



Consumer Protection Issues and E-Commerce in India

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Introduction

Over the last two decades, Indian e-commerce industry has experienced a manifold growth in business. Before the COVID-19 pandemic, e-commerce was already showing a substantial growth in the business. Global e-commerce sales amounted to \$3.9 trillion in 2019 and were projected to exhibit further growth in the subsequent years. As expected, global e-commerce revenues reached \$5.2 trillion in 2021 and are projected to reach \$8.1 trillion by 2026. Pandemic has a substantial influence on e-commerce and it is expected that MSME will persistently flourish in the coming years as there is increase in number of individuals choosing to go online opting for shopping as it is a simple and secure method of acquiring products and services.

In India due to growing internet penetration, the rapid technology adoption, increasing smartphone users, reasonable data price, online mode of payment through UPI, innovative business models by MSMEs, and multiple payment options by e-commerce companies are major reasons for the growth of the industry.

Definition of E-Commerce

The Department of Industrial Policy and Promotion (DIPP) in its Guidelines for Foreign Direct Investment (FDI) on E-commerce defines E-commerce as “E-commerce means buying and selling of goods and services including digital products over digital and electronic network”.

Ministry of Electronics and Information Technology (MeitY) defined “e-Commerce” is a type of business model, or segment of a larger business model that enables a firm or individual to conduct business over an electronic network, typically the internet. Electronic commerce operates in all four of the major market segments: Business to Business, Business to Consumer, Consumer to Consumer and Consumer to Business.

According to Consumer Protection Act, 2019 ‘e-Commerce’ means buying or selling of goods or services including digital products over digital or electronic network.

The WTO Work Programme on Electronic Commerce defined “electronic commerce” to mean “the production, distribution, marketing, sale or delivery of goods and services by electronic means”.

The Organisation for Economic Cooperation and Development (OECD) defines E-Commerce as a new way of doing business, defined as transactions that take place over networks that use non-proprietary

protocols established through an open standard-setting process, such as the Internet. learn on about E-Commerce Laws And Regulations In India.

Growth of E-Commerce in India

With the rise of COVID-19, India saw a huge rise in the use of technology and online shopping, which changed the way businesses work. During and after pandemic it is observed that, there is a notable increase in online purchases due to factors such as lockdowns, social distancing, online availability of wider range of products and services, ease of shopping. This leads to the expansion of e-commerce and disrupted traditional as well as organized retails. As a result, e-commerce has emerged as a crucial component of the contemporary retail industry.

E-commerce growth in India has well and truly moved beyond the large cities to hundreds of Tier 2, 3, and smaller cities across the length and breadth of the country. The promise of easy access to large assortments at attractive prices has unlocked large cohorts of buyers in under-penetrated markets. This is reflected in the increasing market share of Tier 3 cities, which grew from 34.2% in 2021 to 41.5% in 2022. Tier 2 cities climbed from 19.4% in 2021 to 21.4% this year. Tier 1 cities lost market share from 46.4% in 2021 to 37.1% in 2022 as faster growth from smaller cities propelled them ahead.¹

According to PWC Report²

- The Indian e-commerce market will exceed 100 billion USD by 2022, with online financial services set to grow the fastest.
- Growth is expected from the next 100 million users with starkly different demographical backgrounds and preferences vis-à-vis existing users.
- To cater to their needs, e-commerce players need to innovate across the value chain through initiatives such as custom assortments, targeted marketing, local language content and online-over-offline (OOO) infrastructure.

Review of Literature

The article by Shashi Nath Mandal (2016) evaluates the current legislation and policies pertaining to e-consumers in India. Electronic transactions, encompassing both e-commerce and e-consumers, are becoming more prevalent. There is a deficiency of precise legislation governing consumer electronic transactions. Numerous examples have been reported via print and electronic media. The author contends that the current legal frameworks have not adequately grasped the requirements of the electronic consumer. The acknowledgement was made regarding the necessity of implementing measures to safeguard users of electronic products. Regulation is necessary to protect the rights of e-consumers. The article studied and contrasted the Consumer Protection Act of 1987 and the Contract Act of 1872 in order to enhance the potential protective measures for e-consumers. The essay proposes many strategies to safeguard the rights of online customers.³

The paper by Patil, A. R. and P. Narayan (2018) examines the current patterns in consumer legislation within the e-commerce sector in India, as well as the difficulties encountered in safeguarding consumers in the online virtual realm. The increase in the number of individuals utilising Information and Communication

¹ India E-Commerce Trend Report 2022 by Unicommerce

² Propelling India towards global leadership in e-commerce Executive Summary (2018) by PWC

³ Shashi Nath Mandal, E-Consumers' Protection in India (2016), Global Journal of Management and Business Research: E-Marketing Volume 16 Issue 5 Version 1.0 Year 2016

Technology serves as a significant catalyst for the expansion of e-commerce in India. India lacks dedicated legislation for regulating e-commerce transactions. The majority of e-commerce lawsuits are encompassed under either Section 2(1)(g) 'Deficiency in Service' or Section 2(1)(r) 'Unfair Trade Practices' of the Consumer Protection Act, 1986. During the initial years, e-commerce disputes presented a significant difficulty regarding the jurisdiction of courts in consumer forums.⁴

The article by Ahlgren, Jennie et al. (2013) provides an explanation of the current direct-to-consumer services available over the Internet. Authors contend that internet services exhibit a dubious degree of veracity and consumer safeguarding, together with an asymmetry between extensive commitments and contradictory disclaimers. Psychological and behavioural research suggests that the extent to which consumers embrace a new technology is mostly influenced by their logical and emotional understanding, as well as their moral convictions. The existing Internet services seem to indicate a requirement for further measures to ensure legal certainty by safeguarding privacy, consumer protection, and safety. Personalised nutrition services straddle the boundary between nutrition and medicine. The current regulation of this region is insufficient and in the process of being developed. This situation requires a thorough evaluation and improvement of current regulations that protect basic rights and data privacy. It is important to consider the sensitivity of the data, the risks associated with each stage of its processing, and to provide adequate safeguards for consumers to prevent any potential misuse.⁵

Objectives of the Study

The present paper is aimed to study e-commerce growth in India. It also tries to find out the problems faced by the e-commerce consumers. It also tries to understand legal provisions related to e-commerce and safeguarding consumers' rights.

