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# Consumer Protection in the Era of E-Commerce: Issues and Challenges

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## ABSTRACT

*Today consumer law is facing various issues and challenges as a result of the rapid development of e-commerce and globalised trade. The growth of borderless marketing and technology has grown over the years. There is a wide choice for online shopping for both manufacturers and consumers. These multinational companies and other enterprises which are engaged in e-commerce attract a large number of consumers all over the world. The problem is that many people who go online shopping become victims because of false or misleading advertisements, defective products, fake deliveries of products, unsafe products, payment issues, security and privacy issues, unilateral contracts etc. However, there are national laws to deal with such an issue, but somehow it fails to protect victimised consumers because of poor implementation of laws due to jurisdictional issues. The theme of this paper is to examine whether the current national laws are sufficient to deal with commercial transactions that affect consumers in today's era. The paper will identify the issues and problems of electronic contracts. It will do a comparative study in legislations of other jurisdictions to provide suggestions as to how and why existing laws governing electronic contracts are required to be reformed to meet the challenges faced by today's population while dealing with online transactions. There is a high time to take action at a national and international forum.*

**Keywords:** consumer protection, consumerism, online shopping, e-commerce, cyber laws.

## I. INTRODUCTION

Information technology has given birth to technologies like electronic data interchange and electronic currency transfer, which have grown into information technology-enabled commercial activities known as e-commerce with the help of the internet. The buying and selling of goods and services over electronic networks such as the

internet and other computer networks are known as e-commerce. Electronic commerce makes use of a wide range of technologies, including electronic money transfers, supply chain management, Internet marketing, online transaction processing, electronic data interchange (EDI), inventory management systems, and automated data collection systems.

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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,<sup>2</sup> b) unboundedness,<sup>3</sup> and c) multiplicity<sup>4</sup>, 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 any time of day or night. These attributes undoubtedly contribute to the massive growth of e-commerce on a global scale, but they also have significant drawbacks.<sup>5</sup>

On the one hand, e-commerce has a number of advantages, such as lower costs, economy, higher company margins, better customer cost, quick and comparative shopping, knowledge market, and so on, but it has also introduced some challenges, such as information sharing, threats to data privacy, security, and integrity, lack of loyalty in consumer relationships, and the threat

of violation of consumers' various rights in e-commerce, to name a few.<sup>6</sup> While there are numerous problems in conducting e-commerce transactions, consumer protection is of paramount importance. This is because if the issue of consumer protection is not effectively addressed with an adequate mechanism, it may have a negative impact on fair competition and the free flow of accurate information in the marketplace, as well as lead to consumer fraud and deceit in their e-commerce transactions. As a result, we've chosen to look at and study the intersection of consumer protection and e-commerce from a legal standpoint.

In general parlance, consumer protection means the protection of consumers from an assortment of unfair trade practices.<sup>7</sup> The Court in *Raghubir Singh v. Thakurain Sukhraj Kuar*<sup>8</sup> explained that the rationale behind such protection is to avoid consumers' exploitation at the end of the business community and to hold back various business malpractices.<sup>9</sup> Commercial organisations are usually well-organised, well-informed, and have a stronger market position.<sup>10</sup> All of these variables make it easy for businesses

<sup>2</sup> E-commerce is carried out in a virtual online environment where the buyer and seller do not engage in face-to-face contact. Instead, consumers use a computer to obtain information about sellers, the products and services they offer, terms and pricing.

<sup>3</sup> As the Internet has no physical boundaries, online transactions can be performed wherever an Internet connection is available. For consumers this means that shopping on the Internet is not constrained by time or space, lowering the financial costs of searching for products and services as well as saving time and energy. For online traders this means that they are also not constrained by time or space.

<sup>4</sup> A number of actors in addition to the consumer and the seller are involved in the e-commerce trading process to ensure verification.

<sup>5</sup> Rao & Metts, *Electronic Commerce Development in*

*Small and Medium Sized Enterprises: A Stage Model and its Implications* 9 (1) *Business Process Management Journal* 11-32 (2003).

<sup>6</sup> Such as right to privacy, right to get adequate information about the product and services and many more of alike nature.

<sup>7</sup> Jan Rafat, *Consumerism And Legal Protection Of Consumers* (Deep and Deep Publications, India, 2007)

<sup>8</sup> AIR 1939 Oudh 96 at 99.

