerce

The findings of the study identified the tax issues of e-commerce to be the identification of the taxpayer and the assessment of the taxpayer. This is based on this response:

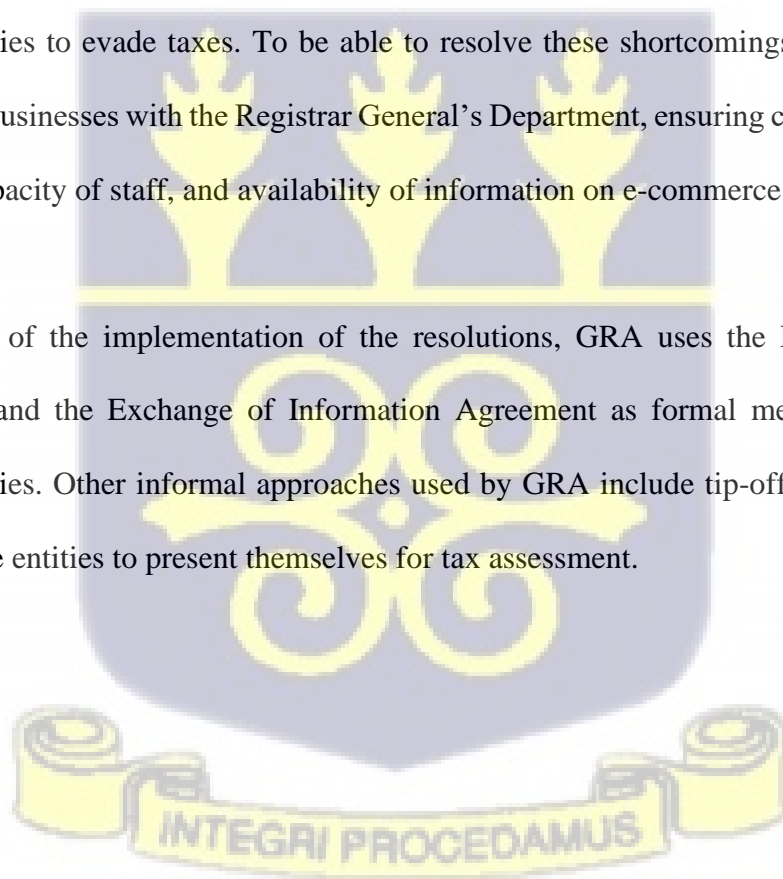
GRA 4: *"...so generally, there are challenges in identifying the location of the company and assessing such companies as to whether the law gives the mandate to regard that income generated by the e-commerce business to be subjected to tax."*

Results are consistent with the study of Hellerstein (2002), who described the difficulty of determining the consumption tax payable as a result of the increasing nature of the sale of tangible and digital goods on the internet.

Findings also reveal the shortcomings of the current tax laws for e-commerce. Responses from GRA cited the inadequacy of the tax laws and the practicality in locating the taxpayer. Perceptions of e-commerce tax issues have also been identified to be the issue of permanent establishments, identification of the taxpayer, tax assessment, tax collection, and base erosion.

The current tax laws for e-commerce are perceived to lack clarity, making it easier for e-commerce entities to evade taxes. To be able to resolve these shortcomings, GRA cited the registration of businesses with the Registrar General's Department, ensuring clarity in tax laws, building the capacity of staff, and availability of information on e-commerce transactions.

In the absence of the implementation of the resolutions, GRA uses the Double Taxation Arrangements and the Exchange of Information Agreement as formal means to assess e-commerce entities. Other informal approaches used by GRA include tip-offs and honesty of the e-commerce entities to present themselves for tax assessment.



CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATION

5.0 Introduction

This study explores the regulatory governance and taxation issues associated with e-commerce, using evidence from Ghana. Given this, this chapter summarizes the findings as discussed in the preceding chapters. In addition, this chapter considers the implications of the findings identified, limitations to the study, and recommendations for future studies. Lastly, this chapter provides the conclusion to this study.

