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Consumer Protection (E-Commerce Rules), 2020: Revolution for Consumer Protection in Digital Space

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ABSTRACT

The Internet has facilitated the seamless globalisation of markets. The way that businesses are run has undergone a true revolution. A company with an Internet connection has immediate access to the entire world and is always linked without spending any extra money. Through E-commerce, a paradigm shift has occurred from paper-based transactions to entirely computerised businesses. Using information and communication technology, a new industrial revolution has been sparked. As more companies migrate parts of their activities online, the lines separating "traditional" and "electronic" trade will become increasingly hazy in the near future. However anxiety abounds because consumers are wary of dealing with dishonest vendors and service providers as a result of ongoing online fraud and unethical business practises. This paper covers the comprehensive evaluation of the recently passed Consumer Protection (E-commerce) Rules, 2020 in light of the robust growth of e-commerce and changing consumer preferences. Important conclusions include the need for a safe and reliable system for online businesses and how the Act and Rules have reformed the consumer jurisprudence.

Keywords: E-Commerce, Consumer protection, digital market, security.

I. INTRODUCTION

Consumer shopping tastes have shifted as a result of e-commerce. Everything is now accessible with a single finger click. Electronic commerce, in general, refers to conducting business using numerous electronic technologies, most commonly involving the internet, computers, or both. Marketing, allocation, selling, buying, and servicing of goods or services over electronic systems such as the Internet and other computer networks make up the majority of it. E-commerce is not just about technology; it's also about doing business with it. Corporate purchasing, value chain integration, supply chain management, e-marketing, online transaction processing, electronic fund transfer, and other aspects of e-commerce are covered. E-commerce opens up new avenues for profiting from online activity. It aids in the creation of simple

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collaboration amongst sharing. It makes it easier for organisations, different groups, and individuals to collaborate on information exchange in order to, among other things, enhance consumer interactions, personalization, customer service, and the creation of new goods or services. With the development of information technology, business practises have undergone a significant change. It transitioned from conventional to e-commerce, from traditional mode of payment like cash and cheque to online payment systems, and from paper or postal invoices to electronic invoices, along with other things. In today's Indian society, e-commerce has become a vital aspect of daily life. It is anticipated that the tremendous growth of electronic commerce during the last years would continue and will pick up speed. As more companies migrate parts of their activities online, the lines separating "traditional" and "electronic" trade will become increasingly hazy in the near future. India is in a great position to grow and develop the e-commerce industry. India is one of the world's fastest growing e-commerce markets. The study on E-Commerce highlighted the upward trend in the sector's revenue growth from USD 39 billion in 2017 to USD 120 billion in 2020². Although the industry has been expanding steadily, the current pandemic and its effects, such as the increased fear of the virus (because to the rise in Covid-19 cases), have facilitated the expansion of e-commerce platforms over traditional markets.

The vast confluence of digital commerce has opened up new pathways and made transactions faster and more comfortable but at the same time it has also made consumers vulnerable to unfair trade practises. This online purchasing trend appears to be a bit daunting task, especially in light of recent accusations of frauds and malpractices by the online portals that users of these websites have fallen prey to. To address such wrongdoing and malpractices and to re-establish consumer trust in the online ecosystem and enable its worry free use the government has taken various steps. The necessity for judicial protection for the aggrieved customer was discovered decades ago, even before the advent of e-commerce, resulting enactment of the Consumer Protection Act, 1986. With the expansion of the internet in the 1990s and the addition of e-commerce, the United Nations Commission on International Trade and Law adopted the first Model Law on E-commerce (MLEC) in 1996. The objective of MLEC was to set up an international standard for e-commerce legislation and bring digital transactions at par with paper-based transactions.³ As a signatory to the MLEC, India implemented the Information Technology Act of 2000 in

²Competition Commission of India(2020, January 8) *Market Study on E Commerce in India: Key Findings and Observations*, https://www.cci.gov.in/sites/default/files/whats_newdocument/Market-study-on-e-Commerce-in-India.pdf.