<sup>9</sup> Dearmon Valorie, *Risk Management and Legal Issues* (Jones and Bartlett Publisher, LLC) Available on [http://www.jblearning.com/samples/0763757144/57144\\_CH15\\_470\\_493.Pdf](http://www.jblearning.com/samples/0763757144/57144_CH15_470_493.Pdf) (Last accessed 3/01/22).

<sup>10</sup> Ryan, Michael T. "Consumption" in George Ritzer (ed.) *The Blackwell Encyclopaedia of Sociology*,

to take advantage of consumers. These commercial organisations' most vulnerable victims must be safeguarded, and the customer is protected through consumer protection.<sup>11</sup> Mr. John F. Kennedy, the former President of the United States of America, was the first to establish the four basic consumer rights, which include 1) Right to Safety, 2) Right to Information, 3) Right to Choice, and 4) Right to be Heard while introducing the "Bill of Consumer Rights" in the US Congress (1962).

Four new consumer basic rights have been added to the list of consumer basic rights in the recent situation of consumer movement and caveat emptor<sup>12</sup> under the supervision of Consumers International,<sup>13</sup> fulfilment of fundamental requirements,

1. Right to Redress.
2. Right to Consumer Education.
3. Right to a Healthy Environment.
4. Right to a Safe Environment.

As a result, in the current global environment, the core consumer rights might be described as follows:

1) The right to basic needs satisfaction: To have adequate food, clothing, shelter, health care, education, public utilities, water, and sanitation.

2) The right to safety: to be safe from products, manufacturing methods, and services that are harmful to one's health or life.

3) The right to be informed: To be given the information required to make an informed decision and to be protected against deceptive or misleading advertising and labelling.

4) The right to choose: To be able to pick from a variety of items and services, all of which are offered at reasonable costs and of satisfactory quality.

5) The right to be heard: To have consumer interests represented in the creation of products and services, as well as in the formulation and implementation of government policy.

6) The ability to seek redress: Receiving an equitable resolution of legitimate claims, such as recompense for misrepresentation, defective goods, or poor service.

7) The right to consumer education: To have the knowledge and skills necessary to make informed and confident decisions regarding goods and services, as well as to be aware of basic consumer rights and obligations and how to exercise them.

8) The right to a healthy environment: The right to live and work in an environment that is safe for current and future generations. The United Nations has also acknowledged these rights in their "UN Guidelines for Consumer Protection."<sup>14</sup>

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Blackwell Publishing, (2007) 701-705.

<sup>11</sup> *Indian Oil Corporation v. Consumer Protection Council*, 1993 SCC (1) 397.

<sup>12</sup> "Let the Seller Beware" means the need for disclosure on the seller's part. See *Ashington Piggeries Ltd v. Christopher Hill Ltd*, [1972] A.C. 441.

<sup>13</sup> Consumers International (CI) is the world federation of consumer groups that, working together with its members, serves as the only independent and authoritative global voice for consumers with over 220 member organizations in 115 countries.

<sup>14</sup> Consumers International, *Guidelines on Consumer Protection*, available at <http://www.>

As a result, the concept of "ubi jus ibi remedium" has been used to acknowledge some important consumer rights at a global level,<sup>15</sup> It is unquestionably necessary to provide legal protection to consumers' rights in the commercial market against commercial organisations' exploitation through unfair trade practises.

## II. E-COMMERCE AND CONSUMER PROTECTION

E-commerce has proven to be a significant prospect for India. Because of the incredible rise of mobile phones and the launch of 4G in the country, buyers from small towns and cities are also buying online in big numbers. It is true that the internet has eliminated the distinction between small and major cities, allowing customers from small towns to acquire the same branded items and high-quality products that were previously only available to purchasers from large cities. According to Internet Live Stats, India has 462 million internet users. The country is being transformed into a knowledge economy and a digitally empowered society as part of the 'Digital India' initiative.

Consumer confidence is based on two convictions: that the customer will receive what he wants and that if something goes wrong, the customer will be able to seek redress. The virtual

nature of an e-commerce transaction introduces significant challenges to consumer trust and confidence. False and misleading representations of goods and services in terms of standard, quality, grade, and so on are prohibited under the Consumer Protection Act, as are materially misleading the public as to the price at which the goods are ordinarily sold, disparaging of goods, and misrepresentations as to warranty or guarantee.