5.1 Summary of Findings

5.1.1 Regulatory Governance of E-Commerce

Transacting business online opens users to security and privacy issues. Developing countries such as Ghana also have an issue with a lack of infrastructure for e-commerce. This raised concerns on the need to have regulations for e-commerce. Studies done only considered e-commerce regulations and the loopholes in them. Saraf and Kazi's (2013) study covered Brussels I in the EU while Polański's (2018) study considered General Data Protection Regulation (GDPR) and electronic Identification, Authentication and trust Services (eIDAS). These studies are considered inadequate in light of OECD (2013), where it was noted that regulatory outcomes did not depend entirely on well-designed rules and regulations but rather on some elements such as rules and regulations that are efficient and effective, the presence of high quality and empowered institutional capacity and resources- especially in leaderships and finally, appropriate institutional frameworks and related governance arrangements. This prompted the researcher to consider the regulators in the assessment of the regulatory governance of e-commerce.

IMF (2004) identifies regulatory governance principles such as regulatory independence, accountability, transparency, and expertise. Also, in Parker's (2002) study, he explains that regulatory independence, accountability, and transparency are two sides of the same coin whereas regulatory expertise supported the three mechanisms.

From the above, it appears that there has been no assessment of the entire regulatory governance framework for e-commerce. Also, studies did not offer a holistic account of e-commerce in a developing country such as Ghana, which includes the issues on security, privacy, and lack of infrastructure for e-commerce. To address the issues noted, this study sought to explore the regulatory governance of e-commerce, using evidence from Ghana. The following subsections provide the details of our findings and their interaction with existing literature.

5.1.1.1 Regulatory Independence, Accountability and Transparency

Evidence from literature suggests that the independence of regulators will enable them to achieve better regulatory governance (Das & Quintyn, 2002). This covers the areas of recruitment, ability to sanction non-compliant entities, with the law courts being the only institution to overrule sanctions and making independent decisions. Our result from regulators on their ability to recruit staff was found to be generally consistent for all regulators. DPC and NCA indicated that they were able to recruit staff on their own, while GRA indicated their ability although the Ministry of Finance had an influence on key personnel. Perceptions on recruitment did not differ from the responses provided by the regulators as they acknowledged the involvement of the government in key positions. Promotion and disciplining of staff had been found to be handled by the regulators themselves as they had in place HR manuals and Collective Bargaining Arrangements to ensure staff members are being compliant. The

regulator's ability to sanction non-compliant entities was found to be present by all regulators. All regulators had the ability to sanction entities, the approach, however, varied across regulators. NCA for instance had a specified schedule of penalties that indicated the penalty for every misconduct. DPC also specified the penalty points to be paid for each misconduct, while allowing individuals to also sue such institutions for creating distress. With this authority given to regulators, it is an important finding that only the law courts could overrule sanctions given by all the regulators, thus strengthening the regulators' independence, in consideration of the discussion areas. However, the perception of the regulators' ability to sanction non-compliant e-commerce was described as difficult since the regulators already struggled with identifying such businesses. With regards to that, the regulators have to ensure such business operations are identified for better regulation.

Some regulators also struggle with some other regulatory independence factors. Operational decisions by way of a budget have to be approved by the respective ministries that they operated under as noted by regulators and practicing firms. For instance, while an institution like DPC is able to prepare budgets without the approval of the Ministry of Communication, institutions like NCA and GRA have to obtain approval from the Ministry of Communication and the Ministry of Finance respectively. It comes as no surprise that NCA and GRA are also not able to make independent decisions as they rely on their respective ministries when DPC is able to make decisions without the interference of their ministry. This indicates a stronger ability of DPC in showing financial autonomy and making independent decisions than NCA and GRA.

One other vital factor for better regulatory governance is regulatory accountability. Das and Quintyn (2002) explained that accountability allows the regulators to justify their actions. This covered areas such as clarity in the process for obtaining permits (Andres et al., 2008),

disclosures to oversight institutions (Tijjani, 2014), disclosure of revenue, and malpractices (Botero et al., 2004). Our results from data gathered indicated the presence of good regulatory accountability for all regulators. Regulatory accountability, with respect to the clarity in guidelines to obtain permits from the institution and availability to the public was found to be consistent for all regulators. Guidelines to obtain permits have been described to be clear as the respondents indicated the presence of their institutional website which provided all the requirements to register with them. Responses from GRA and DPC even indicate that potential customers can walk into their offices for further clarification. The ability of the public to have access to guidelines also enables a better disclosure of information on the nature of activities to the general public, as similar approaches are used by the regulators in addition to the approach indicated earlier. They include the use of social media platforms like Facebook and Twitter, outreaches, newspapers, and walk-ins.

