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Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – [info@iledu.in](mailto:info@iledu.in) / [Chairman@iledu.in](mailto:Chairman@iledu.in)



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## THE IMPACT OF CONSUMER PROTECTION LAWS ON E COMMERCE BUSINESS MODELS: AN ANALYSIS

**AUTHOR** – ABHISHEK VARSHNEY, LL.M STUDENT AT IFTM UNIVERSITY, MORADABAD, UP

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### ABSTRACT

Consumers are a critical component of a healthy economy's growth, regulation, and progress. Consumers are the most important players in maintaining economies around the world. With the expansion of the market base and product base, the internet has become an enormous market for consumers for all around the globe. Thus it becomes increasingly important to ensure that consumers are able to take advantage of a broad base through the internet. These innumerable acts performed daily, create economic, social and most importantly legal relations binding people across countries, beyond borders. E-commerce sites have steadily crept into our everyday lives over the last few decades. Online behemoths like Amazon and Flipkart are well-known these days for their great sales and easy shopping choices. The history of e-commerce is unquestionably interesting. Both technology and e-commerce have shown no signs of slowing down, which may be due to the fact that their customers' preferences are constantly evolving as well. Customers have more bargaining power than ever before thanks to this outlet for shopping, making it critical for online companies to better understand consumer behaviour.

**Key Words**- Consumer, E-commerce, Economy, Technology, Consumer Laws

### Introduction

The invention of the Electronic Data Interchange (EDI) in the 1960s paved the way for e-commerce. It was intended to take the place of mail and fax because it allowed data to be exchanged digitally without the need for human interaction. The market has evolved, and new players have emerged. In today's competitive setting, the B2C e-commerce industry is expanding in terms of both demand and service offering. The Indian market is taking a long time to make the transition from conventional to online shopping. E trading encompasses not only the purchasing and selling of products over the Internet, but also a variety of internal business processes that help achieves the target. E-business (electronic business) carried by the various online platforms made Shopping experience much more convenient to the consumers. Markets on the Internet Vendors

can sell, advertisers can promote, and consumers can shop on these sites, which have become very convenient. With a variety of product offerings and labels, relevant testimonials, and the opportunity to compare and order, it has provided shoppers with an extra layer of convenience and trust.

### Constitutional Mandates

The preamble of the Indian constitution could well include a provision protecting consumer rights and interests. The Indian Constitution's noble aim of ensuring social, economic, and political justice for all people is one of its noble goals<sup>816</sup>. Thus consumer justice is a part of social and economic justice enshrined in the constitution. Under the Fundamental Rights

<sup>816</sup> Prof.(Dr) Shri. K. Elumalai, "Consumer Protection Act and Banking Services with Digest of Case Laws" 1st Edn, Allahabad law publications 9(India) pvt Ltd, 2008, P. 3

article 14<sup>817</sup> The constitution ensures equality before law and equal protection of the laws to all persons (citizens as well as foreigners). No state monopoly could be arbitrary in its dealing with the consumer<sup>818</sup> The right to know about a product's quantity, consistency, potency, norm, purity, and price is important for exercising other consumer rights<sup>819</sup>. The "right to know" and the "right to receive and impart information" have both been recognised in India as part of the right to "freedom of speech and expression" guaranteed by Article 19(1)(a) of the Indian Constitution. The Supreme Court has repeatedly held that a person has a constitutional right to use the most effective means of transmitting and receiving information, including access to telecasting for that reason. In the Doordarshan cases, the supreme court recognised the right to broadcast on Doordarshan<sup>820</sup>.

The right to life and personal liberty is guaranteed by Article 21 of the Indian Constitution, which contains a broad range of rights and attributes. The Supreme Court ruled in *R.P.Ltd v. Indian Express Newspapers*<sup>821</sup> that the general public has a right to know in order to engage in a participatory growth in industrial life and democracy. Since the Supreme Court has weakened the principle of locus standi in many cases, allowing public-spirited individuals or organisations to impose the rights of oppressed and backward sections of society, Articles 32 and 226 of the Indian Constitution are also applicable to consumer protection.