³ United Nations Commission On International Trade Law (1999). *UNCITRAL Model Law on Electronic Commerce with Guide to Enactment 1996 with additional article 5 bis as adopted in 1998*. https://uncitral.un.org/en/texts/ecommerce/modellaw/electronic_commerce

order to enable e-commerce and e-governance in the country. The IT Act, when combined with the Consumer Protection Bill, creates a powerful combination. The IT Act, in conjunction with the Consumer Protection Bill, establishes the necessary safety net for dissatisfied customers. Despite these regulations and subsequent changes in the Acts, the statutes were insufficient to meet the constantly evolving consumer vulnerabilities. Keeping in pace with the ever evolving new age economy and fast moving e-commerce industry the Parliament of India passed Consumer Protection Bill, 2019 on August 6, 2019. The President of India gave its assent to the Consumer Protection Act, 2019 on August 9, 2019 replacing the old Act of 1986. The new Act covers various consumer and market provisions and one of them is e-commerce. To further overcome the shortcomings of the previous Act, the Central Government in addition to the Act of 2019, notified the Consumer Protection (E-Commerce) Rules, 2020 on 23 July 2020.

E-commerce is a platform that involves transactions for buying and selling of goods and services through an electronic network generally involves internet. Online business operations and communications, such as advertising and marketing, as well as transactions such as ordering, invoicing, and payments, are all part of e-commerce. Since the advent of the worldwide web (internet) in 1991 this sector has expanded rapidly, although its inception may be linked back to the Berlin Blockade, when items were ordered and airlifted via telex between June 24 and May 12, 1949⁴. The Boston Computer Exchange, which released its first e-commerce platform in 1982, was the first to conduct an e-commerce transaction. Since then it is an ever expanding industry. The expansion of e-commerce is directly linked with the growth of internet. The worldwide surge in the use of smartphones and mobile devices has further boost the e-commerce industry. Smartphone proliferation, increase of the digitally savvy millennial workforce, and increasing e-commerce technology optimization are pushing the B2B sector's pace, which has historically been modest. The approximately \$1 billion B2B e-commerce sector is about to go through the perfect storm that is driving B2C growth. The worldwide retail market has now been altered by e-commerce.

II. MARKET SIZE OF E-COMMERCE

E-commerce has altered the way of conducting business across the globe. According to, "We Are Social's special report on Digital 2022 published in January 2022", the total internet users across the globe in 2022 climbed to 4.95 billion at the start of 2022, with internet penetration standing now at 62.5% of the world's total population. Moreover, the number of mobile users

⁴Chawla, N., Kumar, B. (2021) E-Commerce and Consumer Protection in India: The Emerging Trend. *J Bus Ethics* 171, 1-24. <https://doi.org/10.1007/s10551-021-04884-3>

was 5.31 billion by the start of 2022, increased by 1.8% over the past year with 95 million new mobile users since last year. The worldwide digital market is anticipated to grow from \$2,647.8 billion in 2021 to \$3,092.43 billion in 2022 at a compound annual growth rate (CAGR) of 16.8%. The market is anticipated to increase at a 15.2 percent compound annual growth rate (CAGR) to \$5,440.18 billion in 2026.⁵ The future of e-commerce is more competitive than it has ever been, and it is a thriving and expanding economic model.

The Indian e-commerce market is predicted to expand from US\$ 46.2 billion in 2020 to US\$ 188 billion by 2025. By 2030, it's predicted to be worth 350 billion US dollars. By 2022, it is projected that the Indian e-commerce market will increase by 21.5 percent, reaching at \$74.8 billion. By 2024, India's e-commerce business is predicted to be worth US\$ 111 billion, and by 2026, it would be worth US\$ 200 billion.⁶ India's consumer digital economy is predicted to increase from USD 85–90 billion in 2020 to USD 800 billion by 2030, driven by the rapid use of online services like e-commerce and ed-tech⁷. A rise in internet usage, increased smartphone use, and the introduction of the 4G network have caused the e-commerce business to grow from US\$38.5 billion in 2017 to US\$200 billion by 2026.⁸ Because of the 'Digital India' campaign, the number of internet connections expanded dramatically to 830 million in 2021.⁹ In metropolitan regions, 55 percent of all internet connections were made, accounting for over half of all connections. India overtook Canada to become the eighth-largest e-commerce market in 2020 with a \$50 billion revenue. As per a report by IAMAI and Kantar, the number of internet users in India will rise from 622 million in 2020 to 900 million by 2025, with a CAGR of 45% throughout that time.¹⁰

CONCEPT OF E-COMMERCE IN INDIA

1. Multi Product E-Commerce: These are the e-commerce platforms that target customers for practically all conceivable goods and services, providing them on a single website. These digital platforms offer wide range of goods and services like clothing and accessories for both

⁵ We Are Social (2022, January 26), *Digital 2022 Global Overview Report*, Retrieved from <https://wearesocial.com/uk/blog/2022/01/digital-2022-another-year-of-bumper-growth-2>

⁶ India Brand Equity Foundation (2022, July), *E Commerce Industry in India*<https://www.ibef.org/industry/e-commerce>