Findings also suggest that malpractices by entities are disclosed by all regulators, which is a good indicator of the presence of good regulatory accountability. NCA for instance prepares quarterly assessment reports on the performance of network operators according to the various districts in Ghana whiles GRA makes their disclosure by way of newspapers or distress action. The DPC warns the general public to desist from providing personal information to identified institutions since their ability to protect such information may be under question. However, such measures are perceived to be futile since the e-commerce business cannot be identified.

Similarly, findings suggest that all regulators disclose revenue generated by virtue of their operations. However, the revenue generated is communicated to the respective ministry that the regulators operate under. The GRA for instance reports revenue generated to the Ministry of Finance whereas the DPC and the NCA report revenue to the Ministry of Communication.

This is done on a consistent basis by all the regulators. Communication to higher institutions such as parliament is no different as responses within and across regulators indicate that communication was done through their respective ministries. It is however important to note that these approaches are not specific to e-commerce entities alone.

Another factor for good regulatory governance is regulatory transparency. Regulatory transparency covers consultation in regulatory decisions, transparency in regulatory activities, and transparency in the approval process for prospective businesses (Holland & Foo, 2003; Rotimi & Abdul-Azeez, 2013). Our findings are that regulatory transparency is generally present in all regulatory institutions. However, the mix of stakeholders consulted varied across regulators and within regulators' responses. NCA indicates a broader scope of stakeholders which ranges from mobile operators, the public, consumers, and civil society organizations. The majority of respondents from GRA indicated that the Board, the Ministry of Finance, and the Commissioner-General as key stakeholders while a single respondent highlighted the input of the public in making major regulatory decisions.

Transparency in terms of the activities of regulators and procedure to obtain approvals from same have been found to be present from the responses gathered, thus encouraging regulatory governance. Regulators rely on various media platforms to communicate to the public and e-commerce entities alike, on their activities and the procedure to register with them. A few channels include walk-ins, newspapers, websites, and some social media platforms. Perceptions are somewhat consistent with the regulators' responses, although regulators are required to do more to bridge the information gap.

5.1.2 Regulatory Expertise

From the studies of Parker and Kirkpatrick (2007), we noted that good regulatory objectives can be achieved in the presence of regulator expertise and skills. Findings indicate that some regulatory institutions demonstrate some level of regulatory expertise but not in its entirety. Each regulatory institution shares some commonalities with regards to some factors of regulatory expertise. Factors of professionalism and confidentiality are found to be consistent across all regulators interviewed as some indicated the presence of manuals and collective bargaining agreements to guide behaviour. There is also the presence of monitoring tools and access control of data received from institutions.

However, there is a divergence in the nature of training as responses indicated a reasonable frequency of training organized, training organized by the DPC and NCA are geared towards ensuring data protection and training technical staff respectively, which is more specific to e-commerce, whiles GRA organizes training that is non-specific to e-commerce. As a result, this could affect GRA's staff skills to handle their role of taxing e-commerce. It must be noted that DPC is yet to fully enforce their laws as they struggle with issues of staff strength which may have an overall effect on the effectiveness of the current enforcements done. This means that GRA must do more to ensure that specific training is provided to staff to be better placed to tax e-commerce entities.

The responses given on the efficiency of the current framework for regulators in regulating e-commerce is another area of divergence as findings indicate. DPC and NCA affirmed that the framework in use in regulating e-commerce is efficient based on the absence of issues in implementation. Responses from GRA are mixed as respondents identified issues which rendered the current framework for taxing e-commerce ineffective. The perception of practicing firms is that the regulators are not equipped and did not have all the skills set to

regulate e-commerce. Issues identified include the lack of information on e-commerce transactions for tax purposes and the lack of clarity of tax laws. In view of this, GRA must take active measures to have a clear framework for e-commerce such as the Bit Tax proposal and the EU e-commerce proposals for VAT (Cordell, 1997; Chan, 2000).

