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Consumer Protection in India and Online shopping: The Emerging Trend

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Abstract

Given the rapid growth and emerging trend of online shopping have changed consumer preferences to buy online, this study analyses the current Indian legal framework that protects online consumers' interests. A thorough analysis of the two newly enacted laws, i.e. Consumer Protection (E-commerce) Rules, 2020 and the Consumer Protection Act, 2019. The significant findings are that a secure and reliable system is essential for e-business firms to work successfully; cash on delivery is the priority option for online shopping; website information and effective customer care services build a customer's trust.

The new regulations are strong enough to protect and safeguard online shopping consumers' rights and boost India's e-business growth. Besides factors such as security, warranty, privacy, customer service, and website information, laws of governing consumer right protection e-commerce influence customers' trust. Growing e-commerce looks promising with a legal framework and consumer protection measures. The findings contribute to the body of knowledge on online shopping and consumer rights protection make clear the key factors that affect customer trust and loyalty and offering an informative perspective on e-consumer protection in the Indian context with broader implications.

Keyword: *Online shopping,, Consumer protection, privacy, ,Information technology*

Introduction :

Consumer protection in the Information technology sector has undergone significant transformation due to technological changes at all the levels. In the era of voice-only users, the main consumer concerns were related to the barrier, voice quality and the protection of personal data that the service providers acquire. With evolutions in technologies, especially after the introduction of broadband and more specifically mobile broadband, the consumer can now access many different platforms and services like online shopping, digital financial services, social media, e-health and e-education amongst others. These services collect data, apply different technologies (big data analytics, artificial intelligence and machine learning to name a few), make decisions, and provide information about the users collectively and at times individually as the services are used. This has further added complexity to consumer protection. As more and more services (public and private) shift online, the need for consumer protection has also enhanced in terms of scale and scope.

Importance of Consumer Protection

Consumer protection in an important aspect of service provisioning and has invited the attention of national governments as well as consumer associations and other stakeholders. Even within the Information technology sector, consumer protection still remains an important aspect because if customers do not feel comfortable enough, they might not use the Information technology services with confidence that will impact digital inclusion, which is critical in the digital transformation of the society, especially post COVID-19.

Several United Nation agencies have also provided guidelines and recommendations in this area. In addition to the Study group report mentioned above that also not only highlights many of the issues faced by consumers in the ICT sector but also provides many good examples of best practices from around the world. Furthermore, the

World Bank's "Digital Regulation Platform" has a separate chapter on Consumer affairs. The platform highlights several important issues related to consumer protection such as: Consumer rights in the digital context, good practices in consumer support, international organizations relevant to consumer affairs, digital consumer right (consumer consultation), consumer requirements from regulators, dispute resolution and good practices in consumer outreach and education.

Study Background

The study context, which discusses two key aspects, namely the rationale for consumer protection in e-commerce and its growth:

The Rationale for Consumer Protection in online shopping

Consumer protection is a burning issue in online shopping throughout the globe. E-Commerce refers to a mechanism that mediates transactions to selling and buying goods and services through electronic exchange. E-commerce increases productivity and widens choice through cost savings, competitiveness, time saving and a better production process organisation. According to the guidelines-1999 of the Organisation for Economic Cooperation and Development (OECD), online shopping is online business activities-both communications, including marketing and advertising, and transactions comprising ordering, invoicing and payments (OECD, 2000). OECD-1999 guidelines recognised, among others, three essential dimensions of consumer protection in e-commerce. First All consumers need to have access to online shopping. Second, to build consumer trust/confidence in online shopping, the continued development of transparent and effective consumer protection mechanisms is required to check fraudulent business, misleading advertisement, and unfair trade practices online. Third, all stakeholders-their shareholders, government, businesses, consumers, and their representatives- must pay close attention to creating effective redress systems. These guidelines are primarily for cross-border transactions. Considering the technological advances, internet penetration, massive use of mobile phones, smartphones and social media penetration led e-commerce growth, the OECD revised its 1999 recommendations for consumer protection in 2016. The 2016-guidelines aim to address the growing challenges of e-consumers' protection by stimulating innovation and competition, including non-monetary transactions, digital content products, consumers-to-consumers (C2C) transactions, mobile devices, privacy and security risks, payment protection and product safety.

Furthermore, it emphasises the importance of consumer protection authorities in ensuring their ability to protect e-commerce consumers and cooperate in cross-border matters (OECD, 2016). The United Nations Conference on Trade and Development (UNCTAD), in its notes-2017, also recognises similar consumer protection challenges in e-commerce. The notes look into policy measures covering relevant laws and their enforcement, consumer education, fair business practices and international cooperation to build consumer trust (UNCTAD, 2017).