⁷Business News (2022 March 11), Digital economy to see exponential growth to \$800 bn by 2030: FM, *The Economic Times*

⁸ India Brand Equity Foundation, (2022, July), *E Commerce Industry in India*<https://www.ibef.org/industry/e-commerce>

⁹Khurana, A. (2022 May 21), How tech startups are boosting the growth of small e-commerce businesses in India, *The Economic Times*<https://economictimes.indiatimes.com/small-biz/sme-sector>

¹⁰ IAMAI and Kantar (2021, June), *Internet Adoption In India, ICUBE, 2020*https://images.assettype.com/afaqs/2021-06/b9a3220f-ae2f-43db-a0b4-36a372b243c4/KANTAR_ICUBE_2020_Report_C1.pdf

male and female, beauty products, home appliances, books, gift items etc. In other words, it is a multi-vendor marketplace which is a large-scale ecommerce store that allows several vendors to offer and sell their goods and services.

2. Single Product E-Commerce: Some Indian portals /websites deal exclusively in specialized field. Examples: www.magicbricks.com, this website deals exclusively with buying, selling and renting of properties. This website provides a common platforms to buyers and sellers to locate properties of their interest in India and also shares information regarding all property issues.

E-commerce operates either through the domestic (intra-border) route or cross-border (International) transactions. There are five common e-commerce models, which are discussed hereunder.

Business to Business (B2B)	B2B refers to business-to-business transactions that allow businesses to form new ties with other enterprises, such as between a manufacturer and a wholesaler or between a wholesaler and a retailer.
Business to Consumer (B2C)	Businesses that provide products and/or services to end consumers are referred to as B2C.
Consumer to Consumer (C2C)	C2C refers to consumer-to-consumer transactions that are mediated electronically by a third party. Customers have always interacted with other consumers, but only a small percentage of those interactions were commercial in nature.
Consumer to Business (C2B)	Consumers who give goods/services to businesses and add value to the business are referred to as C2B.
Business to Business to Consumer (B2B2C)	This is an alternative to the B2C paradigm, in which a second company acts as an intermediary to help the first company deal with the final customer. Take, for example, Flipkart, one of the most successful e-commerce portals that allows customers to purchase from a wide selection of products.

The growth of e commerce has made the market set up more dynamic. This digital transformation has profoundly impacted the consumer habits and changed the way in which consumers and sellers interact with each other in the marketplace. The surge in global supply

chains, rise in international trade and the acceleration of e-commerce have led to new options, opportunities and new delivery systems for goods and services for the consumers. Despite the fact that electronic transactions are now a common practise around the world, but the consumers in India are still hesitant to have whole faith and confidence in commercial online transactions. The main reason behind this lies in the anonymity of the parties in the consumer contracts. Cybersecurity, unclear product information as to its quality and usage, erratic delivery, lack of or limited scope for return and exchange, the jurisdiction for registering complaints, and absurd contract terms are the main problems associated with e-commerce. A consumer might, for instance, purchase products from a website where both the contract and the payment obligation are completed online. Although the delivery of the items under the contract is carried out in the real world exactly as it is in offline contracts, there is no interaction between the parties throughout the transaction, in contrast to the "brick and mortar" approach. This sometimes results in increased risk of fraud and rise in issues relating to delivery of, its return replacement etc and eventually rendering the consumer vulnerable to new forms of unfair trade and unethical business practices. Though the Consumer Protection Act covers various malpractices of trade such as false and misleading claims of products and services with respect to the standard, quality, grade, and so on; significantly deceiving the consumers as to the cost at which the items are typically offered; disparaging of goods; false claims as to warranty or guarantee; and so on. But this was not adequate in accordance with the recent developments and changes in this sector. For instance in the event of such distance selling, what if the firm fails to provide proper disclosure of information regarding the supplier's address, product and service features, delivery costs, withdrawal, and so on? One of the most significant challenges in e-commerce is that seller or the person owing the business is difficult to identify. E-mail address, website designations and home pages are not always related to the supplier's location of business. The seller could hide behind the provider's corporate seat. As a result, a fundamental issue that remains unresolved under traditional consumer protection law is the seller's/ intermediary's lack of information, which may be of poor quality or opaque. Keeping these issues and challenges in mind, the present Act of 2019 was passed. In terms of its area of application, penalties, and governance, the new Act of 2019 and e Commerce Rules, 2020 introduces significant changes. It also includes the Central Consumer Protection Authority and vests regulatory and controlling authority in it. This would better safeguard the interests and rights of consumers who lack the legal skills to stand out for their rights.

