

**DE JURE NEXUS LAW JOURNAL**

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**CONSUMER PROTECTION IN THE ERA OF E-COMMERCE****Introduction**

The term "e-commerce" was coined in 1991, at a period when the internet was almost non-existent in India. Even today, few people could have predicted that buying and selling products and services through the internet would become as commonplace as it is. Over the past few years, India has been undergoing a digital revolution and now over 50% of country's population has access to internet. In this digital age, internet-based business has witnessed tremendous growth. E-commerce has proven to be a significant opportunity for India. Buyers from small towns and cities are also shopping online in big numbers, thanks to the spectacular expansion of mobile phones and the introduction of 4G in the country. It is true that the internet has eliminated the distinction between small and major cities, allowing customers from small towns to acquire the same branded items and high-quality products that were previously only available to customers from large cities.

The growing number of e-commerce operations raises concerns regarding the protection of online consumers. E-commerce, apart from providing several benefits to both, business and customers, has few challenges regarding the wellbeing of the consumers. The Consumer Protection Act of 2019 and the Information Technology Act of 2000 are responsible for protection of consumers from any kind of harm in this era of digitalization.

**Meaning**

E-commerce refers to the purchase and sale of goods and services through the internet, as well as the transfer of money and data to complete the transaction. Electronic commerce, or online commerce, is another name for it. It is basically business done over the internet. As people are

finding it a convenient way of shopping, e-commerce industry has seen huge growth not only in India but all over the world. Types of e-commerce activities are:

1. Business to Business(B2B)
2. Business to Consumer (B2C)
3. Consumer to Business to (C2B)
4. Consumer to Consumer (C2C)
5. Business to Administration (B2A)
6. Consumer to Administration (C2A)

Moreover, E-commerce growth in India is extraordinary. E-commerce has grown as a result of factors such as growing smartphone usage, accessible and affordable internet connection, and hectic schedules of working professionals, among others. The e-commerce business demands a more secure and safe system as the number of customers grows. Challenges such as phishing, identity theft, unsecured systems etc. are faced by the e-commerce industry.

## **E – COMMERCE AND CONSUMER PROTECTION**

### **Consumer Protection Act, 2019<sup>1</sup>**

This New Act aims to replace the Consumer Protection Act of 1986, which is more than three decades old Act. The Consumer Protection Act of 2019 ("Act"), which took effect on July 20, 2020, is based on the principles of "transparency" and "accountability." The Ministry of Consumer Affairs, Food and Public Distribution has issued a set of Consumer Protection (E-commerce) Rules, 2020 ("Rules") under the Act in order to promote the expansion of the e-commerce industry while also protecting consumers' rights.

To bring the e-commerce industry under its purview, the concept of "consumer" has been extended, and numerous duties and responsibilities have been imposed on e-commerce firms. "Buys any products" and "hires or avails any services" now refer to offline and online transactions carried out by electronic methods, such as teleshopping, direct selling, or multi-level marketing."

The Rules impose numerous duties and responsibilities on e-commerce organisations and sellers, including the following:

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<sup>1</sup> Sec 2(7) Explanation (b), Consumer Protection Act, 2019

#### Duties of Seller on Marketplace:

- Sellers are required to follow fair trade practises and refrain from engaging in any unfair trade practises.
- They can't disclaim their responsibility to return products when selling them through a market place company, and they can't cancel or stop providing services that have been purchased or promised to be purchased.
- If the products or services are inadequate or faulty, or of a different quality than what was represented in photographs, or are delivered late from the planned time, the seller is also obligated to repay the consideration given by the customers. However, if the late delivery is due to unforeseen circumstances, the vendor is not liable.
- Seller should make a written contract with the concerned marketplace e-commerce entity to undertake or solicit such sale or offer.
- The seller is responsible for ensuring that the information provided in the advertisement regarding the products and services' features, access, and usage circumstances is accurate and consistent with the real product.

#### Duties of E-commerce Entity:

- They must create sufficient grievance redressal processes, including the appointment of a grievance officer who will guarantee that the consumer complaint is acknowledged within 48 hours and that the firm responds to the complaint within one month of receipt.
- Every e-commerce entity must be incorporated under the Companies Act, 1956 or the Companies Act, 2013 or a foreign company covered under clause (42) of section 2 of the Companies Act, 2013 or an office, branch or agency outside India owned or controlled by a person resident in India as provided in sub-clause (iii) of clause (v) of section 2 of the Foreign Exchange Management Act, 1999 and the entities are required to appoint a nodal person of contact or an alternate senior designated functionary who is resident in India, to ensure compliance with the provisions of the act or the rules made there under. e-commerce entity shall not engage itself in any unfair trade or malicious practice, whether during business on its platform or otherwise.
- Every e-commerce company should strive to become a partner in the Central Government's National Consumer Helpline's convergence process.

- Any e-commerce company that sells imported products or services must include the name and other details of any importer from whom it acquired the goods or services, or who may be a seller on its platform.
- Every e-commerce business must make its payment process reliable in accepting customer refund claims within a reasonable amount of time, or as required by applicable legislation, as established by the Reserve Bank of India or any other competent body under any legislation now in force.