5.1.3 Taxation of E-Commerce in Ghana

5.1.2.1 E-commerce Taxation Issues

The issue of taxation has been identified as one of the potential issues that could affect countries in the wake of the growing rate of e-commerce worldwide. Some studies highlight the potential effects on revenue collection as well as some mechanisms being used to address them. Studies identified issues such as identifying the taxpayer and tax administration (Cracea, 2013; OECD, 2015). Our findings have been consistent with literature, especially as the issue of identifying the taxpayer is found to be a key issue in e-commerce since its virtual presence allows products to be visible everywhere which ultimately results in borderless transactions. Coupled with the issue of such businesses not being registered in Ghana and the unavailability of the details of their transactions, the operation of e-commerce makes it difficult to track the taxpayer down.

Findings indicate that the influx of e-commerce has brought to the fore the inherent issues with the current tax system in Ghana as respondents cite the lack of clarity and elaboration in the tax provisions for taxing e-commerce. This issue of clarity was identified by GRA and perceived by some practicing firms and civil society organizations.

The issue of tax assessment confronts GRA in taxing e-commerce entities. This has been found to stem from two other issues; identification of the taxpayer and determination of taxes to be paid. The inability to identify the taxpayer makes it impossible to assess them for tax. The practicality of locating such entities, from responses given, proves to be a daunting task.

Another issue, still on tax assessment, has to do with the determination of taxes for such entities. The perception of practicing firms is that there is a difficulty in the determination of “true income” of e-commerce operations for tax purposes as most of the transactions are conducted electronically which may require a lot of resources to retrieve. Collections of such taxes have also been perceived to be difficult and could encourage base erosion and profit shifting.

Other findings suggest some measures to resolve this. A number of them involve the registration of businesses to ease identification and clarity of tax laws on e-commerce to make the tax laws understandable. Others involve the capacity building of GRA staff to regulate e-commerce and the availability of information on transactions from the telecommunication providers.

5.1.2.2 E-commerce Taxation Approaches

Findings indicate that GRA has no clear framework for regulating e-commerce. However, the GRA appears to have resorted to other measures to tax some e-commerce entities. One formal approach used by the GRA is their compliance with the Double Taxation Agreements which prevents excessive taxation of income between countries due to the issue of double taxation. One other formal approach used by the GRA is their compliance with the provisions of the Exchange of Information Agreement. This agreement allows the GRA to have access to information on taxpayers’ activities across various jurisdictions that have also signed the agreement, and this enables GRA to identify and assess some e-commerce entities for tax. GRA also relies on some informal- not so robust approaches. The approaches involve the reliance on tip-offs and the honesty of the e-commerce taxpayer to present themselves to GRA to fulfil their tax obligations.

5.2 Conclusion

This study introduced us to the improved internet growth rate and internet penetration in Africa, paving way for e-commerce businesses to operate. Africa is identified as the next emerging e-commerce market (Kaplan, 2018) albeit the challenges and risks that it presented. Notable among the issues in relation to e-commerce related to the issues of privacy and security, which were grounded in literature such as in the studies of Desai et al. (2003) as well as in Vakeel et al.'s (2017) study. Another issue related to e-commerce is the difficulty in the taxation of e-commerce businesses, which was indicated in studies conducted by Chan in 2000 and Basu in 2016.

In the wake of such issues arising from e-commerce operations, several studies have been conducted. However, the studies were more on a 'conceptual' level, without empirics (no gathering of data). In Saraf and Kazi's (2013) study, for instance, the focus was placed on Brussels I as a regulation for e-commerce businesses in the European Union while Polański's (2018) study equally considered various regulations adopted such as the General Data Protection Regulation (GDPR) and electronic IDentification, Authentication and trust Services (eIDAS) as an assessment of the country of origin principle in the European Union. Arguably, literature on the taxation of e-commerce had similar outcomes. In Basu's (2016) study, he discussed the difficulty of taxing e-commerce businesses and the rippling effect on tax revenues generated without empirics.