The Act provides the following definitions and explanations that are pertinent to e-commerce and effective redress of complaints:

Consumer¹¹: Meaning

A person is considered to be a consumer under the Act if they use electronic methods to purchase things, hire services, or avail services.¹²

E Commerce entity¹³: meaning

It refers to someone who owns, maintains or uses a digital or electronic facility or platform for electronic commerce. A vendor who lists his products or services for sale on an online marketplace is not included in this definition. It includes the following:

inventory e-commerce entity - This model features an online retailer that sells directly to customers, owns the inventory of the products, and has both single and multiple product sellers.

- *market place e-commerce entity* – this model includes an online business that offers an information infrastructure platform on a digital or electronic network that facilitate transactions between buyers and sellers.

electronic service provider - covers any online marketplace or online auction site, and refers to a person who offers technologies or processes that allow a vendor to engage in advertising or selling goods or services to a consumer.

Central Consumer Protection Authority (CCPA)¹⁴¹⁵

To safeguard the interests of consumers, it offers regulatory, investigative, or adjudicatory services. The Central Consumer Protection Authority [CCPA] is established under the Act of 2019 in addition to the already existing redress mechanism at district, state and national level. The CCPA is given the authority to regulate, inquire into, and conduct investigations into offences such as violations of consumer rights, unfair business practises, and false and misleading advertisements, either on its own initiative, in response to complaints from harmed customers, or in response to a government directive. For violations of the Act's and Rules' requirements, the CCPA has the power to impose fines that extends to imprisonment also.

Redress Mechanism

The provisions under Sections 28 through Section 73 deal with various facets of the procedure for resolving consumer disputes. The District Consumer Dispute Redressal Commission is now known as the District Consumer Dispute Redressal Forum. The monetary jurisdiction for filing

¹¹Consumer Protection Act 2019(Act 35 of 2019) (Cth) s.2(7) (IND)

¹²Consumer Protection Act 2019(Act 35 of 2019) (Cth) Explanation b to s.2 (7) (IND)

¹³Consumer Protection Act,2019 (Act 35 of 2019) (Cth)s.2(16) (IND)

¹⁴Consumer Protection Act,2019 (Act 35 of 2019) (Cth)s.10 &18 (IND)

complaints at District, State, and National levels of the consumer courts has increased.

*Mediation*¹⁶

In the event of compromise at the stage of accepting the complaint or at a later date with consent of all the parties, the Act of 2019 now also provides for mediation as a grievance redress mechanism. Each municipal, state, national, and regional bench or commission would have a mediation unit working to speed up the redress process. The Act's Sections 74 through Section 81 give out the specific steps in detail. According to Section 81(1), parties to the mediation will not have right to appeal against the decision of mediator, suggesting that the initial stage of the redress procedure would be quick and affect both service providers and consumers.

III. CONSUMER PROTECTION (E-COMMERCE) RULES, 2020

The object of the rules is to prevent unfair trade practices in digital space and to ensure that the e commerce platforms are transparent and truthful in their dealings with the consumers. The rules further aims to strengthen the regulation and ensure its compliance with the e commerce sector.

Applicability of the Rules¹⁷

The Rules shall apply to all goods and services purchased or sold through e commerce. It includes all forms of digital platforms whether based on inventory or market place model. These rules covers all aspects of unfair trade practices adopted while offering goods or services through digital platforms, covering all forms of e commerce business and also applies to all the entities that are selling goods and offering services to consumers in India but are not based or established in India.

General Duties of E-commerce Platforms and Sellers¹⁸

This rule specifies a set of obligations which these online portals are required to abide and they are as follows:

Firstly an e commerce entity must be a company incorporated under the Companies Act. In order to ensure compliance with Act and the Rules, these e commerce entities are requires to appoint a nodal officer or an alternate senior functionary. Further they must set up a suitable grievance resolution system which enables the customers to file the complaint and allow them to keep a track of their complaints; for this, they would choose a grievance officer and publish

¹⁶Consumer Protection Act,2019 (Act 35 of 2019) (Cth)s.37(IND)

¹⁷Consumer Protection (E-Commerce) Rules, 2020 (Cth) Rule 2 (IND)

¹⁸Consumer Protection (E-Commerce) Rules, 2020 (Cth) Rule 4 (IND)

his name, contact information, and platform designation. He would respond to complaints within a month of receiving them, confirming their receipt within 48 hours. Where the entity is offering imported goods they must furnish information as to the country of origin of goods, name of the importer and details from whom imported goods are purchased, and the sellers' name are to be mentioned on their platform. The rules also impose certain restrictions like no cancellation charges can be imposed unless the same is payable by the entity. They must complete all payments for consumers' accepted refund claims in a reasonable amount of time. They are not allowed to discriminate against members of the same class of customers or manipulate the prices of the items in order to make an excessive profit. Additionally, the entities are required to maintain records of all vendors whose products have regularly violated copyrights, trademarks, or the Information Technology Act.

