

LEGAL SAFEGUARDS FOR CONSUMERS IN E-COMMERCE TRANSACTIONS: AN ANALYTICAL STUDY

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ABSTARCT

The rise of the consumer protection movement is a recent development in today's digital age. The consumer protection agency is tasked with ensuring that the essential needs of the vast consumer base in the nation are fulfilled in line with legal standards. Implementing legal measures to protect consumers is improving their status in society and enhancing their quality of life. E-commerce has transformed the global infrastructure for online business and trade. Today, e-consumers can access a variety of options, convenient shipping solutions, online payment methods, and e-banking services. Consumer Protection, which is grounded in the idea of e-consumers, is an effort made by consumers themselves to defend their rights in the digital marketplace. E-consumers are individuals who buy, use, or sell products and services online. The term has replaced the traditional idea of 'buyer beware.' The concept of consumerism can be traced back to ancient times, but e-consumerism is a more contemporary phenomenon. The rise of e-commerce has led to the development of the notion of e-consumerism. E-commerce and e-consumerism are linked to achieve a balance between e-commerce profitability and e-consumer satisfaction. Consumers, viewed as the primary force in the marketplace, need legal safeguards to protect their rights and interests. The enactment of the Consumer Protection Act, 2019 represents a major milestone in the consumer advocacy movement within the country. Its goal is to improve the safeguarding of consumer rights. This legislation is notably progressive and comprehensive, as it addresses all types of goods and services. Due to the rapid expansion of the internet, e-commerce transactions have seen substantial growth, especially following the COVID-19 pandemic.

Keywords: E-Commerce, Infrastructure, Consumer, Proliferation.

INTRODUCTION

The awareness of consumers in India is rising at an extraordinary pace. Recently, there has been a significant increase in public concern about consumer protection both in India and globally. An emerging social movement has inspired consumers, promoted consumer awareness, and informed them about their basic rights. This trend is commonly known as consumerism. The realm of consumer protection has experienced considerable growth worldwide due to the expansion of international trade and commerce. The actions of multinational

corporations in the manufacturing, distribution, and marketing of products and services have raised numerous issues that necessitate cooperative efforts among governments. Developing nations lag behind in ensuring consumer welfare due to a lack of resources and necessary infrastructure¹⁹¹⁰. In 1980, the UN Secretary General emphasized the importance of global cooperation in consumer protection, as improvements in consumer protection laws extend beyond national borders. The Consumer

¹⁹¹⁰ Stead, B, & Gilbert, J "Ethical issues in electronic Commerce". Journal of Business Ethics, 2001

Protection Act of 1986 serves as the primary legislation in the realm of consumer protection. This law is thorough and has broadened the avenues available for consumers to address their grievances, without affecting the existing legal remedies under Common Law. The earlier law was withdrawn and replaced by the Consumer Protection Act of 2019. The evolution of consumer safeguards in India has unfolded in several phases. The consumer movement is gaining momentum due to the swift socio-economic changes affecting individuals who purchase goods and services. The growth of technology and rapid industrialization has led to an increased acquisition of products and services by consumers¹⁹¹¹.

Today, individuals greatly depend on goods and services to meet not only their basic necessities but also to improve their quality of life. Before the industrial revolution, human desires were modest and could largely be satisfied through barter and self-sufficiency. It is no longer feasible to return to that idyllic era. As long as there is a constant influx of new industrial products in the market and retailers leverage media to boost sales. According to Section 2 (d) of the Consumer Protection Act, 1986, a "consumer" is defined as a person who purchases goods in exchange for payment that has been made or promised, either in full or in part, or through a deferred payment scheme. The term "user" refers to anyone who uses goods, excluding the person who acquires those goods for a specific payment or promise of payment. This also pertains to scenarios where the use of goods is consented to by the purchaser under a deferred payment arrangement. However, it does not include individuals who acquire goods for resale or any commercial purposes. Moreover, it encompasses any recipient of services, apart from the individual who hires or uses those services for a specific payment or promise of payment, including instances where the

