



## CONSUMER PROTECTION IN E-COMMERCE WORLD

BY

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### Abstract

Consumer who buys goods and services for directly using them rather than reselling them or some other indirect use. They are considered as beginners of the economic cycle and play the pivotal role in the development of the economy. After the liberalization of economic policy, consumer goods have flooded the market as never before. The emerging trend of e-commerce have changed the consumer preferences to buy online, this paper analysis the comparative study of Consumer Protection Act, 1986 and Consumer Protection Act, 2019. The rapid development of e-commerce and globalized trade provides a wide choice for online shopping for both manufacturers and consumers and sometimes it leads to the victimization of consumers because of false or misleading advertisements, defective products, fake deliveries of products, payment issues, return or exchange policy etc. However, there are national legislations to deal with such issue, but it does not provide a shield to victimized consumer because of improper implementation of laws due to jurisdictional issues. In this paper, the author intends to examine whether the present national laws are sufficient to deal with commercial transactions that affect consumers in today's era. This paper also describes the long-arm statutes and jurisdiction aspect relating to the disputes and issues in e-commerce.

**Keywords:** consumer, consumer protection, e-commerce, consumer legislation, and jurisdiction.

## I. INTRODUCTION

The advent progress in the field of technology supports the development of internet and leads to the striking change in the scene of commerce and consumer in India. Consumers are the crucial component of a commercial world who create the demand of goods on which the supply chain depends. This technology induced a habit of consumers to get comfortable and convenient shopping options at the click of mouse without having a deal with a congested market places or obnoxious salespersons with their arrogant attitude. This era of information technology has given birth to technologies like electronic data interchange and electronic fund transfer, which have grown into information technology-enabled commercial activities known as e-commerce. Hence, India's e-commerce market is expected to reach \$350 billion by 2030, says a recent IBEF report. The Indian online grocery market is estimated to reach \$18.2 billion in 2024, expanding at a CAGR of 57 percent.

Electronic commerce can be defined as the trading of goods and services on the Internet. E-commerce takes as many different forms as there are various ways to shop online channels. A few common business models that shape the world of e-commerce are:

- B2C – Businesses sell to individual consumers (end-users). The most common model with many variations.
- B2B – Businesses sell to other businesses. Often the buyer resells products to the consumer.
- C2B – Consumers sell to businesses. C2B businesses allow customers to sell to other companies.
- C2C – Consumers sell to other consumers. Businesses create online marketplaces that connect consumers.
- B2G – Businesses sell to governments or government agencies.
- C2G – Consumers sell to governments or government agencies.
- G2B – Governments or government agencies sell to businesses.
- G2C - Governments or government agencies sell to consumers.

Modern electronic commerce often involves the usage of the World Wide Web at least once during the transaction's life cycle, though it can also include e-mail, mobile devices, and telephones. With its three distinct characteristics of a) virtuality, b) unboundness, and c) multiplicity, e-commerce transactions provide a lot of advantages to humans in their

commercial and business activities. As a result, internet-based e-commerce transactions enable consumers and businesses to enter into contracts for the exchange of goods and services anywhere in the world, regardless of physical borders, at 24/7 basis. The features contribute towards the massive growth of e-commerce on a global scale, but they also have limitations too. The benefits of e-commerce are growing rapidly, offers global marketing reach, provides the ease of ordering products online, generally involves lower operating costs, and gives direct-to-consumer access but on the other hand it also have disadvantages such as Limited face-to-face interaction, technical difficulties, data security and challenges of shipping and fulfilling orders at scale and so on. While there are various challenges in the conduct of e-commerce transactions, the consumer protection in e-commerce transactions is of utmost substance. This is so if issue of consumer protection not properly addressed with the adequate mechanism than it may adversely affect the fair competition and the free flow of truthful information in marketplace and may lead to fraud and deception on consumers in respect to their conduct of e-commerce transactions. Hence, researcher analyses the consumer protection provided in this e-commerce world.

## II. RESEARCH QUESTIONS

- a) Whether the present national laws are sufficient to deal with commercial transactions that affect consumers in today's era?
- b) Whether the victimized consumers are redressed which has easy accessibility?
- c) How far the online consumers aware of jurisdictional aspect to resolve disputes arising while online shopping?