This apparent issue in literature, is further heightened as OECD (2013) identified that regulatory outcomes did not depend entirely on well-designed rules and regulations but rather on some elements such as rules and regulations that are efficient and effective, high quality and empowered institutional capacity and resources, especially in leadership, and appropriate institutional frameworks and related governance arrangements. This motivated the researcher

to explore the regulatory governance and taxation arrangements for e-commerce, using evidence from Ghana.

The concept of regulatory governance is not new as there are some studies on this concept (IMF, 2004; OECD, 2002; World Bank, 2003). Among the several results of studies conducted, OECD (2002) had the framework for good regulatory governance, where regulatory governance was found to be guided by four main factors; regulatory independence, accountability, transparency, and expertise.

Regulators identified for the purposes of this study include NCA, DPC, and GRA. In addition, the perceptions of the regulators' operations were obtained to enable the study to have a broader scope of the regulatory governance of e-commerce. The regulatory independence, accountability, and transparency of the regulators were found to be consistent on some key factors. Responses gathered indicated that all regulators demonstrate good regulatory transparency and regulatory accountability across regulators.

The regulatory independence of e-commerce is found to have differences between regulators as DPC indicated their ability to make independent decisions without interference. The NCA and GRA on the other hand would have to obtain prior approval from their respective ministries. All regulators indicated their ability to sanction entities and only the law courts had the ability to overrule sanctions given. To promote regulatory governance, GRA and NCA would need to be able to make some independent decisions with limited interference.

The level of regulatory expertise was found to be inconsistent across regulators. The response from DPC again showed greater regulatory expertise as compared to NCA and GRA as

responses gathered indicated the need for e-commerce specific training to be able to regulate e-commerce better. This will also equip staff to have the skills to better address issues with e-commerce regulation.

The taxation of e-commerce in Ghana also appears to be an issue in light of the difficulty of identifying the taxpayer for tax assessment purposes. This is mainly the case because such businesses have a virtual presence and would need no physical location and no physical contact with customers to operate. Possible causes of the inability of the GRA to collect such taxes have been narrowed down to the lack of clarity of tax laws, unavailability of details of e-commerce transactions, and the inability of e-commerce entities to register with the Registrar General. Suggestions given to resolve the e-commerce tax issue has been to address the issues noted and have a better framework for taxing e-commerce.

In the meantime, GRA resorts to some formal approaches to taxing e-commerce such as the double taxation agreements and the exchange of information agreement. Other informal approaches include the dependence on the honesty of the taxpayer and tip-offs. These approaches are not comprehensive enough to ensure all e-commerce entities pay taxes.

5.3 Recommendations

Although the findings of this study adequately address the scope of this study, which is primarily based on answering the research questions, it is the recommendation of this study that consideration should be given to e-commerce businesses on their compliance with the regulations. As suggested in Tijjani's (2014) study, although regulators are responsible for the proper design and enforcement of regulations for businesses, regulated businesses also have a

role to play. In view of that, further studies can be done in this area to identify the pitfalls with compliance and how to possibly alleviate them.

Also, the results of this study indicate that regulators are aware of some of the regulatory governance and taxation issues of e-commerce and are trying to make strides to improve their approach to regulating e-commerce. This indicates that regulatory governance and taxation of e-commerce in Ghana may improve over time. In view of this, a follow-up study could be carried out to determine the extent that regulators have improved in their regulatory governance and taxation activities.

