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THE CONSUMER PROTECTION ACT 2019 AND ITS IMPACT ON THE E-COMMERCE SECTOR IN INDIA

Navigating the Consumer Landscape in the Digital Era

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Abstract: This research article provides a comprehensive analysis of the impact of the Consumer Protection Act 2019 on the E-Commerce industry in India. It dives deep into the history of consumer protection, breaks down the key provisions of the Consumer Protection 2019 Act, and scrutinizes the Consumer Protection (E-Commerce) Rules 2020. Further, it highlights the rules that directly impact the E-Commerce landscape. The paper also provides suggestions for improving consumer protection in the E-Commerce sector. Finally, the conclusion summarizes the key takeaways, emphasising the need for lawmakers to continually adapt to the evolving digital economy to ensure consumer-friendly policies in the E-Commerce sector. Overall, this paper highlights the essential role of the Consumer Protection Act 2019 and the Consumer Protection (E-Commerce) Rules 2020 in safeguarding consumer rights in E-Commerce in India.

Keywords: Consumer Protection Act 2019, Consumer Protection (E-Commerce) Rules 2020, Consumer Protection, E-Commerce Rules.

I. INTRODUCTION

The Consumer Protection Act 2019 has transformed India's consumer protection landscape, particularly in E-Commerce. This legislation is crucial as it is the foundation for safeguarding consumer rights in the dynamic digital marketplace. This research article delves into a detailed analysis of the legal frameworks surrounding consumer protection, focusing on the impact of the Consumer Protection Act 2019 on the E-Commerce sector in India.

1.1 Brief Overview of the Consumer Protection Act 1986

The Consumer Protection Act 1986 (CPA 1986) marked a pivotal moment in India's legal landscape, aiming to safeguard the rights and interests of consumers. It was enacted in response to an urgent need for a dedicated legal framework. The CPA 1986¹ addressed consumers' escalating challenges, such as deceptive trade practices, substandard goods, and deficient services. This legislation introduced a quasi-judicial mechanism, consumer forums, for the speedy resolution of consumer disputes².

However, over time, it became apparent that the CPA 1986 needed a substantial overhaul to align with the evolving dynamics of commerce, especially in the digital age. The legislative framework is required to work on keeping pace with the rapid advancements in

¹Justice V.K. Mehrotra, "CONSUMER PROTECTION ACT, 1986 NEED FOR FURTHER CHANGES, SOME SUGGESTIONS" *Institute's Journal*, April-June 1995, available at <<https://ijtr.nic.in/articles/art9.pdf>> (15th November 2023).

²Philip Ashok Alex, "An Overview of the Consumer Protection Act, 1986" *Finology Legal*, available at <<https://blog.finology.in/Legal-news/Overview-of-Consumer-Protection-Act-1986>> (16th November 2023).

technology and the changing nature of consumer transactions. Consequently, a comprehensive reevaluation was deemed necessary, leading to the enactment of the Consumer Protection Act 2019³.

1.2 Introduction to the Consumer Protection Act 2019 and the Consumer Protection (E-Commerce) Rules 2020

The Consumer Protection Act 2019 (CPA Act 2019) represents a paradigm shift in India's consumer protection landscape, superseding the outdated CPA 1986. The need for this overhaul arose from the inadequacies of the previous law in addressing emerging challenges, particularly in the context of E-Commerce. The new act addresses gaps in the regulatory framework, offering enhanced protection to consumers engaging in online transactions⁴.

The Consumer Protection (E-Commerce) Rules 2020⁵, introduced under the CPA 2019, serve as a crucial supplement tailored to regulate E-Commerce transactions. The rules are designed to bring clarity and accountability to the rapidly growing E-Commerce sector, recognising the unique dynamics of online consumer interactions. This shift reflects a proactive approach by the legislative framework to adapt to the digital landscape and protect consumers in the E-Commerce sector⁶.

1.3 Importance of Consumer Protection in India

Consumer protection is paramount in India's socio-economic framework, aiming to balance the power dynamics between consumers and businesses. As defined in the CPA 2019, a consumer encompasses individuals who purchase goods and those who avail services, making the scope of protection more inclusive. Consumer protection becomes even more critical in E-Commerce, where transactions transcend geographical boundaries through digital platforms⁷.

With its convenience and global reach, E-Commerce introduces unique consumer challenges and risks. The CPA 2019 and the E-Commerce Rules 2020⁸ address these challenges by establishing clear duties and liabilities and ensuring a fair and transparent marketplace for online transactions.

II. HISTORICAL BACKGROUND OF CONSUMER PROTECTION IN INDIA

To comprehend the historical development of consumer protection in India, it's essential to explore its early roots.

2.1 Ancient India

In ancient times, the Vedas were highly revered as sacred texts of divine origin, and most people in ancient India adhered to their teachings called Dharma Sashtras⁹. Various codes were introduced, including Chanakya's Code, Manu Smriti, Narada Smriti, Yajnavalkya Smriti, and others, to protect consumers and ensure their well-being. These codes imposed consequences for violations of their provisions, and among them, Manu Smriti held significant influence.

2.1.1 Manu Smriti

Manu Smriti emphasised the importance of fair trade practices, with penalties for those mistreating consumers. It regulated against adulteration and set prices for goods by local authorities. Further, it also regularly inspected weights and measures every six months to maintain transparency and fairness, showcasing an impressive early consumer protection system.

2.1.2 Kautilya's Arthashastra

Kautilya's Arthashastra, from the era of Chandragupta, oversaw regulations for weights and measures and imposed penalties on traders involved in adulterating goods, especially commodities like grains, medicine, perfumes, salt, and sugar. It underlined the state's

³Saxena, I. C. "THE CONSUMER PROTECTION ACT 1986 : A VIEWPOINT." *Journal of the Indian Law Institute*, vol. 30, no. 3, 1988, pp. 321–31. JSTOR, <http://www.jstor.org/stable/43951181> (Accessed 20th November 2023).

⁴Department of Consumer Affairs, "Consumer Protection Act" *Ministry of Consumer Affairs, Food and Public Distribution*, available at <<https://consumeraffairs.nic.in/sites/default/files/ConsumerProtectionAct.pdf>> (18th November 2023).

⁵ICSI, "Consumer Protection (E-Commerce) Rules, 2020: An Overview", *ICSI*, available at <https://www.icsi.edu/media/webmodules/Consumer_Protection_E-Commerce_Rules_2020.pdf> (23rd November 2023).

⁶PSL Advocates & Solicitors, "An overview of the Consumer Protection (E-Commerce) Rules, 2020" *PSL Advocates & Solicitors*, available at <<https://www.pslchambers.com/psl-release/an-overview-of-the-consumer-protection-E-Commerce-rules-2020/>> (20th November 2023).

⁷BYJU'S, "Consumer Protection Act: Meaning and Importance", *BYJU'S*, available at <<https://byjus.com/commerce/consumer-protection-study-materials/#:~:text=Consumer%20Protection%20Act%20provides%20Consumer,and%20get%20help%20with%20complaints.>> (25th November 2023).

⁸ProInd, "Consumer Protection in E-Commerce Rules 2020", *ProInd*, available at <<https://www.proind.in/blog/consumer-protection-in-E-Commerce-rules-2020/>> (27th November 2023).

⁹Ikshula, THE LABYRINTH OF LAW IN INDIA OMICS INTERNATIONAL (2016), <https://www.omicsonline.org/open-access/the-labyrinth-of-law-in-india-2169-0170-1000164.php?aid=66673> (Accessed 25th November 2023).

pivotal role in trade oversight and preventing crimes against consumers, vehemently condemning black marketing and unfair trade practices¹⁰. It also laid down various punishments for deceit, advocating severe penalties like amputation for certain offences.