## III. RESEARCH OBJECTIVES

The aims of the research paper are enumerated below:

- a) to examine the present legislation pertaining to consumer protection and
- b) to look whether these legislations are competent enough to deal with commercial transaction
- c) to examine the redressable options available to online consumers in a global perspective
- d) to examine the jurisdiction aspect pertaining to the disputes and issues in e-commerce

## IV. RESEARCH METHODOLOGY

Researcher used the doctrinal approach for analyzing the research paper and used different statutes, texts, legal journals, magazines, etc. and from these tries to collect all the relevant material on the topic and then with reasoning power, researcher tries to find out the problem and draws final conclusion. The research paper involves socio-legal research approach that what are the challenges faced by the consumers while involving in e-commerce activities.

## V. RESEARCH FINDINGS

### 1. LEGISLATIONS PERTAINING TO CONSUMER PROTECTION

Consumer protection is pivotal as the seller always have the undue authority to exploit the consumer. They always face the issues of low quality, or adulteration, etc. Consumer Protection has its deep roots in the rich soil of Indian civilization. The glimpse of consumer protection can also be seen in ancient Indian texts. Likewise, Manusmriti and Kautilya's Arthshastra had stressed upon ethical trade practices, punishing those who were unfair to consumers. Moreover, provisions of penalty were also imposed on the traders who indulged in the unfair trade practices. Further, in the medieval period, some Muslim rulers developed well-organized market mechanism to monitor prices and the supply of goods to the market. The shift from the medieval era to the British colonialism the modern legal system was introduced in India and many laws were enacted to protect the interest of the consumer generally. Along with enforcement of pre-independence legislations passed in relation to consumer protection, the Government of India has passed various other laws to strengthen the consumer protection such as The Essential Commodities Act, 1955; The Monopolistic Restrictive And Unfair Trade Practices Act, 1969; The Standard of Weights And Measures Act, 1976; The Bureau of Indian Standards Act, 1986; The Consumer Protection Act, 1986; The Trade Marks Act, 1999; The Competition Act, 2002; The Consumer Protection Act, 2019.

### Comparative analysis of Consumer Protection Act, 1986 and Consumer Protection Act, 2019

The Consumer Protection Act was passed in 1986 and it came into force from July 1987. The main objectives of the Act are to provide better and all-round protection to consumers and effective safeguards against different types of exploitation such as defective goods, deficient services, and unfair trade practices. It also makes provisions for simple, speedy, and inexpensive machinery for redressal of consumer's grievances. The Consumer Protection Act, 1986 was inspired from the framework laid down by the United Nations. A National Consumer Protection Council, comprised of 28 members and multiple ministry officials, held two meetings to discuss and draft consumer protection guidelines. They organized a National Workshop in this regard, on March 11 and 12, 1985.

The rights of the consumer provided under the Act are *Right to safety; Right to Choose; Right to be informed; Right to Consumer Education; Right to be heard; Right to seek compensation. Let's take an overview of the rights provided:*

- **Right to Safety-** Before buying, a consumer can insist on the quality and guarantee of the goods. They should ideally purchase a certified product like ISI or AGMARK.
- **Right to Choose-** Consumer should have the right to choose from a variety of goods and services in a competitive price.
- **Right, to be informed-** The buyers should be informed with all the necessary details of the

product, make her/him act wise, and change the buying decision.

- **Right to Consumer Education-** Consumer should be aware of his/her rights and avoid exploitation. Ignorance can cost them more.
- **Right to be heard-** This means the consumer will get due attention to express their grievances at a suitable forum.
- **Right, to seek compensation-** It defines that the consumer has the right to seek redress against unfair and inhumane practices or exploitation of the consumer.

Since the economy is developing rapidly and technological advancements are taking place day to day the old consumer protection act had faced several challenges and faced many setbacks which needed immediate attention. Therefore, the Government of India brought the drastic change and implemented the Consumer Protection Act 2019 which came into force from July 20, 2020. The act has been introduced to bring the consumer laws in conformity with changes brought about by globalization, liberalization, digitalization of product and services, etc. The new consumer protection act has introduced the following rights to the consumers:

- To have information about the quantity, quality, purity, potency, price, and standard of goods or services.
- To be protected from hazardous goods and services.
- To be protected from unfair or restrictive trade practices.
- To have a variety of goods or services at competitive prices

Further, the Consumer Protection Act, 2019 has the provision of the Establishment of the Central Consumer Protection Authority (CCPA) which will protect, promote and enforce the rights of consumers. The CCPA will regulate cases related to unfair trade practices, misleading advertisements, and violation of consumer rights.