Information and communication technology has radically altered how society, including business houses and customers, interacts with businesses<sup>16</sup>. With the introduction of e-commerce transactions, technology has also revolutionised commercial transactions. In today's world, computer use and e-commerce via the internet have elevated corporate transactions to unprecedented heights on a worldwide scale.<sup>17</sup> The impact of new technological advancements and the massive convergence of e-commerce transactions has piqued the interest of individual consumers, businesses, governments, and international organisations not only as a means of facilitating business growth but also as a source of challenges and threats to various social and individual interests such as data protection, consumer protection, and privacy violations. As a result of the issues brought by e-commerce, the

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consumersinternational.org/who-we-are/un-guidelines-on-consumer-protection (last accessed 2/01/22).

<sup>15</sup> The Latin legal maxim Ubi Jus Ibi Remedium translates "where there is a right, there is a remedy." The maxim's underlying idea is that when a person's right is violated, the victim will be entitled to an equitable remedy under the law. The maxim also emphasises that the individual whose right is being infringed on has the right to have the infringed right

enforced through whatever legal action. The notion of Ubi Jus Ibi Remedium is followed by all law courts.

<sup>16</sup> Ramakrishnan Et Al., E-commerce in India-Growth and Prospects, 2(3) Asia Pacific Journal of Research in Business Management 101-114 (2011).

<sup>17</sup> Eisingerich, Andreas B.; Kretschmer, Tobias, In E-Commerce, More is More, 86 Harvard Business Review 20-21 (March, 2008):.Available on <http://hbr.org/2008/03/in-ecommerce-more-is-more/ar/1> (last accessed 2/01/22).

need for building a regulatory framework to address the e-commerce challenges in order to adequately protect consumer rights has been highlighted. It also led to a demand for a protective and corresponding system to facilitate the growth of e-commerce with a protective and corresponding system for completing e-commerce transactions on the one hand and to meet consumer protection demands on the other hand, under the novel phenomenon of e-commerce.<sup>18</sup>

In today's India, e-commerce has become a booming industry. It is today's cutting-edge technology in all fields of business. In research published in 2014, the Internet and Mobile Association of India (IAMAI) projected that almost 1 million large and small retailers use online marketplaces to reach out to their customers. Electronics, books, apparel, accessories, footwear, jewellery, and more categories are represented by these online businesses.<sup>19</sup>

The need of ensuring basic consumer rights has long been recognised by legislation around the world, including in India. India passed the Consumer Protection Act in 1986 to defend consumer interests in accordance with the United

Nations Guidelines on Consumer Protection (UNGCP). The enactment's popularity stemmed from its stated goals of defining consumer rights and delivering cost-effective and timely remedies.

Customers who shop online, as opposed to those who shop in stores, are more exposed to cyberspace since they engage with unknown sellers and suppliers.<sup>20</sup> Data privacy and security, product quality, uncertain delivery, no/limited scope of replacement, jurisdiction for registering complaints, and incomprehensible terms and conditions are all frequent e-commerce concerns.<sup>21</sup> "In e-commerce, the "country of origin" of a product is extremely important, especially when dealing with cross-border transactions."<sup>22</sup> The inadequacy of the Consumer Protection Act of 1986, as well as other related regulations, has heightened customer apprehension and distrust. The key demonetisation policy of the Indian government in 2016 pushed for online transaction security and consumer safety in e-commerce activities, emphasising the need for digital payments. As a result, the Consumer Protection Act of 2019<sup>23</sup> superseded the Consumer Protection Act of 1986 and went into effect on July 20, 2020, while the

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<sup>18</sup> Ali.Z. Marossi, Globalization of Law and Electronic Commerce, 'Toward a Consistent International Regulatory Framework' (Delta Fredericton New Brunswick, Canada The Eighth International Conference on Electronic Commerce, August 14-16, 2006).

<sup>19</sup> Internet And Mobile Association of India: 1 Million Retailers Sell Online: IAMAI, March 27, 2014 [Press Release] [http://www.iamai.in/PRelease\\_detail.aspx?id=3313&NMonth=3&NYear=2014](http://www.iamai.in/PRelease_detail.aspx?id=3313&NMonth=3&NYear=2014) (last accessed 2/01/22).

<sup>20</sup> For global trend-access, explore, and personalized insights, see details at <https://www.forrester.com/data/forecastview/reports#> (Last accessed 3/01/22).

<sup>21</sup> Lahiri, A. (2018). Consumer protection in E-commerce in India. <https://amielegal.com/consumer-protection-in-e-commerce-in-india/>. (Last accessed 4/01/22).

<sup>22</sup> Bhattacharya, S., Sanghvi, K., & Chaturvedi, A. (2020) India: E-Commerce Rules, <https://www.mondaq.com/india/dodd-frank-consumer-protection-Act/976876/e-commerce-rules-2020#>.