Additionally, the Arthashastra safeguarded the rights of traders, requiring them to obtain licenses for selling goods and allowing sellers to operate within a profit margin defined by the king for setting sale prices. The state protected consumers from unfair pricing and fraudulent transactions, with penalties for offences like smuggling and adulteration, particularly concerning food products. Consumers were granted access to justice through a network of court systems, with the monarch responsible for ensuring justice was served¹¹.

2.2 Medieval India

As India transitioned from ancient to medieval times, Islam gained prominence, and its laws took centre stage. The Holy Quran emphasised consumer protection by condemning unfair weights and measures. During the Sultanate era, goods' pricing was influenced by local conditions, reflecting a blend of Hindu and Muslim scriptures that promoted consumer welfare¹².

Like Hindu texts, the Quran introduced rules to protect consumers from dishonest sellers. Under Alauddin Khalji's law, the marketplace faced various directives, including fixed grain prices and stringent price controls.

Different market sections were assigned for specific goods like grains, textiles, sugar, butter, oil, horses, enslaved people, cattle, and more. Shopkeepers attempting to shortchange customers through under-weighting faced penalties.

2.3 Modern India

In modern times, India's market landscape has changed drastically, which requires a solid legal framework to protect the interests of Indian consumers. This legal development can be divided into two phases, i.e., Pre-Independence and Post-Independence.

2.3.1 Pre-Independence Phase

Before gaining independence in 1947, India had a limited formal legal framework for consumer protection. The society relied mainly on traditional and informal systems to address disputes related to consumer issues. These included the influence of community councils and guilds in resolving conflicts.

Under British colonial rule, few regulations were introduced, including the Indian Contract Act of 1872, which provided some level of consumer protection by defining contractual relationships and obligations. However, these regulations needed to be more comprehensive, and specific consumer protection laws were absent.

2.3.2 Post-Independence Phase

After gaining independence, India embarked on a journey to establish itself as a democratic and welfare state. During this time, the importance of consumer protection became increasingly recognised as economic reforms and industrialisation began to shape the country's future.

One of the early legislative efforts in this direction was the enactment of the Monopolies and Restrictive Trade Practices Act of 1969. This legislation aimed to curb monopolistic and restrictive trade practices, contributing to a more competitive and consumer-friendly market.

A pivotal moment in Indian consumer protection was the enactment of the Consumer Protection Act in 1986. It marked a significant shift in the legal landscape, introducing a dedicated framework for addressing consumer grievances. The Act established a three-tier redressal system, including the District Consumer Redressal Commission, State Consumer Redressal Commissions, and the National Consumer Disputes Redressal Commission. It also emphasised vital consumer rights, such as safety, information, choice, and the right to be heard. It gave consumers a robust legal foundation to seek redressal for product defects, unfair trade practices, and subpar services¹³.

Since then, the Consumer Protection Act 1986 has undergone several amendments to enhance its effectiveness and relevance. These amendments have aimed at streamlining the redressal process, increasing consumer awareness, and strengthening the legal provisions for consumer protection.

¹⁰ R.P. Kangle, *The Kautiliya Arthashastra. Part III A Study* 116 (2000).

¹¹ Sonika Sekhar - et al., *THE HISTORY OF CONSUMER PROTECTION LAW TIMES JOURNAL* (2019), <https://lawtimesjournal.in/the-history-of-consumer-protection/> (Accessed 15th November 2023).

¹² S.R. Bakshi, *Advanced History of Medieval India* Vol. 1 287 (2003).

¹³ Manish Kumar Goga, "Consumer Protection Law in India" *Legal Services India*, available at <https://www.legalservicesindia.com/article/1739/Consumer-Protection-Law-In-India.html> (27th November 2023).

The emergence of "Information and Communication Technology" has transformed various facets of human life, including buying and selling products and services without regard for time or geography. It gave rise to technologies like electronic data interchange¹⁴ and electronic funds transfer¹⁵, which, when facilitated through the Internet, evolved into E-Commerce.

So, India introduced the new Consumer Protection Act 2019 and the Consumer Protection (E-Commerce) Rules 2020, replacing the 1986 Act and the then-existing Rules and ushering in significant changes. Notably, it introduced an enhanced regulatory framework for "E-Commerce" and broadened the definition of "consumer" to include online shoppers. Additionally, the Act established the Central Consumer Protection Authority (CCPA) to promote, protect, and enforce consumer rights.

Thus, India's historical progression in consumer protection demonstrates its dedication to safeguarding consumer rights. The journey from limited pre-independence regulations to the comprehensive Consumer Protection Act 1986, subsequent amendments, the Consumer Protection Act 2019, and the Consumer Protection (E-Commerce) Rules 2020 signifies a significant transformation in India's approach to consumer welfare. This continued evolution underscores India's commitment to maintaining a fair and secure consumer marketplace.

III. THE CONSUMER PROTECTION ACT 2019

The Consumer Protection Act 2019 replaced the Consumer Protection Act 1986¹⁶ to administer the rights of consumers in India. This updated legislation incorporates provisions that address challenges faced by today's technology-dependent consumers. It includes various measures to protect and promote consumer rights.

3.1 Consumer

The Consumer Protection Act 2019 has expanded the definition of 'consumer.' According to Section 2(7) of the Act, an individual or a group of individuals are termed "consumers" when they purchase any goods or utilize any services for consideration for personal use.

However, if an individual acquires goods or services for resale or commercial purposes, they do not fall under the consumer category. This definition includes various transaction modes encompassing offline and online platforms, including teleshopping, direct selling, or multi-level marketing¹⁷.

In **Indian Medical Association v. VP Shantha and Others**¹⁸, the Indian Medical Association (IMA) filed a writ petition seeking a declaration from the Hon'ble Supreme Court of India that the Consumer Protection Act should not apply to doctors and nurses, particularly in medical malpractice cases. The IMA argued that healthcare professionals should be excluded from the provisions of the Consumer Protection Act.

After considering the arguments, the Hon'ble Supreme Court held that doctors and hospitals providing free services would not fall within the ambit of the Consumer Protection Act. The rationale behind this decision is that the Consumer Protection Act does not apply to government hospitals where services are free. However, the court clarified that if free services are extended to individuals in need or the impoverished, it would be considered a "service" under the Consumer Protection Act and, therefore, subject to its provisions.

In the case of **National Seeds Corporation v M. Madhusudhanan Reddy**, the definition of a consumer under Section 2(1)(d)(i) was expanded in order to include farmers and reinforced its role as a welfare legislation.

The case further clarified how to interpret Section 3 of the Consumer Protection 1986. Here, it was determined that the Consumer Protection Act aimed to provide compensating reliefs in addition to any other provisions included in another act existing at that time. It was made clear that the provisions of COPRA would only complement the laws in effect at the time and would never be in derogation to the existing rules.

3.2 Need for the Consumer Protection Act 2019

The Indian legislature passed the Consumer Protection Act 2019 to address issues related to violations of consumer rights, unfair trade practices, and misleading advertisements¹⁹. The 2019 Act aims to protect e-consumers, considering the increased online buying and

¹⁴EDI Basics,"Electronic Data Interchange", *EDI BASICS*, available at <<https://www.edibasics.com/what-is-edi/>> (30th November 2023).