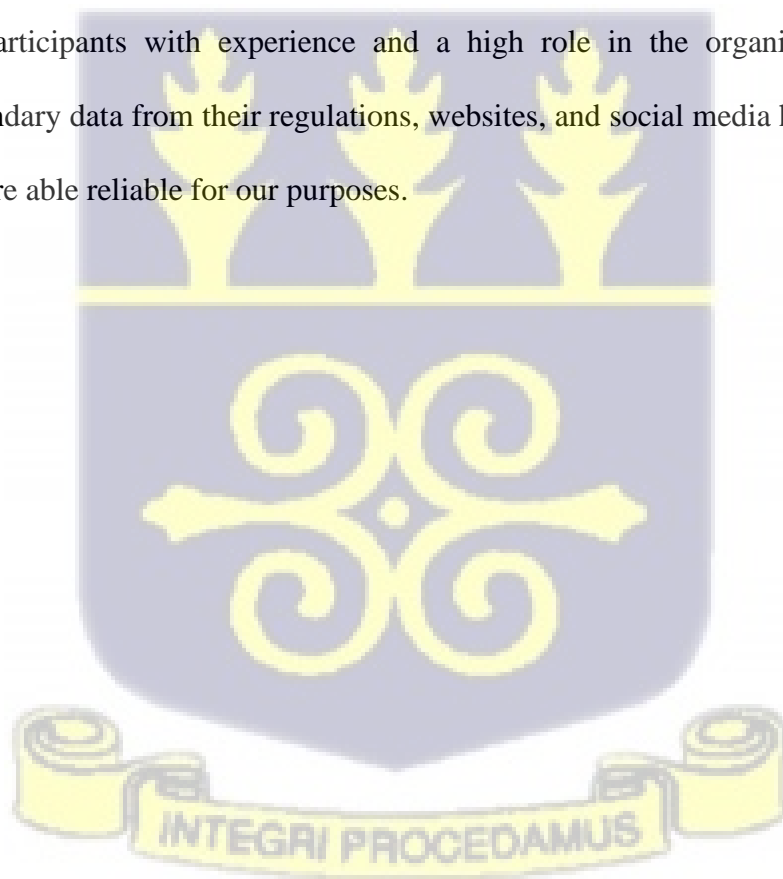
Lastly, this study recommends a comparison of the regulatory governance practices of e-commerce regulators between Ghana and other countries where there are improved levels of regulation for e-commerce. This would help to ascertain the gap that must be bridged for the proper regulation of e-commerce as well as its taxation. The results of that study could identify specific strategies that could be implemented by regulators of e-commerce in Ghana to ensure compliance and good regulatory governance.

5.4 Limitations of The Study

One limitation of this study is that the findings of the study cannot be extended to all developing countries as there may be peculiar approaches to regulatory governance and taxation in those countries. The issues identified in relation to e-commerce, the need for its regulation as well as e-commerce taxation could apply to those countries as far as this study is concerned but would need to be confirmed in greater detail in further studies.

Another possible limitation is the adoption of a single theoretical framework. Although the study adopted the main theory to be the Public Interest Theory, there could be several other theories that could have emerged considering the respondents' responses, although such theories were not identified to be the overarching theory applicable to the study.

Lastly, the primary data obtained for this study was obtained from the inputs of respondents in the regulatory institutions thus the responses gathered limited the results of the study. As with the case of qualitative research, respondents may not provide objective, "on the ground" responses but rather provide information based on the organisation's official standpoint, for many reasons. As much as possible, the study attempted to eliminate such limitations by interviewing participants with experience and a high role in the organization. We also leveraged secondary data from their regulations, websites, and social media handles to ensure the responses are able reliable for our purposes.



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APPENDIXES

Appendix A

Interview guide for regulatory authorities (NCA and DPC)

Section One

Understanding of E-commerce

1. How does your institution view e-commerce to be?
2. How different is e-commerce from other forms of business?
3. What aspects of e-commerce does your institution regulate and why?
4. What role does your institution play with regards to the aspects mentioned?
5. How would you describe the approach used by the institution in regulating e-commerce?

Section Two

Regulatory Independence, Accountability and Transparency

1. How has your institution shown financial autonomy in determining its budget for the period?
2. How has your institution been able to make independent decisions over the years?
3. How independently does the institution recruit, deploy promote and discipline staff of the institution?
4. What level of authority can overrule sanctions given by the institution to defaulting businesses under your regulation?
5. What factors have affected or can potentially affect the freedom of the institution to act in an independent manner?
6. How are guidelines to obtain permits from the institution stated and communicated to the general public?
7. What is the procedure of obtaining permits for e-commerce under your institution and how frequently is this followed?
8. How does the institution communicate to higher institutions [parliament] on the permits given to e-commerce?
9. How does the institution disclose information on the nature of activities of e-commerce to the general public?

10. How frequently does the institution disclose malpractices relating to the activities of e-commerce?
11. What factors have affected or can potentially limit the institution from being accountable to its stakeholders?
12. How (process) are major regulatory decisions made and what is the specific role of each stakeholder?
13. How is the assessment of e-commerce done to ensure the process is transparent?
14. How is the assessment of granting approval of operation for prospective e-commerce businesses done to ensure transparency?