services are utilized with the consent of the aforementioned person under a deferred payment agreement. Nevertheless, this term excludes individuals who seek such services for commercial use. Electronic commerce is facilitated by several technologies, including electronic money transfer, supply chain management, Internet marketing, online transaction processing, electronic data interchange (EDI), inventory management systems, and automated data collection systems. Modern electronic commerce often relies on the World Wide Web at some point in the lifecycle of a transaction. However, it may also utilize other technologies such as e-mail, mobile devices, and telephones. E-commerce transactions provide various benefits to society in their commercial and business endeavors owing to their three unique traits: virtuality and unboundedness.

MEANING AND DEFINITION OF E- COMMERCE

E-commerce, or electronic commerce, refers to the buying and selling of products and services. The growth of e-commerce in India has been supported by a comprehensive platform for Indian merchants. This platform provides various advantages, such as a broad selection of choices, effective delivery options, and access to top-notch products at low prices for consumers. E-commerce began to take shape in the business sector during the 1970s. As of 2017, the three leading e-commerce companies in India were Snapdeal, Flipkart, and Amazon. By 2020, India had a multitude of e-commerce ventures. The Government of India's Ministry of Commerce and Industries plans to launch the Open Network for Digital Commerce (ONDC) in 2022 to promote the growth of digital commerce. The ONDC encourages the implementation of open networks to facilitate the distribution of products and services over electronic systems. This framework allows easier access to e-commerce for customers while giving small businesses the chance to participate in commercial activities. The main objectives of the ONDC are to establish an innovative and competitive framework, ensure

¹⁹¹¹ Rajender Kumar Rajender Kumar Nayak, Consumer Protection Law in India An –Eco -Legal Treaties on Consumer Justice, 39 (Indian Law Institute, New Dehi, 1991)

consumer freedom of choice, and improve the technological ecosystem for e-commerce. E-commerce, as outlined in Section 2(16) of the Act, pertains to the trade of goods or services, including digital products, via a digital or electronic network. Electronic commerce, or e-commerce, denotes the activity of buying and selling goods and services through electronic means. According to Black's Law Dictionary, "Electronic Commerce is specified as the operation of business without requiring physical documents, utilizing electronic and/or online tools."¹⁹¹² It involves various activities such as sourcing, placing orders, processing transactions, executing payments, verifying identities, managing stock, fulfilling orders, and providing customer assistance. The general populace participates in e-commerce, often without being aware of it, in contemporary times. E-commerce tools comprise a variety of electronic devices like computers, phones, fax machines, barcode scanners, credit cards, and automated teller machines (ATMs), whether or not they rely on the internet. All these actions can be carried out electronically and are thus encompassed within the definition of "electronic commerce." The United Nations Commission on International Trade Law (UNCITRAL) established the Model Law on Electronic Commerce (MLEC) in 1999. The aim of this law is to promote and enable electronic commerce by supplying a set of globally recognized regulations for national lawmakers. These regulations are intended to remove legal obstacles and improve legal foresight for electronic commerce. The adoption of fundamental principles such as non-discrimination, technological neutrality, and functional equivalence has made the model legislation a foundational element of modern electronic commerce law. The Indian Information Technology Act, 2000, provides legal recognition to transactions executed via electronic channels, in alignment with the UNCITRAL Model law. The Act characterizes electronic commerce as transactions fulfilled

through digital data exchange and additional forms of electronic communication, using methods of communication and information retention that do not depend on paper.