Online shopping is the type of E-commerce business. E-commerce takes either the domestic (intra-border) route or cross-border (International) transactions. Invariably, six e-commerce models, i.e. Business-to-Consumer (B2C), Business-to-Business (B2B), Consumer-to-Consumer (C2C), Consumer-to-Business (C2B), Business-to-Administration (B2A) and Consumer-to-Administration (C2A). Irrespective of the model, the consumer is the King in the marketplace and needs to protect his interest. However, the focus of this paper is the major e-commerce activities covering B2B and B2C. shopping is the B2C types business. The National consumer helpline, consumer court online India are two Indian consumer protection agencies that promote healthy and competitive domestic trade.

ICPEN, in the new form, started functioning in 2002 and is now a global membership organisation of consumer protection authorities from 64 countries, including India joining in 2019 and six observing authorities (COMESA, EU, GPEN, FIAGC, OECD and UNCTAD). While it addresses coordination and cooperation on consumer protection enforcement issues, disseminates information on consumer protection trends and shares best practices on consumer protection laws, it does not regulate financial services or product safety. Through e-consumer. government enduring initiative, ICPEN, in association with the Federal Trade Commission (FTC), redresses international online fraud. Econsumer.gov, a collaboration of consumer protection agencies from 41 countries around the world, investigates the following types of international online fraud:

- Online shopping/internet services/computer equipment
- Credit and debit
- Telemarketing & spam
- Jobs & making money
- Imposters scam: family, friend, government, business or romance
- Lottery or sweepstake or prize scams
- Travel & vacations
- Phones/mobile devices & phone services
- Something else

Online criminals target financial information and personal. Online trading issues involve scammers targeting customers who buy/sell/trade online. Online cross-border complaints of fraud reported by econsumer.gov reveals that international scams are rising. Total cross-border fraud during 2020 (till 30 June) was 33,968 with a reported loss of US\$91.95 million as against 40,432 cases with a loss of US\$ 151.3 million and 14,797 complaints with the loss of US\$40.83 million 5 years back. Among others, these complaints included online shopping fraud, misrepresented products, products that did not arrive, and refund issues. The United States ranked first among the ten countries where consumers lodged online fraud complaints based on consumer and business locations. India was the third country next to France for online fraud reporting in consumer locations, while it was the fifth nation for company location-based reporting. Besides the USA and India, Poland, Australia, the United Kingdom, Canada, Turkey, Spain, and Mexico reported many consumer complaints. Companies in China, the United Kingdom, France, Hong Kong, Spain, Canada, Poland and Turkey received the most complaints. The trend is a serious global concern, with a magnitude of reported loss of above 60%.

Growth Trend in Online shopping

The analysis of the growth trend in online shopping, especially since 2015, explains that online consumers continue to place a premium on both flexibility, convenience and scope of shopping online. With the convenience of buying and returning items locally, online retailers will increase their footprint. Today, Revenue in the electronic commerce market is projected to reach US Dollar 63.17bn in 2023. Electronic - Commerce is growing across countries with a compound annual growth rate (CAGR) of 14.11 between 2023 and 2027; it is likely to grow at 25% between 2020 and 2025. Further analysis of e-commerce business reveals that internet penetration will be nearly 43.7% of the population in 2023, and Smartphone penetration has reached almost 71% by 2023. Among the users, 31% are in the age group of 25–34 years old, followed by 24% among the 35–44 years bracket and 22% in 18–24 years. Such a vast infrastructure and networking have ensured over 70% of the global e-commerce activities in the Asia–Pacific region. A review of global shoppers making online purchases that consumers look beyond their borders-cross-border purchases in all regions. While 90% of consumers visited an online retail site by 2023, 74% purchased a product online, and 52% used a mobile device.

Literature Review and Research Gap

Theoretical Framework

Generally speaking, customers, as treated inferior to their contracting partners, need protection (Daniel, 2005). Therefore, due to low bargaining facility, it is agreed that their interests need to be secured. The 'inequality of negotiating power' theory emphasises the consumer's economically weaker status than suppliers (Haupt, 2003; Porter, 1979). The 'exploitation theory' also supports a similar view to the 'weaker party' argument. According to this theory, for two reasons, consumers need protection: first, consumers have little choice but to buy and contract on the terms set by increasingly large and powerful businesses; second, companies can manipulate significant discrepancies in knowledge and complexity in their favour (Cockshott & Dieterich, 2011). However, a researcher such as Ruhl (2011) believed that this conventional theoretical claim about defining the customer as the weaker party is no longer valid in modern times. The logic was that the exploitation theory did not take into account competition between businesses. Through competition from other businesses, any negotiating power that companies have vis-a-vis clients is minimal. The study, therefore, considers that the 'economic theory' is the suitable theoretical rationale for consumer protection today.

