

SAFEGUARDING CONSUMERS IN THE DIGITAL MARKETPLACE: LEGAL RESPONSES TO ONLINE FRAUD AND E-COMMERCE CHALLENGES

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ABSTRACT

Consumer and merchant protection in business-to-consumer and business-to-business transactions within E-Commerce is threatened by a number of serious threats such as privacy, Intellectual Property Right violations, piracy on the internet, unwanted commercial emails, spamming, censorship, and other frauds. In spite of the numerous advantages of E-Commerce, including ready access to an international market, reduced distribution expenses, time savings, and enhanced consumer relationships, legal and security threats are still a major issue in the electronic marketplace. Hence, protecting the security of consumers and merchants is vital for successful operation of E-Commerce. Though there are regulations governing buying and selling within the E-Commerce arena, the virtual world, including spaces like Second Life, is not well-laid out with laws specifically covering merchants. The lack of laws can be seen in a positive light, but it also makes a merchant liable to moral, social, and ethical obligations towards users. The intent of this paper is to analyze in-depth the legal framework and compliance issues associated with E-Commerce in the international digital marketplace. Moreover, it addresses long-arm statutes and jurisdictional issues related to disputes and challenges in E-Commerce.

Keywords: E-Commerce, Consumer protection, digitalized market, security

1. OVERVIEW

⁵⁴E-commerce is the practice of utilizing the internet to buy and sell items, send money, and access services, connecting buyers and sellers worldwide. Although this quick commercial growth in the global digital market seems commendable, it has also included a misleading period in which the ultimate purpose of cyber consumer legislation is consumer protection. A conceptual investigation of the business dealings between online buyers and sellers is known as cyber-consumer behavior.

E-commerce ⁵⁵has unexpectedly grown in popularity due to the opportunity to shop

whenever and wherever one chooses, but this feature has also helped to method for the internet sellers to continue running fraudulent ads, exposing themselves to all forms of dishonest online activity. The nature and degree of consumer comprehension about the description of the goods they buy online and the advertisement content are the focus of a number of cyber-consumer theories. These deceptive web ads, which are used by online sellers, frequently cross the moral and ethical lines of commercialism and are in fact untrue.

As a result, the researcher has made an effort to ascertain the truthfulness of the problems associated with e-commerce as well as the choices for online consumers to seek redress from a global standpoint.

⁵⁴ <https://www.legalserviceindia.com/legal/article-20596-e-commerce-frauds-and-cyber-law-consumer-rights-in-the-digital-marketplace.html>

https://www.int-jecse.net/media/article_pdfs/article_25.02.2025_1.pdf

⁵⁵ <https://ijmra.in/v8i3/9.php>

2. QUESTIONS FOR RESEARCH

a. Does the fraudulent aspect of e-commerce have a significant influence on moral and legal matters?

a. Whether the international legal framework employs a strong and all-encompassing framework to prevent unfair trade practices in Online shopping?

c. Are online customers being served in a way that is easily accessible?

3. RESEARCH GOALS

a. To investigate the truthfulness of legal and ethical concerns associated with E-Commerce

b. To analyze the legal structure of International Laws pertaining to unfair trade practices in E-Commerce

c. To explore the remedies accessible to online consumers from a global viewpoint

d. To assess the jurisdictional issues involved in resolving disputes that arise in E-Commerce

4. LITERATURE REVIEW

The researcher has examined several key and reputable books on this topic. A variety of significant texts, along with articles and analyses published in journals and online platforms, have been thoroughly studied and evaluated. A comprehensive list of the reviewed books is provided in the bibliography. The primary sources and relevant literature on this subject include: a. The Complete E-Commerce Book by Janice Reynolds b. E-Business and E-Commerce Management by Dave Chaffey c. Law on Information Technology by Dr. Ishita Chatterjee d. E-Commerce by Kenneth C. Laudon & Carol Guercio Traver e. Legal Issues in Electronic Commerce by T. Rammappa f. E-Commerce Laws: Law and Practice (2019 Edition) by Ammu Charles the secondary sources are as follows: a. <https://sg.inflibnet.ac.in> b. <https://heinonline.org> c. www.sconline.com d.

www.manupatrafast.com

5. RESEARCH METHODOLOGY

This study employs a socio-legal and conceptual approach, utilizing Doctrinal research as its methodology. This approach entails a thorough examination of different issues related to E-Commerce. Additionally, the researcher has sought to evaluate the legal and compliance framework concerning consumer protection in E-Commerce from a global standpoint, as well as to investigate the jurisdictional aspects of disputes that may arise in this field. The researcher has primarily depended on a range of primary and secondary sources to achieve the objectives of this research.