KINDS OF E- COMMERCE

Businesses frequently utilize various types of e-commerce via the Internet. Indiamart.com operates as a B2B (business-to-business) online marketplace that helps companies find and connect with competitive suppliers. Companies can collaborate with other businesses to efficiently manage their operations. a. Business-to-Business (B2B), b. Business-to-Consumer (B2C), c. Consumer-to-Consumer (C2C), d. Business-to-Business-to-Consumer (B2B2C). C2C transactions happen over the internet, social media, and mobile devices to sell products and services. This can take place via personal websites, emails, auction platforms, text messaging, and classified ads. For example, online sites like eBay, OLX, and Quikr enable consumer-to-consumer exchanges. The B2C e-commerce model presents affordable investment opportunities for sellers while offering consumers lower-priced products. The increasing adoption of this model by several e-commerce companies such as Amazon, Jabong, and Snapdeal showcases its growth. These digital platforms partner with payment gateway providers, which facilitate payment processing or allow payment in cash upon delivery. Consequently, e-commerce has clearly become a significant opportunity for India. E-commerce has bridged the gap between small and large cities, enabling customers in smaller towns to access the same branded products and high-quality goods that were only available to buyers in larger urban areas. The "Digital India" initiative, launched by Prime Minister Narendra Modi in August 2014, aims to transform the country into a digitally empowered society and a knowledge-driven economy. Additionally, the government's "Make in India" initiative, designed to encourage both domestic and multinational companies to manufacture their products in India, can

¹⁹¹² Govt to enhance consumer protection, available at <https://www.hindustantimes.com/india-news/govt-revive-tweaks-to-curb-unfair-e-tail-practices-fix-liability>.

significantly benefit from advancements in electronic commerce technologies.

LAWS GOVERNING CONSUMER PROTECTION IN INDIA

Before gaining independence, consumer-related issues were mainly addressed through laws such as the Indian Penal Code of 1860, the Indian Contract Act of 1872, the Sale of Goods Act of 1930, and the Drugs and Cosmetic Act of 1940. Although there were differences in awareness levels across various regions of India, the general awareness was low. During this time, the British government's primary concern was to protect and promote British interests. The Indian legal system underwent significant changes, adopting the English Legal system to ensure justice was administered fairly. As a result, their economic policies in India were largely motivated by self-interest rather than the welfare of the Indian people. The main focus of the administration was on maintaining law and order, tax collection, and providing defense. The laws enacted during this period primarily served the interests of the colonial powers rather than benefiting the general populace. The Indian Penal Code of 1860, the Dangerous Drugs Act, the Sale of Goods Act, and the Drugs and Cosmetics Act were all established prior to India achieving independence.

1. Indian Penal Code 1860

The main penal law of the country, covering the essential regulations concerning criminal offenses. It somewhat meets the needs of consumers. Sections 264 to 267 of the Indian Penal Code address the unlawful use of falsified instruments for weighing, the unauthorized use of fake weights and measures, the possession of counterfeit weights or measures, and the manufacturing or sale of such items. Sections 269-271 of the Penal Code focus on the act of transmitting infections, while sections 272-276 pertain to the adulteration of food or drinks meant for sale. These sections cover offenses such as selling harmful food or drink, contaminating drugs, and misrepresenting

drugs as another drug or preparation. Penalties for these offenses include imprisonment, fines, or both. Sections 277 and 278 discuss the intentional pollution of public water sources or the deliberate production of unhealthy air in populated or occupational areas. Such actions are punishable by up to three months of imprisonment, a fine, or both.

2. The Sale of Goods Act, 1930

The Sale of Goods Act, 1930 includes various legal provisions that enhance consumer protection. This Act incorporates principles rooted in British law, with necessary modifications made to suit India's specific context, to regulate market sales. The rules governing the formation, execution, termination, and breach of contracts, as specified in the Contract Act, apply to the sale of goods. The Act was enacted in 1930 after being separated from the Indian Contract Act, 1872. It contains multiple sections that capture the essence of consumerism. The Act establishes legal provisions related to transactions involving goods. This document addresses the legal dimensions of a sales contract, encompassing terms and conditions, warranties, transfer of ownership, obligations of the seller and buyer, seller rights in cases of non-payment, and legal recourse available in the event of contract violations.