Marketplace E-commerce Entities' Liabilities³¹⁹

The marketplace e-commerce platforms will make sure that the sellers are conveying correct and truthful information about their products and services and the goods offered resembles with the description, picture, nature and quality of the product.

They would display the information in clear and accessible manner on its platform which includes:

1. Information about the sellers which includes the name of their business, whether it is registered or not, its primary geographic address of its headquarters and all of its branches on its website for effective redress of complaints.
2. Each complainant will be provided separate complaint or dossier number through which the concerned customer can keep a track of the status of complaint.
3. Information regarding their return and exchange policy, warranty and guarantee of the goods offered, mode of delivery, and complaint resolution mechanism.
4. Information as to the mode of payment and its privacy, or in case any fees and charges are deducted that are required to be conveyed to the consumer.

The entities will be diligent in identifying and maintaining records of all sellers, whose goods have been withdrawn earlier under the Copyright Act/Information Technology Act/Trademarks Act.

¹⁹*Consumer Protection (E-Commerce) Rules, 2020* (Cth) Rule 5 (IND)

Obligations of vendors in the marketplace²⁰

The vendor cannot opt for any malpractice while offering goods and services for sale. The seller cannot misrepresent himself as a consumer and misled others by posting product review or conceal or overstate any products' features. He cannot refuse to accept returned items and cancel or stop providing the service that was either agreed upon or purchased. He is required to give claim for refunds or exchange of services that are faulty and bogus. He will have a contract in writing with the respective marketplace e-commerce whose platform they intend to use to do business, solicit sales, or provide their goods or services. He must make sure that the advertisements for marketing they use to market their products or services accurately reflect the features, accessibility, and usage requirements of such products or services. The seller will give the online retailer their full legal name, address for their corporate headquarters and any of their branches, name and contact information for their website, email address, customer service phone number, GSTIN, and PAN information.

Inventory E-commerce Entities' Obligations and Responsibilities²¹

E-commerce firms that own and sell goods and services directly to customers, as in the inventory-based model, are subject to the same obligations as that of marketplace e-commerce entities.

IV. CONCLUSION

The e-commerce sector is an ever-growing sector that not only boosts employment but adds revenues to the government exchequers through increased revenue from exports, increased tax collection, and also offers better goods and services to the consumers. Technology-driven innovations like online payments, hyper-local logistics, analytics-driven consumer engagement, and digital advertisements are anticipated to help and add to the growth of this sector. But there is a lot of concern because of the regular internet fraud and unethical business practices that make people afraid to deal with online retailers and service providers. The Rules, 2020, and the Act, 2019 provides for an all-inclusive legal framework that ensures protection of rights and interest of consumers. The provisions of Act and Rules extends to all forms of e commerce models and aims to turn the law concerning customer protection from a caveat emptor to a caveat seller. Additionally, the Act officially included online business within its purview and expanded it to include B2C e-commerce. The liability of online businesses and on-the-platform vendors are balanced by the Rules 2020. In case of contravention of any of rules/regulations it will attract

²⁰ *Consumer Protection (E-Commerce) Rules, 2020* (Cth) Rule 6 (IND)

²¹ *CONSUMER PROTECTION (E-COMMERCE) RULES, 2020* (CTH) RULE 7 (IND)

penal provisions of the Act 2019. It can be argued that the new rules are stringent enough to defend the rights of online shoppers and encourage e-commerce in India. With a strong legal framework and consumer protection safeguards, expanding e-commerce appears to be promising.

However there are certain points on which the Act and Rules are silent. It requires appointment of nodal officer by the company who will look into the redress of grievances. But it is not mandatory for other entities like firms or limited liability partnership, individual firm etc. These rules are silent on the minimum qualifications required for the nodal officer. Further there is no clarity on the evaluation of goods assembled, packaged, or manufactured in one country but licenced by another country. there are still some questions that need to be resolved regarding the implementation and application of the Rules, as well as whether they violate the Act when they apply to foreign entities, the obligations placed on Platforms that go beyond the buyer-seller relationship, whether these Rules apply to B2B platforms, and what types of digital product offerings are covered by its purview. But in all, these rules are a welcome step and has significantly increased the responsibilities of e commerce platforms.