6. PHRENIC ANALYSIS OF MISLEADING ADVERTISEMENTS

The ⁵⁶'Normative belief' approach proposed by Garner highlights that a consumer's understanding and belief about a product can lead to misleading advertisements. An advertisement should accurately reflect the product as described by the manufacturer, and it is essential that this message is conveyed with complete honesty. However, in practice, many advertisements are deceptive and misleading, leaving consumers with only false representations of the product.⁵⁷ The lack of effective regulation over online advertisements, due to the absence of strict laws against misleading ads, has led to a rise in fraudulent practices that mislead consumers, particularly those who are inexperienced with online shopping. ⁵⁸Deceptive sellers employ various tactics, such as bait-and-switch schemes and overt strategies, to attract buyers. Many online shoppers are unaware of the different types of misleading advertisements and lack knowledge in this area. This global problem has caused significant harm, resulting in both psychological and financial losses for consumers. Additionally, online fraud is a major contributor to identity

⁵⁶ https://www.int-jecse.net/media/article_pdfs/article_25.02.2025_1.pdf

⁵⁷ <https://www.hg.org/legal-articles/india-a-legal-analysis-on-online-fraud-using-fake-identity-65221>

⁵⁸ <https://encr.pw/5xYiq>

theft, often associated with phishing schemes, which is a serious crime.

7. CHALLENGES IN E-COMMERCE

Online consumers frequently encounter various ethical and legal challenges when purchasing products online, including:

- Privacy concerns
- Identity theft, data breaches, and online scams
- Online piracy
- Unwanted and misleading electronic advertisements and spam
- Dishonest behavior from merchants
- Phishing attempts for personal financial information
- Shopping cart abandonment
- Low customer loyalty
- Vendor inaction regarding damaged goods
- Disputes over shipping costs
- Competition with retailers and manufacturers
- Poor internet quality, including speed and reliability, Misleading product descriptions
- Drip pricing, where the total cost is unclear until the final transaction stage
- Inadequate responses to refund requests for unsatisfactory products
- electronic identification and authentication challenges
- Issues with dispute resolution processes
- Insufficient digital skills and financial literacy
- Jurisdictional and legal applicability issues in cross-border e-commerce transactions

⁵⁹The disregard for opt-in and opt-out clauses by online consumers poses a significant threat to the security and integrity of customer data. While online auction platforms implement measures to verify the identities of buyers and sellers, these protections are not foolproof. It is relatively easy to create a fake website for a

non-existent business, often with minimal contact information, such as just a free email address. Online fraud has become prevalent due to the lack of accountability in online transactions. In some instances, critical personal information, like bank details, can be obtained through minor hacking of unsecured websites. Once a hacker gathers enough information to impersonate someone online, various types of fraud can occur. ⁶⁰Another significant issue in e-commerce is shopping cart abandonment, which even experienced online vendors struggle to mitigate. When a capable or potential customer begins the purchasing process but fails to complete the order, it results in a loss for the vendor.

8. CROSS-BORDER E-COMMERCE TRANSACTIONS

Cross-border e-commerce connects online buyers and sellers from around the globe, but consumers engaging in these transactions encounter several challenges:

- a. Navigating unfamiliar brands in a foreign language
- b. Uncertainty about receiving a product that matches the description or order
- c. unexpected costs, such as customs duties, currency conversion fees, and shipping or delivery charges
- d. Adapting products to meet local standards
- e. Ambiguity regarding the protections provided by the seller's jurisdiction, the options for resolving disputes, and the enforcement of any awarded remedies for consumers.