In terms of the Directive Principles of Public Policy, Article 38(1) of the Constitution requires the state to promote the welfare of the people by securing and protecting a constitutional order in which social, economic, and political

justice are represented in all aspects of national life. In particular, the state must guide its policies in such a way that men and women have the right to a sufficient means of subsistence.<sup>822</sup> The state also has a responsibility to guide its policies toward ensuring the equitable distribution of ownership and control of the community's material resources in order to serve the public good<sup>823</sup>. The nation's economic structure must be run in such a way that capital and development resources do not become concentrated to the detriment of the general public<sup>824</sup>. As a result, the State is obligated to protect consumers from the exploitative and monopolistic activities of large, unscrupulous corporations. Furthermore, the Constitution requires that the government work to improve the health and strength of workers and to provide them with a reasonable standard of living<sup>825</sup>. According to Article 46 of the Indian Constitution, the state must strive to protect the economic interests of the poorer sections of the population, as well as to protect them from social inequality and exploitation of all forms. In addition to other aspects, the word "social inequality and all types of abuse" can be interpreted to include customer exploitation, such as harassment and fraud in the marketplace. It is the state's obligation to protect its citizens' health and to work to improve their nutrition and living standards. As a result, the government has a duty to efficiently track the flow of contaminated food and other consumables that threaten public health and safety in the marketplace<sup>826</sup>.

### Direct-to-Consumer (D2C)

Manufacturers and CPG (Consumer Packaged Goods) brands are increasingly using the Direct-to-Consumer (D2C) strategy to reach the market directly rather than through a middleman. Going direct to consumer has many advantages, but to name a few, it removes the barrier between the producer and

<sup>817</sup> Article 14, The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India

<sup>818</sup> *R.D. Shetty v. IAAI*, AIR (1997) SC 1628

<sup>819</sup> *Kerala Hotel and Restaurant Association v. State of Kerala* AIR 1996 SC 913

<sup>820</sup> *In Odyssey Communication (P.) Ltd. v. Lokvidayan Sangathan*, (1988) 3 SCC 410, the right of a citizen to exhibit films on the Doordarshan subject to the terms and conditions to be imposed by the latter has been recognized

<sup>821</sup> AIR 1989 SC 190; also see *PUCL v. Union of India*, JT 2003 (2) 528, The Supreme Court stated that fundamental rights do not have set contents, and that the majority of them are empty vessels into which each generation must pour its own content based on its own experiences.

<sup>822</sup> Article 39(a) of the Constitution of India.

<sup>823</sup> Article 39(b) of the Constitution of India.

<sup>824</sup> Article 39 (c) of the Constitution of India.

<sup>825</sup> Article 39(c) of the Constitution of India.

<sup>826</sup> Article 47 of the Constitution of India.

the consumer, enabling the producer to assert greater control over its brand, image, marketing, and sales strategies. It also allows the manufacturer to communicate with and learn from their customers directly.

### What is direct-to-consumer (D2C)

Direct to Customer, or D2C, is a low-barrier-to-entry eCommerce strategy that enables manufacturers and consumer packaged goods brands to sell directly to customers. It eliminates the need to negotiate with a manufacturer or reseller to get the product on the market. Brands sell directly to consumers via an online medium in direct-to-consumer (D2C) sales<sup>827</sup>.

### Characteristics of Direct-to-consumer companies

1. They're newcomers to a low-barrier-to-entry market.
2. They have financial flexibility and/or the ability to lease and rent portions of their operations.
3. They are deeply dedicated to their clients.
4. They've worked with first-party data and analytics before.
5. They bypass the middlemen and ship directly to customers.
6. They recognise the value of direct customer communication (utilizing CRM software).
7. Compared to traditional stores, they have more pricing options.
8. They show how digital marketing is becoming more popular (especially email and social media)<sup>828</sup>.