Section Three

Understanding the Regulatory Expertise of E-Commerce

1. How equipped is the institution in regulating e-commerce?
2. What influences the level of skill of staff that is deployed to conduct its regulatory activities?
3. How frequently are trainings organized to ensure consistent application of e-commerce regulations?
4. What is the current framework for regulating e-commerce?
5. How are the personnel of the institution encouraged to perform their duties in a professional and confidential manner?
6. What are possible sanctions applicable to e-commerce for non-compliance of set regulations?



Appendix B

Interview guide for GRA

Section One

Understanding the tax environment of e-commerce

1. What does GRA view e-commerce to be?
2. How different is e-commerce from other forms of business?
3. What are the tax issues surrounding e-commerce?
4. How have these issues affected the taxation of e-commerce?
5. How have these issues been resolved?
6. What measures have been put in place to tax e-commerce businesses?
7. Why have those measures been adopted?

Section Two

Regulatory Independence, Accountability and Transparency

1. How has GRA been able to make independent decisions over the years?
2. How independently does GRA recruit, deploy promote and discipline staff of the institution?
3. What are some of the sanctions that apply to e-commerce businesses that fail to comply with tax treatments?
4. What level of authority can overrule sanctions given by GRA to defaulting businesses under your regulation?
5. What factors have affected or can potentially affect the freedom of GRA to act in an independent manner?
6. How frequently does GRA disclose malpractices relating to the activities of e-commerce?
7. What factors have affected or can potentially limit GRA from being accountable to its stakeholders?
8. How (process) are major regulatory decisions made and what is the specific role of each stakeholder?

Section Three
Regulatory Expertise

1. How equipped is GRA in taxing e-commerce?
2. What influences the level of skill of staff that is deployed to conduct its regulatory activities?
3. How frequently are tax trainings organized for staff to ensure consistent application of the basis of taxation for e-commerce?
4. What is the current framework for taxing e-commerce?
5. How are the personnel of GRA encouraged to perform their duties in a professional and confidential manner?
6. What are possible sanctions applicable to e-commerce for non-compliance of set regulations?



Appendix C

Interview Guide for civil society organizations and practising firms under e-commerce.

Section One

Understanding of e-commerce and taxation of e-commerce.

1. How does your institution view e-commerce to be?
2. How different is e-commerce from other forms of business?
3. What aspects of e-commerce does your institution regulate/monitor and why?
4. What role does your institution play with regards to the aspects mentioned?
5. How would you describe the approach used by the institution in regulating e-commerce?
6. How would your institution describe the tax issues surrounding e-commerce?
7. How have these issues affected the taxation of e-commerce?
8. How well have these issues been resolved by the GRA?

Section Two

Perception of Regulatory Independence, Accountability and Transparency

1. How would your institution assess the current financial autonomy of regulators of e-commerce in determining its budget for the period?
2. How well would your institution say the regulators of e-commerce have fared, particularly in relation to decisions made?
3. How has the institution viewed the extent of authority of the regulators to independently recruit, deploy, promote and discipline staff of the institution?
4. What factors have affected or can potentially affect the freedom of e-commerce regulators to act in an independent manner?
5. How would your institution assess the communication of regulators in relation to current guidelines to obtain permits to the general public?
6. How would you assess the frequency of disclosures of malpractices by e-commerce businesses by the regulators and what is the likely impact of that?

7. What factors have affected or can potentially limit the regulators from being accountable to its stakeholders?
8. What are the roles of key stakeholders of e-commerce and how are they faring in performing their duties?
9. How would your institution assess the current methods to ensure transparency in the assessment of existing e-commerce businesses by regulators?

Section Three

Perception of the Regulatory and Tax Expertise of E-Commerce

1. How well would your institution assess the ability of the regulators /GRA to monitor /tax e-commerce in terms of logistics?
2. How would your institution describe the level of skill of staff that is deployed to conduct the activities of the regulatory institution?
3. How would your institution describe the current application of e-commerce regulations by e-commerce businesses?
4. How would your institution describe the overall conduct of personnel of regulatory institutions in carrying out their duties?