9. CONSUMER PROTECTION IN E-COMMERCE

At this point, it is important to differentiate between cyber-consumer redress and cyber-consumer protection. Redress refers to the legal methods available for a cyber-consumer who has been wronged in a consumer contract transaction (CCT) to seek a remedy from a

⁵⁹ <https://www.legalserviceindia.com/legal/article-20037-legal-implications-of-cross-border-e-commerce-contracts-in-india.html>

⁶⁰ <https://humanrightlawreview.in/wp-content/uploads/2025/01/Navigating-Legal-Challenges-in-E-Commerce-and-Consumer-Protection.pdf>

seller for issues such as non-delivery, incorrect delivery of goods, or fraudulent actions. The focus here is primarily on redress, rather than the broader topic of cyber-consumer protection. Cyber-consumer protection encompasses a wider range of issues, including the regulation of the negotiation phase, contract terms, and access to justice. Thus, redress serves as a means for consumers to resolve their problems, while protection acts as a preventive measure that closely relates to redress.

For instance, if there is enhanced protection through standardized and implied terms, it could lead to fewer disputes and lower costs, as there would be less need for legal advice regarding private international law. Consequently, the effectiveness of relevant legislation and the enforceability of options for redress for misled online consumers are crucial.

61¹⁰. LEGAL FRAMEWORK FOR CONSUMER PROTECTION LAWS FROM A GLOBAL PERSPECTIVE

Various countries have established their own legal frameworks for E-Commerce, with some enacting regulatory bills that differ from one another. For instance, El Salvador, Mexico, and Peru utilize general civil law to ensure the effective operation of E-Commerce. In contrast, countries such as Chile, Colombia, France, the Russian Federation, and the United States have specific provisions within their Consumer Protection laws that address E-Commerce. The Organization for Economic Cooperation and Development (OECD) has made recommendations that outline essential characteristics for the effective operation of E-Commerce and the protection of online consumers.

These recommendations also introduce new provisions related to privacy and security risks, payment protection, and product safety. The updated OECD guidelines regarding privacy protection and cross-border personal data

flows include fundamental principles such as limitations on data collection, data quality, purpose specification, security measures, individual participation, accountability, implementation, and interoperability. The effectiveness of E-Commerce is crucial for sustainable economic growth, enhancing public welfare, and promoting social cohesion. It plays a significant role in the current multilateral trading system.

⁶²The rapid expansion of E-Commerce can assist developing countries in achieving essential economic goals, such as poverty alleviation and education. To harness the benefits of E-Commerce in this digital age,

⁶³WTO members are encouraged to create a global policy environment that enhances the economic landscape from an international perspective.

WTO members focus on several key conditions to meet the previously mentioned goals:

1. Trade Liberalization in E-Commerce Sectors: By liberalizing sectors that enable E-Commerce, a more genuine global environment is created, benefiting consumers by enhancing convenience and interests. Promoting international coordination among industries is crucial for advancing trade liberalization.

2. Principles for Domestic Regulations: The characteristics and nature of regulations are shaped by principles derived from GATT, GATS, TRIPS, and OECD. Key factors include transparency in disclosing measures, non-discriminatory treatment, minimizing unnecessary trade barriers, implementing globally harmonized regulations and standards, and recognizing the equivalence of foreign regulatory measures. These principles are essential for the effective functioning of domestic commercial activities.

⁶⁴3. Fostering a Competitive Environment in E-Commerce: A marketplace that allows both

⁶¹ <https://legalinstruments.oecd.org/public/doc/336/336.en.pdf>

⁶² <https://one.oecd.org/document/C%2899%29184/FINAL/En/pdf>

⁶³ <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0422>

⁶⁴ https://www.oecd.org/en/publications/policies-and-institutions-for-e-commerce-readiness_604626755535.html

local and global businesses to access a worldwide market should provide equal opportunities for entrepreneurs from both developed and developing nations to thrive in E-Commerce. The ultimate aim is to ensure effective competition laws and cyber consumer protection, which are supported by indirect measures that promote fair competition. Key elements that can help create a competitive E-Commerce environment include free access to essential facilities, consideration of patent issues, exclusive practices in cyberspace, and a global cooperation framework.