#### Liabilities of Marketplace E-commerce Entities and Inventory E-commerce Entities:

- If an e-commerce business expressly or implicitly vouches for the authenticity of a seller's goods or service, it is responsible for that product.
- Each complainant must be given a ticket number so that he or she can follow the status of the complaint. Any essential information on return, refund, exchange, warranty and guarantee, delivery and shipment, modes of payment, and grievance redressal mechanisms, as well as any other comparable information that would help consumers make a final choice to buy a product, should be provided to him.
- Consumers must be informed about payment choices, and all charges and fees, including the method for cancelling a payment, must be transparent. The website's terms and conditions must include information that identifies the entity's relationship with the vendor.
- Every marketplace e-commerce business is responsible for ensuring that vendors on their platforms are offering accurate items. They must verify that the product's look, feature, quality, and colour match the original product.

#### Other additions in the Act applicable on E-commerce Entities and Sellers:

- **Mediation Cells:** Mediation cells will be formed to assist the parties in reaching a resolution before the complaint is filed. A Consumer Commission will send the complaint for mediation. The Consumer Protection (Mediation) Rules, 2020, have also been published by the Ministry, which includes a list of instances that are not appropriate for mediation. The mediation process may be beneficial to both customers and e-commerce businesses since it streamlines the process and saves time. If the issue is addressed at the conclusion of the procedure, the complainant will be repaid the

whole application cost, which will encourage consumers to resolve their disputes through mediation and reduce the cost of court which will increase effectiveness.

- **Product Liability:** Manufacturers and sellers of products and services have been held responsible for any harm caused to customers by the product, subject to certain criteria and exceptions relating to the responsibility of manufacturers and sellers. One of the exceptions is that a product maker is not responsible for failing to instruct or warn about a risk that is apparent or widely known to the user or consumer of the product, or that the user or consumer should have known, given the product's features. 4 Now, what is deemed "obvious" and "common" by one customer may not be the same as what is deemed "obvious" and "common" by another customer.
- **Jurisdiction of Filing Complaints:** The Territorial and monetary jurisdiction for filing complaints has been expanded. Unlike before, a complainant can now register a complaint from anywhere in the country. Consumers will be able to register complaints before the District Commission electronically for free for cases up to Rs. 5 lakhs, and they will be able to request a hearing through video-conferencing. Litigation process has been simplified to make it beneficial for the consumers.



### **Information Technology Act, 2000<sup>2</sup>**

On October 17, 2000, the Information Technology Act of 2000, was notified. In India, it is the legislation that governs cybercrime and Internet commerce. We'll look at the goals and characteristics of the Information Technology Act of 2000 in this post.

The major goal of the Information Technology Act of 2000 was to provide legal recognition for e-governance and e-commerce. Transactions happening through various electronic mediums are known as e-commerce. Its legal recognition was ensured by the IT Act 2000. This legal recognition is the foundation of all e-commerce undertaken by customers.

In the IT Act, there is no provision for consumer protection in the e-commerce industry. Essentially, the IT Act regulates commercial transactions involving government to government and government to industry in a wider context. Despite the fact that the IT Act serves as a foundation for legal recognition of different e-commerce operations, there is no particular

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<sup>2</sup> India: The Citizenship (Amendment) Act, 2019

provision for small customers' interests in the e-commerce business. It is right time for legislators to consider the amount of people who shop online as household consumers rather than commercial clients. The preservation of these consumers' interests is also critical for the e-commerce industry's continued growth.

### **Challenges**

Each year, the number of consumer complaints in the e-commerce industry grows. The National Consumer Helpline stated in May 2017 that e-commerce got the most complaints, accounting for over half of all complaints received by the Helpline. Overcharged amount not refunded, delay in delivery, no after-sale services, defective products, and so on are the most common complaints against e-commerce companies.

Another issue is cross-border consumer complaints. Issue is that the contract may be regulated by the laws of the nation from where the products were provided, rather than the laws of the nation from which they were purchased. Legal action might include starting legal procedures in the retailer's nation, which would be extremely inconvenient for the customer.

A recent judgement in the matter of Ranju Aery vs SpiceJet Ltd is a game-changer. Case law derived from this judgement will empower e-commerce customers to sue the vendor (who has sold online) in any jurisdiction.

In Ranju Aery Vs SpiceJet Ltd, the SC held that reading the provisions of CPA and the IT Act, 2000, with the help of the ratio of the judgement in ABC Laminart Pvt Ltd, we can safely hold that, where contracts for services and/or goods are entered into over the Internet (commonly referred to as online transactions), for the purposes of consumer complaints, part of the cause of action arises inter alia, at the complainant's place of business, if acceptance of the contract is communicated to her through the Internet, including the medium of email.

### **Conclusion**

With the rapid advancement of technology, e-commerce has established itself in our daily lives. Though the e-commerce sector is not the same as the physical retail market, the population using it is growing rather than shrinking. This will also harm small e-commerce businesses. Consumers have several problems as a result of the lack of a competent redressal system for

the e-commerce business, particularly in the online retail industry. For greater security, e-market users must be more careful and adopt the maxim caveat emptor while entering the e-commerce market. They must use greater caution while making online purchases and conducting online money transfers. To avoid fraud, it is always best to pay in cash at the time of delivery. Due to the international character of cybercrime, there is a requirement for a specific legislation to deal with it; e-commerce also requires a distinct legislation for the industry that can offer appropriate redress for customers. India need comprehensive laws for the e-commerce business in order to give answers to key issues, including consumer safety.



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