¹⁵E. Napoletano, "What is EFT Payment?" *Forbes Advisor*, available at <<https://www.forbes.com/advisor/money-transfer/understanding-electronic-funds-transfer/>> (28th November 2023).

¹⁶Diya Vaya,"EdTech Companies under the Consumer Protection (E-Commerce) Rules, 2020", *Bhatt & Joshi Associates*, available at <<https://bhattandjoshiassociates.com/edtech-companies-under-the-consumer-protection-E-Commerce-rules-2020/>> (01st December 2023).

¹⁷The Consumer Protection Act 2019 (Act 35 of 2019), s. 2(7).

¹⁸ 1996 AIR 550.

¹⁹Ministry of Consumer Affairs, Food & Public Distribution," Consumer Protection Act, 2019 to strengthen provisions for consumer protection", *Ministry of Consumer Affairs, Food & Public Distribution*, available at <<https://pib.gov.in/PressReleasePage.aspx?PRID=1945167#:~:text=Under%20the%20provisions%20of%20the,and%20consumers%20as%20a%20class.>> (03rd December 2023).

selling due to technological advancements. The Parliament's intent in enacting this law is to establish Consumer Protection Councils for dispute resolution and ensure compensation for consumers if their rights are violated.

The Act focuses on providing enhanced protection for consumer rights and interests. It sets up Consumer Protection Councils to resolve disputes and ensures fair compensation for consumers if their rights are infringed. The legislation emphasises quick and effective resolution of consumer complaints through alternative dispute resolution methods. Additionally, it encourages consumer education to inform individuals about their rights and responsibilities, addressing their grievances effectively²⁰.

3.3 Objective of the Consumer Protection Act 2019

The primary goal of the Consumer Protection Act 2019 is to safeguard consumer interests and establish a robust mechanism for resolving disputes. The objectives of the Act encompass²¹:

- Safeguarding against the promotion of hazardous products that pose threats to life and property.
- Ensuring consumers are informed about the quality, potency, quantity, standard, purity, and price of goods to protect them from unfair trade practices.
- Establishing Consumer Protection Councils to safeguard consumers' rights and interests.
- Facilitating access to authorities to ensure competitive pricing of goods whenever possible.
- Offering recourse against unfair trade practices or any unscrupulous exploitation of consumers.
- Appointing authorities for the timely and efficient administration and resolution of consumers' disputes to ensure their protection.
- Prescribing penalties for offences committed under the Act.
- Ensuring consumers' welfare is considered at appropriate forums in case of disputes or problems.
- Providing consumer education to raise awareness about their rights.
- Ensuring prompt and effective resolution of consumer complaints through alternative dispute resolution mechanisms.

3.4 Consumer Rights under the Consumer Protection Act 2019

Section 2(9) of the Consumer Protection Act 2019 provides six consumer rights, which are as follows²²:

- The **right to be protected** against marketing goods, products or services that are hazardous to life and property.
- The **right to be informed** about the quality, quantity, potency, purity, standard and price of goods, products or services, as the case may be, to protect the consumer against unfair trade practices.
- The **right to be assured**, wherever possible, access to various goods, products or services at competitive prices.
- The **right to be heard** and assured that consumers' interests will receive due consideration²³.
- The **right to seek redressal** against unfair trade practices, restrictive trade practices or unscrupulous exploitation of consumers²⁴.
- The **right to consumer awareness**²⁵.

3.5 Essential Provisions of the Consumer Protection Act 2019

The vital provisions of the Consumer Protection Act include the following:

3.5.1 Unfair Trade Practices under the Consumer Protection Act 2019

The term 'Unfair Trade Practices' as defined by Section 2(47) of the Consumer Protection Act 2019²⁶ encompasses:

- Engaging in producing counterfeit goods or providing services with defects.
- Failing to issue cash memos or bills for the purchased goods or rendered services.
- Refusing to take back or withdraw defective goods or services and neglecting to refund the consideration received for the purchase.

²⁰Abanti Bose, "Consumer Protection Act, 2019", *Ipleaders*, available at <<https://blog.ipleaders.in/consumer-protection-act-2019-2/>> (04th December 2023).

²¹Rest the Case, 'Consumer Protection Law in India', *Rest the Case*, available at <[²²The Consumer Protection Act 2019 \(Act 35 of 2019\), s.2 \(9\).](https://restthecase.com/knowledge-bank/consumer-protection-laws-in-india#:~:text=The%20Consumer%20Protection%20Act%2C%20of%202019%20was%20enacted%20in%20India,and%20ensuring%20fair%20trade%20practices.> (7th December 2023).</p>
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²³Laiba Faroukh, "World Consumer Rights Day and the Developing World", *Legal Services India*, available at <<https://www.legalserviceindia.com/legal/article-8055-world-consumer-rights-day-and-the-developing-world.html>> (10th December 2023).

²⁴Anshika Pradhan, "Restaurants cannot levy Packaging Charge separately: Rajkot District Consumer Forum delivers judgment in favour of Rounak Sinha, Student of Faculty of Law, Marwadi University", *Knowledge Steez*, available at <<https://knowledgesteez.com/2023/08/restaurants-cannot-levy-packaging-charge-separately-rajkot-district-consumer-forum-delivers-judgement-in-favour-of-rounak-sinha-student-of-faculty-of-law-marwadi-university/>> (09th December 2023).

²⁵Vikaspedia, "Consumer Rights and Responsibilities", *Viakspedia*, available at <<https://vikaspedia.in/social-welfare/social-awareness/consumer-education/consumer-rights-and-responsibilities>> (11th December 2023).

²⁶The Consumer Protection Act 2019 (Act 35 of 2029), s. 2(47).

- Unauthorized disclosure of the consumer's personal information²⁷.

In **Rounak Sinha v. KFC**²⁸ and **Rounak Sinha v. Pizza Hut**²⁹, the Hon'ble Rajkot District Consumer Forum held that "KFC and Pizza Hut must bear the expenses of packaging and they cannot recover the expenses from the Complainant. Hence, in such circumstances, it was held that the levy of the "Restaurant Packaging Charge" separately amounts to an unfair trade practice that is considered misleading and illegal."

The Rajkot District Consumer Forum relied upon the judgment of the Hon'ble State Consumer Disputes Redressal Commission, Chandigarh, in the case of **M/s Dominos, Jubilant Foodworks v. Pankaj Chandgothia**³⁰ where it was observed that "All kinds of expenses incurred to putting goods into a deliverable state shall be suffered by the seller incurred to put goods into a deliverable state shall be suffered by the seller. It will not be out of place to refer here to the provisions of Sub Section (5) of Section 36 of the Sale of Goods Act, 1930, which makes it clear that unless otherwise agreed, the expenses of and incidental to putting the goods into a deliverable state shall be borne by the seller. Thus, under this provision of law, all expenses concerning packing, etc., shall be borne by the vendor to put the goods into a deliverable state."

3.5.2 Consumer Protection Councils

The Consumer Protection Act 2019 establishes Consumer Protection Councils to safeguard consumer rights at the national, state, and district levels.

3.5.2.1 Central Consumer Protection Council

As per Section 3 of the Consumer Protection Act 2019, the Central Government must establish the Central Consumer Protection Council, commonly known as the Central Council. This advisory body is structured to include:

- The Chairperson, who is the Minister-in-charge of the Department of Consumer Affairs in the Central Government.
- Any number of official or non-official members representing necessary interests under the Act.

The Central Council may convene meetings as deemed necessary, with a mandatory requirement to hold at least one meeting annually. Its primary purpose is to safeguard and promote the interests of consumers as stipulated in the Act.