Limitations of the Study

The limitations of the present study are as follows:

1. The present study has geographical limitations. The study is limited to the consumers' rights in India.
2. The present study is based on the E-commerce related Laws in India.

E-Commerce and Consumer Protection in India

Consumer Protection means protection of consumers from diverse unfair trade practices, so as to avoid exploitation and check over various business malpractices that may be detrimental to their rights and interest in the competitive markets. Needless to mention that commercial organizations are well organized, better informed and they have a better dominating position over consumers while conducting the commercial transactions. This advantageous position leads them to exploit the consumers easily.⁶

⁴ Patil, A. R., and P. Narayan. "E-Consumer Protection in India: Trends and Challenges". *Revista De Interés Público*, 2, Dec. 2018,

⁵ Ahlgren, Jennie et al. "Consumers on the Internet: ethical and legal aspects of commercialization of personalized nutrition." *Genes & nutrition* vol. 8,4 (2013): 349-55. doi:10.1007/s12263-013-0331-0

⁶ Khare, Rajiv Professor of Law and Rajvanshi, Gargi Assistant Professor of Law (2013) "E-Commerce and Consumer Protection : A Critical Analysis of Legal Regulations," *International Journal on Consumer Law and Practice*: Vol. 1, Article 6.

In India E-commerce is governed by multiple regulating authorities. The Reserve Bank of India (RBI) plays an important role in the governing of e-commerce as it is related to banking and financial transactions. In 2011, the Ministry of Electronics, Information and Technology (MeitY) acknowledged e-commerce as a component of the IT Act and enforced intermediary regulations. Various regulatory bodies across different industries have been amending their regulations to encompass e-commerce within their purview. Some of these regulations encompass FSSA, IRDA, Motor Vehicles Act, Waste Management Rules, consumer protection legislation, GST standards, and most recently, the data protection bill.

The Ministry of Consumer Affairs, Food, and Public Distribution of India introduced the Consumer Protection (E-commerce) Rules, 2020 to regulate the growing e-commerce business in India. It helps to safeguard consumer rights and promoting transparency in online transactions. The legislation gave emphasis on e-commerce businesses to furnish extensive product details such as the product's origin, the seller, and the procedures for returns. It also regulated mechanisms to promptly address client problems.

In the era of globalization to enhance consumer protection related to e-commerce markets, the Consumer Protection Act of 2019 was implemented as a replacement for the Consumer Protection Act of 1986. The Consumer Protection Act 2019 has expanded the definition of "consumer" to encompass anyone who purchase or access goods or services via online platforms or electronic methods, a provision that was absent in the Consumer Protection Act 1986. The Consumer Protection Act, 2019 has formed the Central Consumer Protection Authority (CCPA) to regulate Misleading Advertisements and Endorsements. To safeguard customers. The CCPA has issued advisories to e-commerce companies, instructing them to refrain from producing, selling, or listing products or services that pose a threat to the safety of consumers.

Addressing an event organised by the Public Affairs Forum of India (PAFI), Singh said the number of complaints registered on the National Consumer Helpline (NCH) has gone up to 90,000 in November compared to 40,000 in the same month last year. The grievance redressal mechanism of many big e-commerce players is not up to the mark as the number of complaints received by the National Consumer Helpline has risen sharply over the last four years, Consumer Affairs Secretary Rohit Kumar Singh said. "Four years back, the number of complaints pertaining to e-commerce transactions was 8 per cent of the total complaints. Last month, it was 48 per cent of the total complaints. That means that grievance redressal system of many of the big e-commerce companies is not working up to the mark. Consumer is getting weaker and weaker, that's where the role of this ministry becomes important" he added.⁷

Major Recommendations

There is a need to strengthen the National Consumer Helpline. Currently it provides services in 10 languages at present. There is a need to increase its services in all official languages in India.

There is an acute need to work in collaboration with Department of Consumer Affairs and States towards safeguarding consumer rights and ensuring prompt redressal of consumer grievances.

Consumer Courts are overburdened with pending cases. According to the data in 2022 about 6 lakh cases are pending of which about 4.5 lakh cases are pending in District Commission, 1.4 lakh cases in State Commission and over 22000 cases in National Commission. Government need to take proactive steps to resolve these pending matters. Lok Adalat may help to sort out some of the cases.

There are multiple regulations related to the e-commerce in India. Government need to establish the committee to find out overlapping provisions of different laws and maintain uniformity. E-commerce industry is facing new challenges. Hence there is a need to make the regulation and enforcement framework which will keep pace with the advancements of the economy.

The e-commerce industry is projected to continue expanding in the future. Enhanced enforcement strategy, along with comprehensive rules and regulations specific to the e-commerce sector, will greatly facilitate the long-term expansion of this industry.

⁷ <https://economictimes.indiatimes.com/tech/tech-bytes/grievance-redressal-mechanism-of-e-commerce-players-not-up-to-mark-consumer-affairs-secy/articleshow/96428582.cms?from=mdr>