Now let's have a bird eye view on the comparative study of Consumer Protection Act, 1986 and Consumer Protection Act, 2019:

Basis	Consumer Protection Act, 1986	Consumer Protection Act, 2019
Pecuniary jurisdiction	District forum – upto Rs.20 lacs State commission – from Rs.20 lacs to Rs.1 crore National commission – from Rs.1 crore and above	District forum - upto Rs.1 crore [Section 34(1)] State commission - from Rs.1 crore to Rs.10 crore (Section 47) National commission - from Rs.10 crore and above (Section 58)

Territorial jurisdiction	Where seller has office	Where complainant resides or works [Section 34(2)]
Regulator	No such provision	Central Consumer Protection authority to be formed (Section 10)
Mediation	No such provision	Court can refer for settlement through mediation (Section 80)
Appeal	Earlier 30 days period for appeal against the order of District forum (Section 15) Earlier 50% or 25,000 whichever is less is to be deposited	Period of 45 days allowed for appeal (Section 41) 50% of award amount is to be deposited.
E-commerce	Earlier no specific mention	All provision applicable to direct seller has been extended to e-commerce
Review	Earlier District Consumer Forum did not have the power to review	District Consumer Forum has power to review. (Section 40)
Unfair terms and conditions	No such provision	Section 49(2) and 59(2) of the new Act gives power to the State Commission and NCDRC respectively to declare any terms of contract, which is unfair to any consumer, to be null and void
Authority	District consumer forum State consumer forum National Consumer Dispute Redressal Commission	District Commission, State Commission, and National Consumer Dispute Redressal Commission
Composition of state	President and 2 other members	President and 4 other members

commission		
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Along with the Act, 2019 the Consumer Protection (E-Commerce) Rules of 2020 went into effect on July 7, 2020, to address the e-commerce concerns. Nonetheless, it was evident that India, as a developing country, needed to establish e-consumer trust in order to attract more investment and connect to the global market. Despite the fact that there is no explicit law governing e-commerce in India, the current provisions of the Consumer Protection Act, 2019, are being used to dispute online purchases. The Act of 2019 covers the purchase or sale of goods or services over a digital or electronic network, including digital products [s.2 (16)], as well as a person who provides technologies that allow a product seller to advertise or sell goods or services to a consumer. The Act also applies to online marketplaces or auction sites. [s.2 (17)] When comparing the Rules, 2020, to the Act, 2019, it is clear that the Act, 2019 is lauded as an all-encompassing regulatory framework that will increase customer interest and investment in e-commerce by making smartphones the primary objective of the new legislation. During the pandemic, e-commerce has become a gift to all customers. The E-Commerce Rules, 2020, are based on the new Act's strict consumer protection regime. Given the existing restrictions on customers' freedom of movement and greater reliance on e-commerce, the timing of the E-Commerce Rules, 2020, is advantageous in the midst of the epidemic. The Rules, 2020's grievance redress mechanism is undeniably a well-balanced move toward maintaining neutrality in the e-commerce market, better transparency, harsher sanctions, and a striking balance between e-commerce enterprises' and vendors' commitments in the marketplace. Consumers will unquestionably benefit from the mandatory provisions of appointing a consumer grievance redress officer and a nodal contact person or an alternative senior appointed official (resident in India) with contact details, acknowledging consumer complaints within 48 hours of receipt with a ticket number, and resolving complaints within one month of receipt. Regardless of each e-commerce company's return policy, all refund claims must be resolved within a reasonable amount of time. However, customers are cautious of exposing themselves to unscrupulous vendors, and service providers since daily internet fraud and unethical trading practices have made them fearful of exposing themselves to unscrupulous vendors and service providers.

## 2. CONSUMER PROTECTION AND E-COMMERCE

According to a report by Bain & Co., with 190 online shoppers in 2021, India's e-commerce market has the potential to surpass the US to become the second-largest shopper base in the next one to two years. Presently, India has the third-largest online shopper base in the world, behind China and US. The advancement of technology leads to massive users on the internet and it results into the elimination between rural and urban areas, allowing customers from small towns to acquire the same branded and high-quality products that were previously only available in urban areas. The nation is being transformed into a knowledge economy and fulfilling

the objective of the Digital India Initiative i.e. "Power to Empower". Information and communication technology has radically altered how society, including business houses and customers, interacts with businesses. In today's world, computer use and e-commerce via the internet have elevated e-transactions. The impact of the new technological advancements and the massive convergence of e-commerce transactions, have caught the attention of individual consumers, business enterprises, governments, and international organizations not as only facilitating the growth of business endeavor but also posing a variety of challenges and confronts to various segments of social and individual interests like data protection, consumer protection, privacy violations, etc.