3.5.2.2 State Consumer Protection Council

Each state government must establish a State Consumer Protection Council, referred to as the State Council, with jurisdiction over its respective state under Section 6 of the Consumer Protection Act 2019. This council functions as an advisory body and includes the following members:

- The Chairperson, who is the Minister-in-charge of the Department of Consumer Affairs in the State Government.
- Any number of official or non-official members representing essential interests outlined in the Act.
- The Central Government has the authority to appoint a minimum of ten members for the purposes outlined in this Act.

The State Councils must conduct at least two meetings each year.

3.5.2.3 District Consumer Protection Council

As per Section 8 of the Act, each state government is mandated to form a District Consumer Protection Council, referred to as the District Council, for every district. The composition of the District Council is:

- The District Collector is appointed as the District Council Chairperson.
- Any other members representing essential interests as outlined in the Act.

3.5.3 Central Consumer Protection Authority

Under Section 10 of the Consumer Protection Act 2019, the central government establishes the Central Consumer Protection Authority, known as the Central Authority. This entity is set to oversee issues concerning the infringement of consumer rights, unfair trade practices, and false and misleading advertisements that adversely affect the public and consumer interests. The primary objective of the Central Authority is to promote, safeguard, and enforce consumer rights. The Central Government will appoint the Chief Commissioner and additional Commissioners of the Central Authority following the provisions outlined in the Act³¹.

²⁷Yazdi," Consumer Protection Act 2019: Enhancing Consumer Rights", *Consumer Resources: RESOURCES FOR THE INDIAN CONSUMER*, available at <<https://consumerresources.in/2019/09/02/consumer-protection-act-2019-enhancing-consumer-rights/>> (15th December 2023).

²⁸CC/622/2023.

²⁹CC/621/2023.

³⁰Appeal No.160 of 2019.

³¹ The Consumer Protection Act 2019, s.10.

Under Section 15 of the Consumer Protection Act 2019, the Central Authority must establish an 'Investigative Wing' responsible for conducting inquiries or investigations. This wing comprises key positions, like the Director-General and the required number of Additional Director-Generals, Directors, Joint Directors, Deputy Directors, and Assistant Directors. All members of the Investigative Wing must possess the requisite experience and qualifications for carrying out the functions as outlined in the Act³².

3.5.3.1 Powers and Functions of the Central Authority

The functions and duties of the Central Authority are outlined in Section 18 of the Act, encompassing the following:

- Safeguard and promote the rights of consumers as a collective and prevent any violation of these rights.
- Preventing the occurrence of unfair trade practices.
- Ensuring the prevention of false or misleading advertisements regarding goods or services.
- Prohibiting individuals from participating in false or misleading advertisements.
- Conducting inquiries or investigations in instances of consumer rights violations or unfair trade practices.
- As applicable, filing complaints before the National, State, or District Commission.
- Reviewing matters pertaining to factors that impede the enjoyment of consumer rights.
- Recommending the adoption of international covenants and best practices concerning consumer rights.
- Promoting research and awareness regarding consumer rights.
- Formulate necessary guidelines to prevent unfair trade practices and safeguard the interests of consumers³³.

Additionally, the Central Authority possesses the authority to conduct investigations upon receipt of a complaint or directions from the Central Government or on its own in cases involving the violation of consumer rights or the engagement in unfair trade practices. When the Central Authority determines that such infringement has occurred, it is empowered to:

- Recall goods or services deemed hazardous and harmful to consumers.
- Provide reimbursements to consumers for the prices of the goods and services.
- Cease practices that are detrimental and prejudicial to consumers³⁴.

According to Section 21 of the Act, the Central Authority is empowered to issue directives related to false and misleading advertisements, with penalties extending up to ten lakh rupees. When determining the liability for the offence, the Central Authority must consider factors such as the affected population, the frequency of the offence, and the gross revenue generated from the sales of the product in question. Additionally, the Central Authority can authorise search and seizure under this Act, with the provisions of the Criminal Procedure Code 1973 being applicable in such cases³⁵.

3.5.4 Consumer Disputes Redressal Commission

The Consumer Disputes Redressal Commission, as per the Consumer Protection Act 2019 of India, operates at three distinct levels: District, State, and National.

Beginning at the District level, as specified under Sections 28 to 41 of the Act, this Commission comprises a President and not less than two and not more than such number of members as may be prescribed in consultation with the Central Government. Section 34 states that its jurisdiction extends to disputes where the claim's value does not exceed ₹1 crore. Further, consumers, recognised consumer associations, the Central Government, the Central Authority, and State Governments can file complaints related to goods and services with the District Commission. As per Section 36, the proceedings before the District Commission are to be conducted by the President of the Commission and at least one commission member.

As per Section 42, the State Commission consists of a President and not less than four and not more than such number of members as may be prescribed in consultation with the Central Government.

Under Section 47, its jurisdiction covers disputes with a claim value exceeding ₹1 crore but not exceeding ₹10 crore. The State Commission handles appeals against District Commission orders and adjudicates disputes within its pecuniary jurisdiction.

Under Section 54, the National Commission comprises a President and not less than four and not more than such number of members as may be prescribed. The National Commission's jurisdiction extends to disputes where the claim's value exceeds ₹10 crores. The National Commission entertains appeals against State Commission orders, appeals against the orders of the Central Authority and deals with matters within its pecuniary jurisdiction as per Section 58 of the Act.

Thus, the Consumer Disputes Redressal Commission at different levels plays a pivotal role in the consumer protection framework of India, offering effective avenues for consumers to seek redressal and resolution of their grievances.

³²The Consumer Protection Act 2019 (Act 35 of 2019), s.15.

³³The Consumer Protection Act 2019 (Act 35 of 2019), s.18.

³⁴The Consumer Protection Act 2019 (Act 35 of 2019), s.19.

³⁵ The Consumer Protection Act 2019(Act 35 of 2019), s.21.

3.5.5 Mediation

Section 74 of the Consumer Protection Act 2019 mandates the establishment of a Consumer Mediation Cell at the national level by the Central Government, and every state government is required to set up a Consumer Mediation Cell within its jurisdiction. The mediator nominated for mediation must perform the process within the timeframe and manner specified by regulations³⁶.

Section 75 of the Act addresses the empanelment of mediators, outlining their qualifications, terms and conditions of service, the procedure for appointment, and the fee payable to empanelled mediators³⁷.

Further, the mediator must disclose relevant facts, including personal, financial, or professional connections that could impact the consumer dispute resolution. They must also disclose circumstances that could affect their independence, impartiality, and any other necessary information to safeguard consumer rights.

3.5.6 Product Liability

Section 83 of the Act enables a complainant to initiate a product liability action against a product manufacturer, product service provider, or product seller.

3.5.6.1 Liability of Product Manufacturer

In a product liability action, a product manufacturer becomes liable under the following circumstances:

- The presence of manufacturing defects in the product.
- The product is defective.
- Deviation from manufacturing specifications.
- Non-conformance of the product to the express warranty.
- Failure of the product to provide adequate information for proper usage.

3.5.6.2 Liability of Product Service Provider

In a product liability action, a product service provider is liable under the following circumstances:

- The service provider bears responsibility when its service is flawed or imperfect.
- The acts of negligence on the part of the service provider make the provider accountable.
- The service provider fails to provide sufficient instructions and warnings for the services.
- Non-conformity by the service provider to the express warranty or terms and conditions of the contract results in the service provider's liability.