### The advantages of bringing your brand to customers directly

If you're an entrepreneur or thinking about starting a new consumer brand company, there

<sup>827</sup> <https://www.coredna.com/blogs/direct-to-consumer> last visited on 21st March 2021

<sup>828</sup> <https://www.fool.com/the-blueprint/power-direct-consumer-model/> last visited on 19th March 2021

are a variety of reasons why you should seriously consider a direct sales model. It's still not too late if you do have a company or have existing retail partners and are asking if it's too late.

### 1. Excluding the intermediary.

When you remove the numerous companies that come between you and your client, you also remove organisations that take a share in your income. For example, if your company sells t-shirts and you try to market them to wholesalers and vendors, you'll have to sell to them at a cheap enough price so they can mark them up and resell it to consumers. That cuts into your profit margin, which is a percentage measure of your profit in relation to the cost of your products. The more middlemen you have to bribe to get your goods out into the marketplace, the lower the lifetime worth of each buyer would be.

### 2. Improve the Customer's Experience

When you rely on other businesses, manufacturers, and suppliers to market your goods, you're losing out on a wealth of information that could be crucial to your business. In reality, for digitally native brands, consumer data has become one of their most valuable properties. Let's imagine you're only selling t-shirts from a supermarket. The only detail you'll ever get from the department store where your shirts are delivered is inventory based on volume sold, volume returned, and potential demand. That's good for inventory control, but it teaches you very little about your clients. Let's imagine you're selling the same t-shirts on your own platform. At check-out, you have the option of presenting each of your customers with additional merchandise (cross-selling and upselling) to notify which items will complement your current t-shirts.

### 3. Increase your Mindshare Easily

If you wanted your t-shirts to be a national or global brand in the conventional business model, you'd have to show wholesalers where your inventory will shift. It would potentially take

a few years to demonstrate that you have a local or regional influence, in which you would need to locate national distributors. Since all of the above-mentioned middlemen are eliminated in the D2C model, you will minimise time to market. You can legally sell your product anywhere until your website is up and running and your product is downloadable (as long as you have the shipping capabilities).

#### 4. Take Command Of The Company's Tale.

When you ship those t-shirts of yours to a third-party distributor, or start asking retailers to sell them for you, you're giving up control of your brand. It may not seem like it at the time, but little by little, you're placing the marketing control in another company's hands. If you have a direct-to-consumer brand, you have direct leverage of three of the four marketing Ps: price, promotion, and positioning. Depending on the economics of your market, you can A/B test the price, raise, decrease, or do whatever you want for your pricing. You may use a range of promotional strategies to monitor the flow of sales and deliver discounts based on your own customer details. And, because the product is launched and sold on your website, you decide where it will be put, how it will be advertised to customers, and how it will be viewed (hopefully)<sup>829</sup>.

#### 5. Be Present At All Times And In All Places.

When you market your goods through a conventional supply chain, you are mainly reliant on a few big outlets. Frequently, this entails exclusivity clauses and a limited price range. Assume you're selling t-shirts from a single store and want to run a flash sale. It's likely that your choices are limited. What if you were to beta-test a new product and get input from your clients right away? The same store outlet is unlikely to want to sell a limited batch of the new offering. Being a direct-to-consumer (D2C) ensures you have full control of the goods

by different push and pull marketing strategies. This includes your own website as well as the different platforms from which you sell. You can use your website, as well as social media sites, email promotions, and other tools. Often D2C companies use CRM tools or platforms to get a 360-degree view of their clients (and leads, or future customers) and engage with them on a regular basis (sometimes). A customer contact is just a click away, and there's nothing keeping you from speaking with them, whether it's about sales or customer service. When customers have a problem, they demand prompt action, and if you can respond quickly, you can provide a great customer experience. Being a direct-to-consumer business entails more than simply being digital, as it even entails being a multichannel provider (selling in multiple digital channels). That also ensures that you will be an omnichannel store, using both digital and physical media platforms<sup>830</sup>.