The principle of 'economic philosophy' focuses primarily on promoting economic productivity and preserving wealth as a benefit (Siciliani et al., 2019). As such, the contract law had to change a great deal to deal with modern-age consumer transactions where there is no delay between agreement and outcomes (McCoubrey & White, 1999). Thus, the 'economic theory' justifies the flow of goods and services through electronic transactions since online markets' versatility and rewards are greater than those of face-to-face transactions. The further argument suggests that a robust consumer protection framework can provide an impetus for the growth of reliability and trust in electronic commerce. The 'incentive theory' works based on that argument to describe consumer protection in electronic transactions (McCoubrey & White, 1999).

Online shopping needs greater trust than purchasing offline (Nielsen, 2018). From the viewpoint of 'behavioural economics, trust (faith/confidence) has long been considered a trigger for buyer-seller transactions that can provide high standards of fulfilling trade relationships for customers (Pavlou, 2003). Pavlou (2003) supports the logical reasoning of Lee and Turban (2001) that the role of trust is of fundamental importance in adequately capturing e-commerce customer behaviour. The study by O'Hara (2005) also suggests a relationship between law and trust (belief/faith), referred to as 'safety net evaluation', suggesting that law may play a role in building trust between two parties. However, with cross-border transactions, the constraint of establishing adequate online trust increases, especially if one of the parties to the transaction comes from another jurisdiction with a high incidence of counterfeits or a weak rule of law (Loannis et al., 2019). Thus, the law promotes the parties' ability to enter into a contractual obligation to the extent that it works to reduce a contractual relationship's insecurity. The present research uses the idea of trust (faith/belief/confidence) as another theoretical context in line with 'behavioural economics.

Gaining the trust of consumers and developing a relationship has become more challenging for electronic - businesses. The primary reasons are weak online security, lack of effectiveness of the electronic payment system, lack of effective marketing program, delay in delivery, low quality of goods and services, and ineffective, dissatisfied return policy.

Need of online consumer protection:

The law of the land guides people and the living society. Prevailing rules and regulations when followed provide peace of mind and security in all spheres, including business activities. Time has changed; people going for online buying and selling transaction go with the legal framework and feel safe and secured. An online agreement is a valid contract. Most UNCTAD member countries, including India, have adopted various laws concerning e-governance/e-business/e-society, such as e-transaction laws, consumer protection laws, cyber-crime laws, and data privacy and protection laws. The trend indicates that the law is vital in establishing trust in online transactions.

Methodology:

The research initially depended on the rigorous review of the consumer protection guidelines released from time to time by various bodies, such as the OECD and UNCATD, accompanied by an analysis of the Indian consumer protection legal structure. The Indian Consumer Protection Act, 2019 and the Consumer Protection (E-commerce) Rules, 2020 were the review and analysis subjects. The study used e-commerce driver data collected from secondary sources-published material; the survey reported e-commerce growth and trends and consumer protection and conducted an online survey of 432 online consumers during August and September 2020.

Analysis:

The rapid development of e-commerce has led to new delivery systems for goods and services and has provided new opportunities for consumers. Simultaneously, this has also exposed the consumer vulnerable to new forms of unfair trade practices and unethical business. The old consumer protection Act, 1986, has severe limitations regarding its applicability and adjudication processes in consumer rights protection in e-commerce. The new Act, 2019 brings fundamental changes regarding its scope of application, penalty and governance; and envisages CCPA and vests regulating and controlling powers.

Consumer Protection (E-Commerce) Rules, 2020

The Consumer Protection (E-Commerce) Rules, 2020, notified under the Consumer Protection Act, 2019 on 23 July 2020, aims to prevent unfair trade practices and protect consumers' interests and rights in e-commerce.

Conclusions

Lack of trust in goods and their suppliers/manufacturers was one of the primary reasons for people not buying online. The widespread internet penetration and the growing use of computer/tablets/smartphones have pushed e-commerce growth across countries, including India. The rapid e-commerce development has brought about new distribution methods. It has provided new opportunities for consumers, forcing consumers vulnerable to new forms of unfair trade and unethical business. Further, the government's measures to protect consumer rights, particularly online consumers, are inadequate. Hence, the government enacted the Consumer Protection Act, 2019 and the Consumer Protection (E-commerce) Rules, 2020 and made them effective from July 2020. The new Act and Rules have less than 6 months of operational experience, implying premature comment on its effectiveness in providing safety and security to online consumers. However, online consumers' positive responses suggest that people gain confidence in online shopping with safety and security. Because consumer rights protection is paramount in the growth of e-commerce, the new regulations strengthen the grievance redress mechanism of online consumers, ensuring their trust-building ability, safety, and security. The "Consumer is the King with power" now. The new reform, i.e., enactment of the two laws, aids in doing business too. Some legal complications may arise with more operational experience in the future. Still, with judiciary intervention and directives, the online consumer's safety and security will pave the growth of e-commerce in India.

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3. econsumer.gov came into being in April 2001, addresses international scams and guides its members to combat fraud worldwide; see for details <https://econsumer.gov/#crnt>.
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