3.5.6.3 Liability of Product Seller

In a product liability action, a product seller is subject to liability under the following conditions:

- The seller modified or altered the product, which is detrimental to the consumer.
- The seller neglected to exercise reasonable care in the product's assembly, inspection, or maintenance.
- The seller exerted significant control over the product, harming the consumer.

3.5.6.4 Exceptions to Product Liability

However, there are certain exceptions to product liability actions outlined in Section 87 of the Act, and they are as follows:

- If the consumer altered, modified, or misused the product.
- A consumer is not eligible to initiate a product liability action if the manufacturer has provided sufficient warnings and instructions for the product's use.
- The manufacturer is not liable in a product liability action for failing to warn about a danger widely known to the general public³⁸.

3.5.7 Offenses and Penalties under the Consumer Protection Act, 2019

The Consumer Protection Act 2019 delineates offences and corresponding penalties under Sections 88 to 93. A few of the offences and their corresponding penalties are as follows:

- **Punishment for False and Misleading Advertisements:** According to Section 89 of the Act, any manufacturer or service provider promoting false or misleading advertisements is subject to punishment. The prescribed penalty includes imprisonment

³⁶ The Consumer Protection Act 2019 (Act 35 of 2019), s.74.

³⁷ The Consumer Protection Act 2019 (Act 35 of 2019), s.75.

³⁸ The Consumer Protection Act 2019 (Act 35 of 2019), s.87.

for up to two years and a fine extending up to ten lakh rupees, and for every subsequent offence, the offender be punished with imprisonment for a term which may extend to five years and with a fine which may extend to fifty lakh rupees.

In **Dabur India v. Colortek Meghalaya Pvt. Ltd.**, the Delhi High Court laid down the following guiding principles while dealing with the issue of misleading advertisements:

- Advertisements are protected under Article 19(1)(a) as commercial speech;
- An advertisement must not be false, misleading or deceptive;
- However, there are certain cases where the advertisement must not be taken as false, but as a glorious representation of one's own product; and
- Only when the impugned advertisement goes beyond glorifying its product, and is deceptive and misleading, the protection under Article 19(1)(a) would not be available.

In **Havells India Ltd. v. Amritanshu Khaitan**³⁹, the Delhi High Court clarified the difference between comparative advertising and misleading advertising and disparagement. It observed that comparative advertising is healthy and encouraged in the spirit of competition; however, disparagement is not, and a cause of action shall arise in case of a misleading advertisement.

- **Punishment for Manufacturing, Selling, Distributing or Importing Products Containing Adulterants:** As per Section 90 of the Consumer Protection Act 2019, individuals involved in selling, manufacturing, or distributing products containing adulterants may face penalties under the following circumstances:
 - If the adulterated product causes no harm to the consumer, the imprisonment term can extend to six months, accompanied by a fine of up to one lakh rupees.
 - If the adulterant product causes injury that does not amount to grievous hurt, the imprisonment term can be extended to one year, with a fine of up to three lakh rupees.
 - If the product containing adulterant causes injury amounting to grievous hurt, the imprisonment term can extend to seven years, along with a fine of up to five lakh rupees.
 - If the product results in causing the death of the consumer, the imprisonment term ranges from seven years to life imprisonment, coupled with a fine of not less than ten lakh rupees.
- **Penalty for non-compliance with the direction of Central Authority:** Whoever fails to comply with any direction of the Central Authority under sections 20 and 21 shall be punished with imprisonment for a term which may extend to six months or with a fine which may extend to twenty lakh rupees, or with both as per Section 88 of the Consumer Protection Act 2019.

In the case of **Horlicks Ltd. v. Zydus Wellness Products Ltd.**⁴⁰, both parties function as manufacturers of nutritional drinks. However, Zydus aired a television commercial that trivialized Horlicks Ltd.'s products. The commercial was broadcast in various languages, including English, Tamil, and Bengali. Consequently, the Delhi High Court, drawing upon precedent judgments on misleading advertisements, disparagement, and the legal framework governing television advertisements, concluded that the advertisement was disparaging. The court emphasised that it lacked concrete evidence regarding the quality of the product. Additionally, the court noted that electronic media has a lasting impact on viewers' minds. Therefore, such advertisements are not only harmful to consumers, but the complainant would also suffer irreparable damage. The Delhi High Court referred to the significant judgment in **Pepsi Co. Inc. v. Hindustan Coca Cola Ltd.**⁴¹, while adjudicating this case. In the Pepsi case, the Delhi High Court outlined crucial factors to consider in disparagement cases, including the commercial's manner, intent, and storyline.

In **Veena Khanna v. Ansal Properties & Industries Ltd, NCDRC**⁴², the complainant expressed an interest in purchasing a flat from the respondent, who, in a letter, agreed to deliver the flat by June 1, 1999. However, the flat was not constructed within the specified timeframe and was not handing it over to the complainant. In response to this service deficiency, the complainant requested a refund of the deposited amount and interest at 18% per annum. The opposite party rejected this demand.

The National Commission noted that construction delays make it challenging for a consumer to acquire a flat at the market price. Emphasising the duty of the State Commission, the National Commission directed the builders to deliver possession of the flat promptly upon completion and awarded suitable compensation to the complainant for the construction delay. Although the complainant had initially sought a refund before the State Commission, the case remained pending for five years. During this period, there was a significant surge in market prices for immovable property. The National Commission further stated that it was the State Commission's responsibility to instruct the respondents to deliver possession of the flat or a flat of equivalent size to the complainant, along with appropriate compensation for the delay. Alternatively, adequate compensation should have been provided to the complainant to enable them to purchase a new flat of the same size at the prevailing market rate in the same locality.

³⁹ 2015 SCC OnLine Del 8115.

⁴⁰ CS (Comm) 464 of 2019.

⁴¹ 2003 (27) PTC 305 Del.

⁴² NCDRC, 2007, CPJ 185.

In **Sapient Corporation Employees v. Hdfc Bank Ltd. & Ors**⁴³, the Sapient Corporation Employees Provident Fund Trust filed a consumer complaint against HDFC Bank Ltd., alleging that the bank had committed a deficiency of services by debiting the complainant's account. The court, however, concluded that there was no deficiency of service on the part of HDFC Bank, and the arguments presented by the complainant were without merit. The court emphasised that behaviour in line with the directives of a regulatory authority cannot be considered negligence or a deficiency of service.

In **Delhi Development Authority v. DC Sharma (2014)**, the petitioner was ordered to pay Rupees Five Lakh for indulging in unfair business practices and abusing the respondent unduly for over eighteen years.

In the case of **Reckitt & Colman of India Ltd. v. M.P. Ramachandran**⁴⁴, the Calcutta High Court ruled that a seller has the right to assert that their goods are superior or the best, even if such a declaration is false. In making such assertions, the seller can also compare their products' advantages and disadvantages with those of their competitors. However, it was highlighted in the judgment that the seller is not permitted to defame their competitors' goods. Thus, without defamation, the competitor would lack grounds to file a misleading advertisement and disparagement case.

3.5.8 Key Changes in the Consumer Protection Act 2019

While **retaining specific old provisions**, the New Act has **new provisions** that tighten existing rules to safeguard consumer rights further and create exhaustive consumer protection laws⁴⁵. They are as follows:

- **Widened definition of “Consumer”:** The Consumer Protection Act 2019 has widened the definition of ‘consumer’. As per **Section 2(7)** of the Act, a person is called a consumer who avails the services and buys any good for self-use. It is worth mentioning that if a person buys any good or avails any service for resale or commercial purposes, they are not considered a consumer. This definition covers all types of transactions, i.e. offline and online through teleshopping, direct selling or multi-level marketing.