#### Top 5 Pointers For Moving To A Direct-to-consumer Market Model

The market space is getting more competitive as competition increases and there are theoretically hundreds of brands per category (and expensive). Changing to a D2C model might be a smart idea if you're looking for new opportunities to serve your existing consumers and/or new ways to reach new customers outside the regional and economic limitations you're currently facing. Companies must have a constant emphasis on the consumer experience, and a direct sales model that enables them to manage brand voice, product creation, delivery, and, ideally, customer lifetime value would be beneficial. To achieve this top 5 tips are as follows

##### 1. Examine the current business environment.

Have an eye on existing market dynamics and see whether a D2C business model will take advantage of legacy conditions. Is there space

<sup>829</sup> <https://www.fool.com/the-blueprint/power-direct-consumer-model/> last visited on 19th march 2021

<sup>830</sup> Greenstein, Marilyn and Todd M. Fienman, Electronic Commerce, Security Risk Management and Control (USA), McGraw-Hill. Last Modified 2019

for consumer pricing to be improved? and what extent do legacy brands engage with their clients directly? Are there any changes in consumer expectations? Is it difficult to locate or order current products? Can you see your company launching the ultimate product?

## 2. Concentrate on Making it Easy.

When faced with the advantages of convenience, they are multiple and obvious: It develops a sense of familiarity and enhances self-assurance. It adds transparency to the case, eliminating uncertainty and human error. It cuts down on the time and commitment taken for consumers to get their needs met. It boosts the efficiency and performance of consumers.

## 3. Prepare Yourself to Acknowledge Information.

As a direct-to-consumer brand, you'll have to spend a lot of time worrying about details, so make sure it's something you're interested in. To know which products to market, who to sell them to, and when, you'll need to set up your site in a way that combines your product data and your customer data. Buyer behaviour (conversion rates) by age group, gender, and geography; interaction by day of week or time of day; and refund data by buyer form are only a few examples of data you'll gather. If this doesn't pique your interest, you may want to reconsider switching to a D2C platform.

## 4. Choose a Customer Relationship Management that you like using

Customer experience management (CRM) programme aids businesses in keeping track of their relationships with existing and potential clients. There are plenty of CRMs on the market, so take your time to choose one that better fits your company's needs, and work out how to make the most of the features to support your brand.

## 5. Take customer support seriously

There aren't many direct-to-consumer brands that don't place a heavy emphasis on customer service. Word-of-mouth promotion is all about

creating brand-loyal – and mostly diehard – consumers. Furthermore, a rising number of businesses are finding that repeat consumers and retention (in the case of subscription-based businesses) is a much more cost-effective means of growing revenue than actively acquiring new customers. Prepare to recruit a customer service staff and ready to show them how to succeed.

## Consumer Protection Act, 2019 And Consumer Protection (E-commerce) Rules, 2020 Legal Provisions for Protection from Purchasing Spurious Goods

The Ministry of Consumer Affairs, Food & Public Distribution of the Government of India has notified The (New) Consumer Protection Act, 2019 ('Act') and the Consumer Protection (E-Commerce) Rules, 2020 ('Rules') to improve consumer protection on e-commerce and direct market space. On July 20, 2020, and July 24, 2020, respectively, these regulatory amendments took effect. The Rules specifically require e-commerce companies to include both product and vendor information, as well as the appointment of a grievance officer for customer grievance resolution and acknowledgment of consumer complaints within 48 hours. In addition to well specified protections that empower customers, the Act and Rules give compliance authorities the authority to take swift and decisive action against illegal trafficking. The 1986 Consumer Protection Act established a three-tiered consumer dispute resolution system at the national, state, and district levels. The Act and Rules would undoubtedly assist customers in making well-informed transactions. Not only can counterfeiters be deterred from selling fraudulent merchandise on the internet as a result of vendor information disclosure, but their whereabouts can also be easily monitored. Any repeat infringers may be blocked, ensuring a healthy retail environment for shoppers and protecting trade and brand owners from counterfeiting. Finally, after the CCPA is completely operational, counterfeiters may be more deterred by the prospect of legal and

disciplinary repercussions<sup>831</sup>.