Hence the challenges posed by e-commerce called attention to the need of developing a regulatory framework to counter the e-commerce challenges for the adequate protection of consumer rights. It also led to the demand to facilitate the growth of e-commerce with a protective and corresponding system for accomplishing e-commerce transactions on one hand and to fulfilled the demands of consumer protection on other hand under the novel phenomenon of e-commerce.

## 3. CHALLENGES IN E-COMMERCE

In the era of globalization, liberalization, and industrialization where the business houses want to earn more and more profit even by deceiving the consumers, the consumers need to be protected from such unfair trade practices. Therefore, in the modern era on one hand the consumers are considered to be the king of the market and on other hand, this concept of consumer trust is not beyond a shadow of doubt because in reality the consumer are still the most deprived part of the market and are in a disadvantageous position due to non-fortification of their rights. The recurrent ethical and legal issues faced by the consumers when indulged in buying products online are as follows:

- Privacy
- Identity and data theft, online scams
- Online piracy
- Unsolicited and misleading electronic ads and spamming
- Fraudulent behaviour of the merchants
- Phishing for personal financial information
- Shopping cart abandonment
- Insignificant customer loyalty
- Inert behaviour of the vendor in getting back the damaged goods
- The demand of challenging prices during shipment
- Competing against retailers and manufacturing
- Poor internet quality including speed and reliability
- Deceptive description pertaining to goods and services
- Improper response to monetary refund for disgruntled products
- Electronic identification and authentication tools
- Concern about Dispute Resolution Mechanism
- Lack of digital skills and financial literacy



- Competent jurisdiction and applicability of law w.r.t cross-border e-commerce transaction  
The world is easily connected through cross border E-Commerce and the challenges faced by consumers are enumerated below:
- Dealing with unaccustomed brands in an unknown language
- Deficiency of certainty in receiving a product as described or ordered
- Hidden cost, including those related to custom duties and currency conversion, as well as shipping or delivery
- Lack of clarity on protections afforded by a seller's jurisdiction, redress available in the event of the dispute, and enforcement of awards due to consumer

#### 4. A CONCEPTUAL FRAMEWORK ON JURISDICTIONAL ASPECT TO RESOLVE DISPUTES ARISING IN E-COMMERCE

E-Commerce and Cyber Consumer protection has a unique hardship regarding the International jurisdictional aspect to resolve disputes arising in E-Commerce. Determining the jurisdictions, the law is made by using common rules. In the European system, the Rome Convention of 1980 on the applicable law in contractual matters and the Brussels Convention, that is now the 44/2001 European rules on International jurisdictions, do apply. These texts contain provisions on conflicts of laws which have been drafted to protect consumers frequently allowing consumers to choose the jurisdiction of their residence. It is the role of the courts to apply those texts to specific questions resulting from electronic commerce. The national reports show that the main difficulties concern the localization of the incriminated acts and the question of knowing whether those acts concern a particular market. The difficulties in determining those situations are not limited to national frontiers and the absence of unification could inspire some pessimism regarding the usefulness of classic tools in Cyber Consumer protection. The development of unfair commercial practices on the internet implies specific reactions from states. Then, it must be focused on specific electronic commerce rules that national legal systems have brought about. To be clearer with jurisdictions over the disputes in E-Commerce, the member states should rely upon the International treaties or reciprocal enforcement agreements. These agreements often look at the contacts that the foreign entity has within the sovereign's interest in the matter of authentication.

#### VI. CONCLUSIONS AND SUGGESTIONS

Consumer Protection (E-Commerce) Rules, 2020 as well as the proposed amendment enhance the regulatory oversight in e-commerce and provide positive impact on the consumer and business sentiment. It also prevent the unfair trade practices of the marketplace e-commerce entities engaging in manipulating search result to promote certain sellers, preferential treatment to some sellers, indirectly operating the sellers on their platform, impinging the free choice of consumers, selling goods close to expiration, etc. Rules

prevent e-commerce entity to organize a flash sale of goods or services offered on its platform and provide a level playing field and ultimately enhance the customer choice at lower prices. In view of above findings, the following suggestions are made which may ensure adequate and efficient legal mechanism to consumer protection in e-commerce:

- Spreading awareness among the consumers
- To ensure easy accessibility of dispute resolution mechanism
- To ensure high reliability and revealing the true description of a business, goods, and services
- To ensure the reliability and security of online money transactions regardless of the mode of payment
- To ensure safe delivery of products ordered by a consumers
- To ensure the after-sale services

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