The definition of ‘Consumer’ under the old Consumer Protection Act 1986 did not include online transactions.

- **Enhancement of Territorial Jurisdiction:** The Consumer Protection Act 2019 now provides an added advantage to the consumers by allowing them to file complaints where the complainant resides or personally works for gain, unlike the 1986 Act, which only provided for filing complaints where the opposite party resided or carried on business. This helps remove consumers' difficulties in seeking redressal for their grievances against companies that may not have an office or branch in their state.
- **Changes in the Pecuniary Jurisdiction:** The revised pecuniary limits have been fixed under the 2019 Act. The District Consumer Redressal Commission can now entertain consumer complaints where the value of goods or services paid does not exceed Rupees One Crore (**Section 34**). The State Consumer Redressal Commission can entertain disputes where such value is between Rupees One Crore and Ten Crore (**Section 47**). The National Consumer Redressal Commission can exercise jurisdiction where such value exceeds Rupees Ten Crore (**Section 58**).
- **Alternative Dispute Resolution:** The 2019 Act ensures speedy resolution of disputes by referring the disputes to mediation. As per the 2019 Act, the Consumer Redressal Commissions shall refer the matter for mediation on an application by both parties (**Section 37**). For this purpose, the 2019 Act also provides for establishing consumer mediation cells by the respective State Governments in each District Commission and State Commission as well as at the National Commission by the Central Government (**Section 74**).
- **Inclusion of E-Commerce:** The earlier Act did not include E-Commerce transactions. The New Act has addressed this lacuna. 'E-Commerce' and 'electronic service provider' have been defined under the Act. 'E-Commerce' is defined as buying or selling goods or services, including digital products, over digital or electronic networks. The central government has been authorised to take measures and make rules to prevent unfair trade practices in E-Commerce.
- **E- Complaints:** Consumers may forward a complaint, either in writing or electronically, regarding the violation of consumer rights, unfair trade practices, or false/misleading advertisements prejudicial to the interests of consumers as a class to any one of the authorities, namely, the District Collector, the Commissioner of the regional office, or the Central Authority (**Section 17**).

The 2019 Act also provides for filing Complaints electronically before the District Forums by the government's prescribed rules (**Section 35**). The New Act also enables consumers to file complaints electronically and to hear and/or examine parties through video-conferencing. This is aimed to provide procedural ease and reduce inconvenience and harassment for the consumers.

⁴³2012 NCDRC 6834.

⁴⁴ 1998 SCC Online Cal 422.

⁴⁵Yashika Sarvaria, “India: Consumer Protection Act, 2019: Key Takeaways”, *Mondaq*, available at <<https://www.mondaq.com/india/dodd-frank-consumer-protection-act/1020458/consumer-protection-act-2019-key-takeaways>> (17th December 2023).

- **Establishment of the Central Consumer Protection Authority:** The New Act provides for the establishment of the Central Consumer Protection Authority (CCPA) to regulate matters relating to the violation of the rights of consumers, unfair trade practices and false or misleading advertisements which are prejudicial to the interests of the public and consumers and to promote, protect and enforce the rights of consumers as a class (**Section 10**).
- **Strict Norms for Misleading Advertisement:** Any manufacturer or service provider who causes a false or misleading advertisement to be made which is prejudicial to the interest of consumers shall be punished with imprisonment for a term which may extend to two years and with a fine which may extend to Rupees Ten Lakh and for every subsequent offence, be punished with imprisonment for a term which may extend to five years and with fine which may extend to Rupees Fifty Lakh (**Section 89**).
- **Provisions for Product Liability:** The New Act introduces Chapter VI, which deals with product liability. These provisions based on strict liability principles will enable the complainant to claim compensation for the harm caused due to defective products or services.
- **Addition to the clause on “Unfair Trade Practice”:** The New Act introduces a specific broad definition of Unfair Trade Practices, which also includes the sharing of personal information given by the consumer in confidence unless the provisions of any other law make such disclosure [**Section 2 (47)**].
- **Endorser’s liability:** The Consumer Protection Act 2019 fixes liability on endorsers, considering that there have been numerous instances in the recent past where consumers have fallen prey to unfair trade practices under the influence of celebrities acting as brand ambassadors. In such cases, it becomes essential for the endorser to take the onus and exercise due diligence to verify the integrity of the claims made in the advertisement to refute liability claims.

IV. CONSUMER PROTECTION AND E-COMMERCE IN INDIA

Consumer protection in the context of E-Commerce has become a pivotal aspect of regulatory frameworks in India. With the surge in online transactions and the growing dependence on digital platforms for purchasing goods and services, ensuring the rights and interests of consumers in the E-Commerce sector has gained significant attention. The legal landscape, including the Consumer Protection Act of 2019 and the introduction of the Consumer Protection (E-Commerce) Rules 2020, reflects a concerted effort to address online commerce's unique challenges and dynamics. These measures aim to establish clear guidelines, promote transparency, and offer effective mechanisms for grievance redressal. This contributes to a more secure and trustworthy environment for consumers engaging in E-Commerce activities⁴⁶.

4.1 E-Commerce

Under the Consumer Protection Act 2019, E-Commerce means buying or selling goods or services, including digital products, over digital or electronic networks [**Section 2(16)**].

4.2 E-Commerce Entity

“E-Commerce Entity” means any person who owns, operates or manages a digital or electronic facility or platform for electronic commerce but does not include a seller offering his goods or services for sale on a marketplace E-Commerce entity as per the Consumer Protection (E-Commerce) Rules 2020.

For instance, a person runs a website or platform where various sellers can sell their products or services. In that case, the person is considered an E-Commerce entity. However, if the person is a seller using the online marketplace to sell their items, they are not classified as an E-Commerce entity under this definition.

4.3 The Consumer Protection (E-Commerce) Rules 2020

The Ministry of Consumer Affairs, Food, and Public Distribution in India introduced the Consumer Protection (E-Commerce) Rules 2020 to regulate E-Commerce platforms and protect the rights of consumers engaged in online transactions. It was created in tandem with the Consumer Protection Act 2019. The rules include provisions to ensure transparency and fair business practices and address consumer grievances in the E-Commerce sector⁴⁷.

⁴⁶Rajiv Khare and Gargi Rajvanshi, “E-COMMERCE AND CONSUMER PROTECTION: A CRITICAL ANALYSIS OF LEGAL REGULATIONS”, *CLAP*, available at <<https://clap.nls.ac.in/wp-content/uploads/2021/01/E-COMMERCE-AND-CONSUMER-PROTECTION-A-CRITICAL-ANALYSIS-OF-LEGAL-REGULATIONS.pdf>> (16th December 2023).

⁴⁷Riya Rajvanshi, “Consumer Protection (E-Commerce) Rules, 2020: Managing the Bolstering Consumer Rights”, *Impact and Policy Research Institute*, available at <[https://www.impriindia.com/insights/consumer-protection-e-commerce-rules/#:~:text=Grievance%20Redressal%3A%20E%2Dcommerce%20entities,fake%20products%2C%20enhancing%20consumer%20protection%20\(20th%20December%202023\)](https://www.impriindia.com/insights/consumer-protection-e-commerce-rules/#:~:text=Grievance%20Redressal%3A%20E%2Dcommerce%20entities,fake%20products%2C%20enhancing%20consumer%20protection%20(20th%20December%202023).)> (20th December 2023).