4. Cooperation with International Organizations: International bodies such as WIPO, UNCITRAL, ISO, the Hague Conference on Private International Law, and OECD are actively involved in developing international rules related to intellectual property rights, contract laws, digital signature authentication, and other E-Commerce matters. The WTO also prioritizes addressing various E-Commerce issues and strives to harmonize existing rules among international organizations, ensuring that domestic laws align with these regulations. Developed countries are encouraged to support the WTO's efforts to promote global e-quality, acknowledging the unique conditions and needs of developing economies. They should engage in technical cooperation to facilitate broader E-Commerce adoption in developing nations and share the benefits of global E-Commerce with them.

Encouragement of private sector initiatives: Each private sector entity should implement self-regulation to foster a policy free from deception in global business dealings. This self-regulation should be bolstered by support from public policy. Governments are encouraged to engage in open discussions with private sector-led forums like the Global Business Dialogue on E-Commerce (GBDs), the Global Information Infrastructure Commission (GIIC), and various consumer organizations. Participants should contemplate a framework that accurately represents the perspectives of both industries and consumers in developing countries.

11. A CONCEPTUAL FRAMEWORK ON JURISDICTIONAL ISSUES IN E-COMMERCE DISPUTE RESOLUTION

E-commerce and cyber consumer protection face distinct challenges related to international jurisdiction when resolving disputes. Jurisdiction determination relies on established common rules. In Europe, the 1980 Rome Convention on applicable law for contractual matters and the Brussels Convention, now represented by the 44/2001 European regulations on international jurisdiction, are relevant. These legal texts include provisions addressing conflicts of laws, designed to safeguard consumers by often allowing them to select the jurisdiction of their residence. Courts are tasked with applying these regulations to specific issues arising from electronic commerce. National reports indicate that the primary challenges involve pinpointing⁶⁵ the location of the alleged acts and determining whether these acts pertain to a specific market. The complexities in identifying these situations extend beyond national borders, and the lack of unification may lead to scepticism about the effectiveness of traditional tools in cyber consumer protection. The rise of unfair commercial practices online necessitates targeted responses from states, emphasizing the need for specific electronic commerce regulations developed by national legal systems.

12. CONCLUSIONS

In today's digital age, it is crucial to safeguard consumer interests, particularly by ensuring that consumers are well-informed and have easy access to appropriate legal remedies for online transactions. Providing adequate information about products is vital for e-consumers, as it enables them to understand the benefits and risks associated with specific transactions. When consumers are informed, they are less likely to experience

⁶⁵ <https://www.law.georgetown.edu/iel/research/iel-blog/policy-brief-e-commerce-negotiations-at-the-wto-lessons-from-multilateral-and-regional-trade-agreements-for-an-inclusive-digital-trade/>

disappointment, which can help prevent disputes.

Additionally, many consumers overlook the legally binding terms and conditions of contracts, often lacking the knowledge to comprehend their significance. Merchants sometimes engage in misleading practices regarding the disclosure of information about cancellation and return policies, including the timeframe for making cancellations, returns, or refunds after entering into a binding agreement.

It is essential that any lack of cancellation, return, or refund rights is clearly communicated before the transaction is completed. Legal frameworks should provide consumers with fair and accessible options for resolving disputes and seeking redress. Given these considerations, it is imperative to establish necessary legislation to protect online consumers. Furthermore, in light of advancements in the digital landscape, member states must update E-Commerce laws to address emerging challenges. The key to enhancing cyber-consumer protection lies in effective legislation and its enforcement, which will shield consumers from harmful practices in E-Commerce.

13. RECOMMENDATIONS

The essential elements for fostering consumer confidence and fair-trade practices in E-Commerce include:

- a. Creating a robust and high-speed network connection
- b. Implementing appropriate laws and an institutional framework to regulate E-Commerce, ensuring enforceability and easy access to dispute resolution
- c. Facilitating straightforward access to dispute resolution mechanisms
- d. Guaranteeing high reliability and providing complete and accurate information about businesses, products, and services online

e. Ensuring the security and reliability of online financial transactions, regardless of the payment method

f. Ensuring safe delivery of products to consumers and offering seamless after-sales support

g. Promoting regional and international collaboration to combat unfair commercial practices and addressing legal barriers that hinder consumer protection authorities from acting against cross-border violations of consumer protection laws.