3. Prevention of Food Adulteration Act, 1954

Food adulteration is a major issue for consumers, as it affects the extent to which they encounter the problem of impurity in the market. The aim of this Act is to ban the adulteration of food products to ensure the safety and well-being of the population in the country. The Act includes provisions designed to protect consumer interests, such as establishing a central committee for food standards, a central food laboratory, limitations on the importation of certain food items, regulations related to sea customs, granting authority to customs officers, and forbidding the production and sale of specific food products. Additionally, the Act provides for the setup of

food testing mechanisms to protect consumer interests and guarantee the safety and quality of food items.

4. Essential Commodities Act 1955

The Central Government enacted the Essential Commodities Act, 1955 as a crucial step to protect consumer interests. This legislation allows the government to oversee the production, supply, and distribution of certain goods within the trade and commerce sector. The Act's objective is to guarantee that essential items are consistently available and distributed equitably at fair prices for the populace's benefit. Under this Act, essential commodities encompass the following items:

- a) Cattle feed, including oils, cakes, and other concentrated forms;
- b) Coal, which includes coke and other by-products;
- c) Components, parts, and accessories of automobiles;
- d) Cotton and woollen textiles;
- e) Pharmaceuticals.

The 1955 Act has undergone amendments in 1964, 1966, 1967, 1971, 1974, 1976, 1981, and 1984. Each amendment aims to ensure the swift and effective prosecution of violations committed by merchants and intermediaries. They also empower the authorities to seize shipments, vehicles, and animals involved in contraventions of the provisions established by the Act.

5. The Consumer Protection Act, 1986

Consumers are granted a variety of rights through the enactment of various consumer laws within the nation. The Consumer Protection Act of 1986 serves as the foundational legislation that established and safeguards consumer rights. This Act delineated a three-tier grievance redressal system in India, comprising district, state, and national levels, for addressing consumer disputes. However, until recently, the law lacked clarity regarding its applicability to

online transactions. On July 8, 2014, the Minister of State for Consumer Affairs, Food and Public Distribution confirmed the incorporation of certain items in a written response in Lok Sabha. Nonetheless, the lack of a specific mechanism for addressing disputes arising from online transactions does not suggest the introduction of separate laws specifically designed for e-commerce. The provisions of the Consumer Protection Act, 1986 were effectively broadened to encompass online transactions. A framework was established to ensure the safeguarding of rights. Prior to this clear declaration, the Consumer Protection Act, 1986 had been implicitly enforced for online purchases, relying on the definitions provided in the Act. According to the Consumer Protection Act, 1986, an individual who buys a product or utilizes a service in exchange for any form of payment, excluding commercial intentions, is regarded as a consumer. In line with the Sale of Goods Act, 1930, a buyer is defined as someone who purchases or agrees to purchase goods. Based on these two definitions, anyone who pays or consents to pay for a particular good can be deemed a consumer, regardless of whether the acquisition occurs online. Additionally, the contract of sale, as described in the Sale of Goods Act, 1930, indicates that it can apply to both online and offline transactions.

Although the Consumer Protection Act, 1986 does not expressly mention e-commerce, it can be inferred that these provisions offer consumers the right to seek redress in e-commerce scenarios. However, the Consumer Protection Act of 1986 provides a more narrow viewpoint. The Act does not address the multiple loopholes that arise from online transactions, which are often characterized by their impersonal nature. This aspect could also be considered a limitation. The Consumer Protection Act, 1986 has constrained jurisdiction regarding e-commerce, as it only establishes a process for resolving complaints arising from direct transactions. The Consumer Protection Act, 1986 has been implemented in cases

involving a "defect in goods" or a "deficiency in services."

6. The Information Technology Act, 2000

Alongside the main legislation aimed at protecting consumer rights, there exists a variety of other regulations relevant to online transactions. The Information Technology Act, 2000 serves as a comprehensive law that provides a legal framework for electronic commerce. It primarily focuses on business dealings, especially those between the government, its officials, and the public. The transactions largely center around e-governance and strive to create systems for authenticating electronic documents using methods like digital signature certificates. The IT Act seeks to streamline routine business operations, such as the electronic submission and retrieval of official documents. Its goal is to digitize governmental processes by making all information available online while ensuring the security of these activities. Additionally, it includes measures for implementing corrective actions, such as appointing a Controller and setting up a Cyber Regulations Appellate Tribunal to enforce penalties for cyber offenses as outlined in Sections 43 to 47 of the Act. A key aspect of this Act is its provision recognizing the legality of electronic records. It amends several laws, including the Evidence Act, the Indian Penal Code, the Bankers' Books Evidence Act, and the Indian Stamp Act. The legal endorsement of e-commerce is vital for the effective operation of consumer transactions and the safeguarding of consumer rights. Nevertheless, this legislation does not fully cover all aspects of e-commerce regarding consumer rights.