The key aspects of the regulations encompass:

- **Product Information:** E-Commerce platforms must provide accurate and detailed information about products and services, including their specifications, pricing, and terms.
- **Transparent Business Practices:** The rules emphasise transparency in business dealings, requiring E-Commerce entities to disclose information related to sellers, including their contact details, and clearly explain the return, refund, and exchange policies.
- **Misleading Advertisements:** The Provisions are in place to curb misleading advertisements on E-Commerce platforms, aiming to protect consumers from false or exaggerated claims.
- **Grievance Redressal:** E-Commerce platforms must establish robust grievance redressal mechanisms, offering practical and effective solutions to consumer complaints within a specified time frame.

Thus, collectively, these rules seek to create a more secure and transparent environment for consumers engaging in E-Commerce transactions, fostering trust and confidence in the online marketplace.

4.4 Applicability of Consumer Protection (E-Commerce) Rules 2020

Rule 2: The E-Commerce regulations apply to

- Any goods and services purchased and sold through a digital or electronic network, including digital items;
- All E-Commerce models, including marketplace and inventory-based E-Commerce.
- All E-Commerce retail, including multichannel single-brand merchants and single-brand merchants operating in single or multiple formats.
- All sorts of deceptive commercial practices across all E-Commerce models.

Provided that these rules do not apply to activities of a natural person carried out in a personal capacity not being part of any professional or commercial activity undertaken on a regular or systematic basis.

V. THE CONSUMER PROTECTION ACT 2019 AND ITS IMPACT ON E-COMMERCE

The Consumer Protection Act 2019, with the Consumer Protection (E-Commerce) Rules 2020, grants consumers essential rights that play a crucial role in safeguarding their interests, especially in E-Commerce. These rights serve as protective measures, ensuring a fair and secure online shopping environment for consumers.

- **Transparent Information:** The right to information ensures that consumers in E-Commerce platforms receive clear and detailed information about products and services. This transparency aids in making informed decisions, reducing the risk of deceptive practices.
- **Product Safety and Quality:** The right to safety and quality is critical in E-Commerce, where consumers may not physically inspect products before purchase. This right ensures that products sold online meet safety standards and are of satisfactory quality, preventing potential harm or dissatisfaction.
- **Grievance Redressal:** The right to be heard and seek redressal is significant in addressing consumer complaints in E-Commerce. It provides a mechanism for consumers to voice concerns and obtain resolutions, reinforcing trust in online transactions.
- **Fair Practices:** E-Commerce platforms must adhere to fair business practices. Consumer rights protect against deceptive practices, ensuring that consumers are not misled by false advertising or fraudulent activities on online platforms.
- **Education and Awareness:** The right to consumer education promotes E-Commerce consumers' awareness of their rights and responsibilities. It empowers them to make informed choices, recognise potential risks, and navigate online transactions confidently.

Thus, the rights provided under the Consumer Protection Act shield consumers in E-Commerce, fostering trust, transparency, and fairness. They create a framework that holds online platforms accountable for providing safe, quality products and services while offering consumers avenues for complaint resolution and redressal.

5.1 The Impact of the Consumer Protection Act 2019 on E-Commerce

The Consumer Protection (E-Commerce) Rules 2020 cast various duties and liabilities upon E-Commerce entities and sellers, and they are as follows⁴⁸:

⁴⁸Smita Paliwal and Richa K. Gaurav, "India: Impact Of Consumer Protection Act, 2019 On E-Commerce – The Law, The Rules And The Road Ahead", *Mondaq*, available at <<https://www.mondaq.com/india/dodd-frank-consumer-protection-act/973516/impact-of-consumer-protection-act-2019-on-e-commerce--the-law-the-rules-and-the-road-ahead>> (19th December 2023).

5.1.1 Duties of Seller on Marketplace

The duties of the seller on the market place as per Rule 6 of the E-Commerce Rules 2020 are:

- **Fair Trade Practices:** Sellers must uphold fair trade practices and refrain from engaging in unfair practices, such as posing as consumers and posting fake product reviews.
- **Return Policy:** Sellers cannot refuse to take back goods when selling through marketplace entities and must not withdraw or discontinue services agreed upon.
- **Reimbursement Duty:** Sellers must reimburse consumers if goods or services are deficient, defective, delivered late, or differ from what was depicted in images, except for late delivery due to unavoidable causes.
- **Written Contracts:** Sellers must have a written contract with the respective marketplace E-Commerce entity before undertaking any sale or offer.
- **Grievance Officer:** Sellers must appoint a grievance officer for consumer complaints, acknowledging receipt within 48 hours and resolving complaints within one month.
- **Advertisement Accuracy:** Sellers must ensure that advertisements accurately reflect the characteristics, access, and usage conditions of goods and services.
- **Transparency:** Sellers must provide the E-Commerce entity with legal details, headquarters address, website information, email, customer care contact details, and GSTIN and PAN details, if applicable.
- **Price Transparency:** Sellers are prohibited from price manipulation and must disclose all contractual information, including the total price and breakdown of charges such as delivery and taxes.
- **Product Information:** Sellers must disclose relevant information, including the country of origin, contact details of the grievance officer, importer details, and guarantees related to product authenticity.

These guidelines ensure that sellers maintain fair practices, are transparent, and provide accurate information to consumers on E-Commerce platforms.

5.1.2 Duties of E-Commerce Entities

The duties of the E-Commerce entities as per Rule 4 of the E-Commerce Rules 2020 are⁴⁹:

- **Incorporation Requirement:** Every E-Commerce entity must fall under the purview of the Companies Act, 1956 or the Companies Act, 2013. It includes foreign companies under Section 2(42) of the Companies Act, 2013, or offices, branches, or agencies outside India controlled by a resident person in India, as stipulated in Section 2(v)(iii) of the Foreign Exchange Management Act, 1999. Further, to ensure adherence to the law and related rules, these entities must designate a nodal person of contact or an alternate senior designated functionary who resides in India. Also, engaging in unfair trade practices or malicious activities on the platform or elsewhere in business is strictly prohibited for E-Commerce entities.
- **Grievance Redressal:** E-Commerce entities must institute effective grievance redressal mechanisms by appointing a grievance officer. The grievance officer is responsible for promptly acknowledging consumer complaints within 48 hours. The company must then address and resolve the complaint within one month from the date of its receipt.
- **Information Disclosure:** E-Commerce entities should present specific information transparently on their platform for the consumers. It includes the legal name of the E-Commerce entity, the primary geographic location of its headquarters and all branches, details of its website, and contact information such as email address, fax, landline, and mobile numbers for customer care and the grievance officer. This information should be easily accessible to consumers.
- **Cancellation Charges:** E-Commerce entities cannot impose cancellation charges on consumers who cancel after confirming a purchase unless the E-Commerce entity also incurs similar charges. Additionally, they are forbidden from manipulating prices on their platform and discriminating against consumers of the same class.
- **Imported Goods:** If an E-Commerce entity sells imported goods or services, it should provide the name and details of the importer from whom it acquired such goods or services or who may act as a seller on its platform.

⁴⁹Sarthak Sarin, "An Overview of the Implications of Consumer Protection Rules for Relevant Stakeholders", *Inc42*, available at <<https://inc42.com/resources/an-overview-of-consumer-protection-E-Commerce-rules/>> (20th December 2023).