<sup>23</sup> MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION (Department of Consumer Affairs) NOTIFICATION, available at: <https://consumeraffairs.nic.in/sites/default/files/Act%20into%20force.pdf>, (Last accessed 4/01/22).

Consumer Protection (E-commerce) Rules of 2020<sup>24</sup> went into effect on July 7, 2020<sup>25</sup>, 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)]<sup>26</sup>, 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)]<sup>27</sup>

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. To preserve customers' rights in all modern-day retail commerce models, the Act of 2019 tries to change the caveat emptor jurisprudence to a caveat seller jurisprudence. Furthermore, the Act formally embraced e-commerce inside its bounds, ushering in B2C e-commerce.

Consumers would benefit from the simplification of the complaint filing process, which will allow them to file complaints and address grievances online.

In the aftermath of the COVID-19 outbreak, 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

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<sup>24</sup> See Government's e-gazette notification <http://egazette.nic.in/WriteReadData/2019/210422.pdf>, (Last accessed 4/01/22).

<sup>25</sup> Government of India's press release see <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1656161> and for detailed Rules see <https://consumeraffairs.nic.in/theconsumerprotection/consumer->

[protection-e-commerce-rules-2020](https://consumeraffairs.nic.in/theconsumerprotection/consumer-protection-e-commerce-rules-2020). (Last accessed 4/01/22).

<sup>26</sup> The Consumer Protection Act, 2019 Act No. 35 of 2019.

<sup>27</sup> The Consumer Protection Act, 2019 Act No. 35 of 2019.

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.

Other Acts applicable to e-commerce include the Information and Technology Act, 2000 and the Legal Metrology Act, 2009, along with their rules.

Under the Customer Protection Act of 2019, A customer may file a complaint with the commission in charge of any of the locations:

1. The seller's or service provider's place of residence  
The seller's or service provider's place of business or office
2. Place of the cause of action, in part or whole.
3. The consumer's home or the place where he or she works for a living.

Complaints about online fraud can be filed with the cyber unit at your local police station. Some states allow you to file complaints online using portals designed specifically for this purpose. The Indian government launched a National Cyber Crime Submitting Portal<sup>28</sup> for reporting cyber complaints online on January 10, 2020.

According to the Legal Metrology Act of 2009, all products offered on e-commerce websites must be sold in proper packaging that includes the MRP, manufacturer's name and contact information, weight information, date of manufacturing, date of expiry (if applicable), and other information.

The Maharashtra Legal Metrology Department raided the warehouses of many e-commerce giants like Amazon and Flipkart in 2016 after receiving complaints and seized items worth lakhs of rupees because the packages were found to be in violation of the Legal Metrology (Packaged and Commodities) Rules, 2011. The Ministry of Consumer Affairs amended the rules in 2017 to incorporate the products sold online. The amendment made the mandatory provision for the e-commerce website to mention all the details of the products as prescribed in the rules.

One of the most important aspects of consumer law is that it encourages excellent business practices by ensuring that the customer is well-informed about the transaction. Because of the anonymity of the online market, there is a greater demand for clear information on all technological steps leading up to contract fulfilment, as well as effective techniques for detecting and rectifying input errors prior to contract completion. The Consumer Protection Act prohibits false and misleading representations of goods and services in terms of standard, quality, grade, and so on, as well as materially misleading the public as to the price at which the goods are ordinarily sold, disparaging of goods, and misrepresentations as to warranty or guarantee.

### III. CONCLUSION

The broad availability of the internet, as well as the increasing use of computers, tablets, and smartphones, has fuelled e-commerce growth in many nations, including India. New distribution

<sup>28</sup> <Cybercrime.gov.in> (last accessed 5/01/22).

strategies have emerged as a result of the rapid growth of e-commerce. It has given consumers additional options, making them open to new forms of unfair trade and unethical enterprise. The Consumer is King with Power, and this new reform, which includes the enactment of two laws (the Consumer Protection Act of 2019 and the Consumer Protection (E-commerce) Rules of 2020), makes it easier to do business. With more operational experience, some legal issues may occur in the future. Nonetheless, with judicial intervention and directions, the safety and security of online consumers would pave the way for India's e-commerce boom. After a few years of operational experience, the scope for future research to test the efficiency of the Act, 2019, and Rule, 2020 in redressing e-commerce consumers' grievances and defending their rights becomes wider. Considering the importance of trust-building and consumer rights protection in e-commerce, the government's legislative drive to speed up online transactions also poses many obstacles.

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