7. The Consumer Protection Act, 2019

Due to the digitization process, the earlier consumer Act posed some challenges. However, consumers now favor the newly established Consumer Protection Act of 2019, which has replaced the old Consumer Protection Act of 1986. This new consumer legislation has considerably transformed

market operations and improved rights and protections for online consumers. The updated Act tackles previously unfamiliar areas such as mediation, e-commerce, and online transactions, which were not recognized before 2019. It considers the effects of digitization on consumer behavior, particularly the shift from offline to online purchasing methods. Clearly, the Consumer Protection Act of 2019 is a praiseworthy initiative aimed at fostering development and enhancing consumer protections. On August 6, 2019, the Indian government enacted the consumer protection legislation of 2020 to ensure prompt and efficient handling and resolution of consumer disputes. The implementation of the Consumer Protection Act of 2019 took place on July 20, 2020. This new law replaced the Consumer Protection Act of 1986. The Indian government executed the provisions of The Consumer Protection (E-commerce) Rules, 2020, which were notified under the Consumer Protection Act, 2019, on July 23, 2020. The E-commerce Rules of 2020 will be applicable to all online retailers, regardless of whether they are based in India or abroad, as long as they provide goods and services to Indian consumers. The new Act is essential given the rapid expansion of online marketplaces and the growing trend of buying and selling through websites and internet platforms. The Consumer Protection Act of 1986 did not extend to e-consumers engaged in online purchases. This gap was addressed by the 2019 Act. The Act has introduced the innovative concept of e-commerce, which certainly offers a new lens on consumer protection. Several new measures have been implemented under this Act, including the creation of a new authority known as the Central Consumer Protection Authority (CCPA). The primary goal of the CCPA is to protect and enforce consumer rights. The authority is empowered to conduct investigations, resolve complaints from affected consumers, manage cases relating to unfair trade practices and misleading advertisements, and impose fines. Provisions for product liability are specified in

Section 2(34) and Section 83 of the Act, which hold manufacturers and service providers accountable for compensating individuals for harm or damage caused by defective products or substandard services. Section 17 of the Act enables the electronic submission of complaints and expands the jurisdiction of various courts. Additionally, the Act allows video or e-conferencing for involved parties. The monetary limits for the District Commission's jurisdiction have been raised. Now, the District Commission can handle cases with a value of goods or services up to 50 lakh, not exceeding 1 crore. The State Commission's jurisdiction includes cases where the consideration is up to 1 crore but does not surpass 10 crores. The National Commission is responsible for complaints involving consideration that exceeds 10 crores. These modifications were made through amendments to sections 34, 47, and 58 of the Act by the Consumer Protection Redressal Commission Jurisdiction Rules, 2021. The period allowed for filing an appeal to the State Commission has been extended to 45 days. Section 37 of the Act introduces a new provision for Alternate Dispute Resolution, specifically Mediation, aimed at reaching amicable resolutions for consumer issues. Furthermore, Section 94 of the Act broadens the definition of unfair trade practices, especially regarding the confidentiality of customer information to ensure data protection and uphold privacy.

The Act establishes penalties for misleading advertising, which may include fines of up to 1,000,000 rupees or imprisonment for a maximum of 5 years. Section 2(17) delineates the duties related to online fraud and the protection of e-consumer rights. The updated Act includes the definition of "food" as defined in the Food and Standards Act of 2006. Food delivery services are now included in the consumer protection framework outlined by the Act. Additionally, the Act covers telecommunications services within its regulations.