- **National Consumer Helpline:** Every E-Commerce entity is encouraged to actively collaborate with the National Consumer Helpline initiated by the Central Government.
- **Refund Process:** E-Commerce entities must ensure that their payment processes efficiently handle consumer refund requests, adhering to guidelines set by the Reserve Bank of India or any other relevant authority as per existing laws. It should be done within a reasonable timeframe or as applicable regulations specify.
- **Consent Recording:** Every E-Commerce entity must document the consumer's consent to purchase any product or service on its platform. The consumer should clearly and affirmatively express such consent through explicit actions, as any other form of consent will not be considered valid.

These guidelines ensure that E-Commerce entities maintain legal compliance, prioritize consumer satisfaction, and provide transparent information on their platforms.

5.1.3 Liabilities of Marketplace E-Commerce Entities and Duties and Liabilities of Inventory E-Commerce Entities

The liabilities of marketplace E-Commerce entities and duties and liabilities of inventory E-Commerce entities provided under Rule 5 and Rule 7 of the E-Commerce Rules 2020 respectively, are as follows⁵⁰:

- **Liability Exemption Compliance:** A marketplace E-Commerce entity aiming to seek exemption from liability under section 79(1) of the Information Technology Act, 2000, must adhere to the regulations outlined in sections 79(2) and 79(3) and the guidelines specified in the Information Technology (Intermediary Guidelines) Rules, 2011.
- **Product Accuracy Assurance:** Every marketplace E-Commerce platform is responsible for ensuring that sellers offer genuine products. It includes ensuring that a product's appearance, features, quality, colour, etc., match the original product displayed on the platform.
- **Transparent Information Provision:** Each marketplace E-Commerce platform must present essential information on its website for easy access by consumers. This information encompasses details about the sellers who provide goods and services, such as their business name, registration status, geographic address, customer care contact number, and any ratings or feedback from other consumers. The platform must also furnish consumers with relevant details that would assist them in reaching out to the seller, especially if there is a written request from the consumer.
- **Complaint Tracking and Resolution:** Every person who files a complaint should be given a ticket number to check the progress of their complaint. The platform must provide all the necessary details related to returning, refunding, exchanging, warranty, guarantee, delivery, payment methods, and resolving grievances. This information and other relevant details are crucial for consumers to make informed decisions before purchasing a product.
- **Transparent Payment Options:** Consumers should easily understand the payment options provided by the entities, and all charges, including the cancelling process for payments, must be transparent. The website's terms and conditions should clearly outline the entity's relationship with the seller.
- **Authenticity Assurance:** If an E-Commerce platform assures or implies that a specific product or service is genuine, it becomes responsible for that particular product.

Thus, this outlines the obligations of a marketplace E-Commerce entity and the inventory E-Commerce entities, ensuring an accurate representation of products by sellers, providing transparent information to consumers, assigning complaint tracking numbers, and being responsible for authenticating specific products or services.

VI. OPTIMIZING THE CONSUMER PROTECTION ACT 2019 FOR THE E-COMMERCE DYNAMICS

Implementing the Consumer Protection Act 2019 in the dynamic landscape of the E-Commerce sector in India presents several challenges. One significant challenge is the rapid technological advancements and evolving business models that outpace regulatory frameworks. While aiming to safeguard consumer rights, the Consumer Protection Act 2019 can face difficulties keeping pace with emerging practices like algorithmic pricing, dynamic inventory management, etc. The solution to counter this can be adopting a dynamic and adaptive regulatory approach. This involves continuously reviewing the regulatory framework, engaging stakeholders like regulatory bodies, industry representatives, and technology experts for comprehensive insights, and fostering agile legislative frameworks that promptly adjust to the ever-changing E-Commerce environment⁵¹.

Further, ensuring compliance and accountability from numerous small-scale sellers operating on E-Commerce platforms poses a challenge. The diversity of goods and services offered on these E-Commerce platforms demands a nuanced approach to address sector-specific issues. So, establishing effective mechanisms for dispute resolution and grievance redressal remains a complex challenge.

⁵⁰ Neelam Chawla and Basanta Kumar, "E-Commerce and Consumer Protection in India: The Emerging Trend", *Springer Link*, available at <<https://link.springer.com/article/10.1007/s10551-021-04884-3>> (18th December 2023).

⁵¹Rajya Sabha, Parliament of India, "Promotion and Regulation of E-Commerce in India" 2022.

The Consumer Protection Act 2019 success depends on integrating traditional consumer protection mechanisms seamlessly with the digital domain. The issues related to data privacy, cybersecurity, and protection of consumer information also emerge as challenges that need careful consideration in the E-Commerce context⁵².

Further, the CPA 2019 can have more streamlined measures to expedite dispute resolution mechanisms. It involves leveraging technology for efficient online dispute resolution (ODR) and ensuring accessibility, especially for consumers residing in remote areas⁵³. In the globalised E-Commerce landscape, there is a call for enhanced international cooperation and standardization of consumer protection measures. It includes aligning the CPA 2019 with international best practices to address cross-border challenges effectively⁵⁴.

VII. CONCLUSION

The Consumer Protection Act 2019 and the Consumer Protection (E-Commerce) Rules 2020 have brought about significant changes in the E-Commerce sector in India. These regulations have been vital in addressing issues like false and misleading advertisements, unfair trade practices, and product liability while fostering transparency and accountability from E-Commerce entities.

The Consumer Protection Act 2019 has adapted consumer rights to the rapid changes in the digital economy by providing a robust legal foundation that empowers consumers and encourages fair trade practices.

Furthermore, the Act and the E-Commerce Rules have prompted positive changes in the E-Commerce sector by compelling businesses to reassess their practices to meet regulatory standards. The stringent provisions of the Act function as a deterrent against unfair trade practices, leading to a more ethical and responsible E-Commerce ecosystem.

It is worth noting that the Act has introduced several significant provisions that aim to enhance consumer protection, such as establishing a Central Consumer Protection Authority (CCPA) to investigate consumer complaints and introducing alternative dispute resolution processes that can lead to faster disposal of consumer complaints. The Act has also increased the penalties for non-compliance with the provisions, which has led to a more stringent regulatory regime in the E-Commerce sector.

However, the dynamism of the digital economy requires continuous efforts to keep pace with the ever-evolving digital landscape to protect consumer rights in India's growing E-Commerce sector. Thus, lawmakers, businesses, and consumers must work collaboratively to continually refine the legislation, strengthen enforcement mechanisms, and bolster consumer awareness.

In conclusion, the Consumer Protection Act 2019 and the Consumer Protection (E-Commerce) Rules 2020 have marked a significant shift towards consumer empowerment and ethical business conduct in India's E-Commerce industry. The Act's stringent provisions have contributed to a more ethical and responsible E-Commerce ecosystem, and it is crucial to continue working towards a sustainable and consumer-centric E-Commerce environment by keeping pace with the rapid changes in the digital economy.

⁵² Dig Watch, "E-Commerce and trade", *Dig Watch*, available at <<https://dig.watch/topics/E-Commerce-and-trade>> (20th December 2023).

⁵³UNCTAD, "Technology and the Future of Online Dispute Resolution Platforms for Consumer Protection Agencies", *UNCTAD*, available at <<https://unctad.org/publication/technology-and-future-online-dispute-resolution-platforms-consumer-protection-agencies>> (14th December 2023).

⁵⁴Ministry of Consumer Affairs, Food & Public Distribution, "Department of Consumer Affairs holds stakeholder consultation on Safety Pledge for E-Commerce platforms", *PIB*, available at <<https://pib.gov.in/PressReleasePage.aspx?PRID=1977417>> (10th December 2023).