### Legislation on Direct Selling

The Direct Sale Guidelines, 2016 is notified in the Gazette of India on October 26, 2016 as guiding principles for State Governments to propose controlling the industry of direct selling and multi-level marketing and strengthening the current regulatory framework on direct selling and multi-level marketing. As compliance authorities, state governments and union territories may take the appropriate steps to enact these guidelines. In conjunction with the Direct Sale Guidelines of 2016, state governments will create a framework to track and supervise direct sellers' and direct selling entities' compliance with the guidelines. No individual or organisation will engage in a money distribution scheme under the umbrella of a direct sale company, according to the Direct Selling Guidelines of 2016. The Department of Financial Services of the Ministry of Finance has stated that they have no knowledge that law enforcement agencies are wrongfully booking legitimate direct sale companies under the Prize Chits and Money Circulation Scheme (Banning) Act, 1978<sup>832</sup>.

### The Direct Selling Guidelines' Objectives Are As Follows:

The main and macro aims of the Direct Sale Rules, 2016 are to protect customers' interests from money-laundering activities such as Ponzi and/or Pyramid Schemes. Guidelines, on the other hand, aim to accomplish the following goals:

1. Create a road map for enacting successful and uniform laws to tackle money-laundering schemes in the region.
2. To bring an end to the unfair terms and conditions that RallyMark Legal is held to.
3. To prohibit any direct sale companies from

imposing unfair terms and conditions on direct sellers;

4. To provide stability and clarification in regulation for the DSI sector's long-term growth and, as a result, to spur the growth of direct sale in the country; and
5. To provide stimulus for the advancement of entrepreneurship and, as a result, to build jobs in the country.

### The Direct Selling Guidelines Have The Following Important Elements:

1. These model guidelines were developed by the Department of Consumer Affairs (Ministry of Consumer Affairs, Food and Public Distribution, Government of India) after consultation with the Inter Ministerial Committee and other stakeholders.
2. On September 12, 2016, the Guidelines were released as guiding principles for State Governments and Union Territories Rally Mark. Under these guidelines, state governments and union territories should establish mechanisms to supervise/monitor the activities of direct sellers and direct selling agencies for effective enforcement, monitoring, and implementation, as appropriate.
3. These Guidelines aim to control the Direct Selling and Multilevel Marketing industries, as well as improve state machinery for combating bribery and defending customers' legitimate rights and interests.
4. Within 90 days of the publication of these guidelines, any direct sale agency in the country must send an undertaking to the Department of Consumer Affairs (Ministry of Consumer Affairs, Food and Public Distribution, GOI) confirming that it has complied with the guidelines and providing details about its incorporation, as well as other details/information as may be notified by the government from time to time.
5. These guidelines provided the impetus for the country's DSI sector to be regulated, but they are yet to be informed in order to establish the required legislative framework.

<sup>831</sup> <https://www.legal500.com/developments/thought-leadership/legal-provisions-for-protection-from-purchasing-spurious-goods-through-e-commerce-under-the-consumer-protection-act-2019-and-consumer-protection-e-commerce-rules-2020/> last visited on 21st March 2021

<sup>832</sup> <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1580395> last visited on 21st march 2021



6. These recommendations mark a step forward in the transition to a consumer-driven regulatory period<sup>833</sup>.

### CONCLUSION

These recommendations provide direct sale businesses with specific ways to organise their existing market modules in compliance with them. The government's intention to control direct sale business practices is expressed in these rules, which mandate companies to conduct business in a straightforward and judicious manner. In a veiled Rally Mark Legal system of direct sale, the government would clamp down hard on unscrupulous individuals engaged in illicit money circulation schemes. These guidelines give a strong warning to the direct sale industry that all of its operations will be regulated by the Consumer Protection Act of 1986, opening the way for judicial oversight of direct selling companies and direct sellers' business models and activities. These rules define genuine money circulation schemes in detail, allowing unscrupulous individuals engaging in illicit money circulation schemes to be held criminally liable. Finally these guidelines create a roadmap for the country's direct selling industry's establishment, production, and growth.

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<sup>833</sup>

<https://www.rallymarklegal.com/brocuer/Direct%20Selling%20Guidelines%202016%20-An%20Analysis.pdf>