The Act introduces rules pertinent to e-commerce to better address the online marketplace.

JUDICIAL RESPONSE

Over the years since India attained independence, the judiciary has played a vital role in safeguarding consumer interests against various acts of fraud, deception, and misrepresentation by vendors. The Indian judiciary has made significant advancements in this domain. It has successfully resolved numerous complaints and sought remedies for any misappropriation tactics used by individuals, groups, companies, or corporations to derive unfair advantages at the expense of innocent consumers. In 1976, the Supreme Court of India observed that consumer protection is a societal imperative. "On behalf of the little man and the law, we hope the vigilant legislature will take action and establish quick, accessible, and free consumer protection measures,".

In the case of *Indian Medical Association v. V.P. Shantha*, after it was ruled that the Consumer Protection Act applied to medical services, physicians conducted a one-day nationwide strike. Since that incident, there has been some tension, with some fearing the accountability aspect that consumer courts might pose. Although many cases have been brought before Consumer Courts, no physician has faced charges for a judgment error. Around 90% of claims related to medical negligence were unsuccessful and dismissed in favor of the consumer, often due to a lack of evidence or a preliminary finding of no negligence. A physician cannot be deemed negligent as long as they follow accepted medical standards applicable on the day in question, as there is typically a better treatment option or method available.

In the *Tej Pal Rustogi v. Century Rayon Hospital* case, it was alleged that doctors at OP Hospital failed to conduct an appropriate examination of the patient and administered the urokinase injection too rapidly, which resulted in an intracranial hemorrhage that ultimately led to

the patient's death. Following the administration of urokinase, the patient was relocated to Jaslok Hospital, yet the attending physician did not record the patient's condition in the medical records. Apart from a note regarding Dr. S.V. Khadikar's special visit, there is no documentation for January 24, 2001. The patient's state was not recorded. Thus, it is clear that the patient did not receive any treatment, despite being in critical condition at the time of transfer. Upon evaluation, it must be recognized that the patient was deeply unconscious, there was no recorded instance of severe pain, and her pupils were fixed and dilated. Consequently, Dr. S.V. Khadikar and the other physicians at OP Hospital committed medical negligence and are all liable for compensation both jointly and individually.

In the case of *Societe Des Products Nestle S.A. Anr. v. Essar Industries And Ors*, the courts concluded that the increasing reliance on electronic records by the global community necessitated the establishment of rules regarding the admissibility and evidential value of electronic records due to the recent expansion of e-commerce.

CONCLUSION

This article offers detailed insights into The Consumer Protection (Ecommerce) Rules 2020, which is vital knowledge for anyone involved in online purchasing. Enforcing appropriate consumer protection regulations is essential for the effective management of e-commerce. This helps to shield customers from exploitation by online platforms that market their goods. The e-commerce sector is projected to keep growing in the future. An improved enforcement strategy, paired with thorough rules and regulations tailored specifically for e-commerce, would significantly aid in the industry's long-term viability. In this digital age, protecting consumer interests is imperative. Key elements for successfully safeguarding online consumers include ensuring they are well-informed and have easy access to laws that can help address any issues related to

electronic transactions. This independence allows consumers to safeguard their own rights. Providing accurate and pertinent information about products is vital for online shoppers, as it helps them comprehend the benefits and potential downsides of a purchase. Merchants often engage in misleading practices concerning the disclosure of information about their cancellation and return policies, including the exact timeframe in which a binding agreement is made and when a cancellation, return, or refund may be requested. Before finalizing a purchase, it should be clearly stated if there is a policy for cancellation, return, or refund. Legislative provisions must ensure that customers have fair and reasonably priced options for resolving disputes and seeking redress. In light of these realities, establishing laws that protect online consumers is essential. In this digitalized world, it is vital for member states to review and refresh their e-commerce laws to tackle the growing challenges. Effective regulation and its enforceability are key components for improving the online consumer experience. These actions will protect customers from exploitative practices in e-commerce.

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