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A Legal Study Relating to Consumer Rights and Digital Marketplace in India

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ABSTRACT

This article delves into the progression and present-day status of consumer rights in India's digital marketplace, exploring the legal provisions and judicial interpretations that underpin these rights. It underscores the transition from traditional consumer law to digital transactions that fall under the scope of the Consumer Protection Act 2019 as much as they do the Information Technology Act 2000. The article identifies difficulties such as digital illiteracy, regulatory evolution and emergent technologies like artificial intelligence. It recounts instances where the judiciary has intervened against digital fraud, misrepresentation, deficiencies in service delivery, and reminds us of the need for entrepreneurs to disseminate the salient aspects of the absorbing world of cyber commerce beyond knowledge corrals. The article urges the judiciary to continue playing a vital role in protecting the three pillars of consumer rights in the digital realm: to be informed, to choose and to be heard; and to legislate laws, not only to secure the sanctity of consumer rights amid rapidly evolving technologies, but also to countermand and control the anti-social use or misuse of such technology to commit criminal acts – against the vulnerable and the nation alike. The article encompasses landmark judgments and case studies based on consumer complaints, concluding that there is material for deliberation as to what consumer rights should look like in India's rapidly evolving digital economy.

Keywords: Consumer Rights, Digital Marketplace, Consumer Protection Act 2019, Information Technology Act 2000, E-commerce Regulations.

I. INTRODUCTION

The digital revolution has completely altered the relationship between the consumer on one end of sales transaction and the provider on the other end of the sales transaction. With the physical shift of transactions by businesses from structure to brick-and-mortar to business transacting over digital mediums, the scope of a consumer's options has expanded exponentially, and such transfers of transactions by businesses have birthed an equally expanding concept of challenges and opportunities in safeguarding rights of the consumer in the digital landscape. The shifts in

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the mode of conducting transactions have necessitated a judicial and legislative evolution in consumer rights and rule-making. The national legal regime in India, for instance, has produced numerous measures through legislative channels to relocate consumer protection regimes to suit the shifting landscape of sales transactions in the digital marketplace. In broad terms, this is about legal aspects of consumer rights and the digital marketplace in India. It shall engage with legislative protections available to consumers, and how the courts have chosen to interpret those legislations to evolve the landscape of the current legal regime.

But consumer rights have also formed a barricade to detrimental trade practices against consumers and service deficiencies and goods deficiency. Besides providing a statutory unification of the state-level consumer protection laws, they've had a civilizing influence and spearheaded a fair amount of consciousness-raising among Indian consumers. The previously in force Consumer Protection Act of 1986 (CPA), replaced by a newer, however, arguably weaker version in 2019, made it easy for a consumer to file a complaint. Different rights of consumers are stipulated under the provisions of the act, such as right to safety, right to be informed, right to choose, right to be heard, right to redress and right to consumer education.

The rights have acquired never-before-seen importance as the sphere of digital commerce has opened up. The marketplace, in this context, is an abstraction that brings its own set of problems: data privacy, digital fraud, the intangibility of services, and it requires a manual and purposive actioning of its rules. To establish these rights in the digital sphere, the state has had to amend and build around the consumer rights established under the Consumer Protection Act, 1986 with the IT Act, 2000 and various provisions under the Consumer Protection Act, 2019 (CPA 2019).

Digital marketplace is a term given to the transactions that are carried out between the consumer (or buyer) and the seller online. India's digital marketplace has become an integral part to the economy of India. The reason for this is the availability of internet services, digital payment facilities and affordable prices of smartphones. The reason behind the digital marketplace becoming so important is its ease of accessibility, easy availability of deliveries of the required goods and services and a choice of vast variety. The digital marketplace has become an enabler for shopping to become more democratic. It has given the opportunity for consumers from even the remote villages of the country to be able to buy things that they might not have been able to before.

But those same qualities that make digital markets compelling also complicate consumer protections: the anonymity of transactions, for example, or the cross-jurisdictional nature of e-commerce, or technological change that can outpace regulation, not to mention federal and other

statutes, again and again. The digital marketplace is the breeding ground for new types of consumer abuse: everything from online scams to the sale of fake goods to the misuse of consumer data.

Against this backdrop, the Indian government has responded with legislative reform. The Consumer Protection Act, 2019, introduced novel provisions to grapple with the legal idiosyncrasies of the digital marketplace. It contained a special chapter on rules governing e-commerce, a chapter on direct selling, and a chapter on the definition of ‘unfair trade practices’ in the digital context. It also created the Central Consumer Protection Authority (CCPA) that would regulate violation of consumer rights and issues relating to unfair trade practices and misleading advertisements in the marketplace, whether digital or traditional.

Additionally, legal and policy mechanisms are further strengthened by the Information Technology (Intermediaries Guidelines) Rules, 2011, which mandate certain level of due diligence on part of intermediaries, including digital marketplaces, to curb online abuses and to protect interests of consumers.

Although these protections do create new legal rights in principle, in practice many consumers find it extremely difficult to enforce their new rights in the digital marketplace. Partly this is down to the fast-moving and global nature of the internet, which makes it difficult for national legal regimes to keep pace. But another obstacle is the sheer technicality of digital transactions, which often makes it hard to identify parties liable for duties or to determine the relevant jurisdiction in which to pursue redress.

In view of these difficulties, it is crucial for the judiciary to interpret and apply the law as per the letter and spirit of the law to protect the interests of consumers and promote the growth of the digital economy, while addressing consumer complaints in the digital era. Similarly, some incentive-based consumer disputes decided by the Indian courts, interpreting the legal provisions in the light of the special challenges posed by the digital marketplace, could provide some important precedent for the resolution of consumer disputes in the digital age.

II. EVOLUTION OF CONSUMER RIGHTS IN INDIA

The legal system governing the rights of the consumer in India has evolved considerably in view of the changing dynamics of markets, multinational players and the rapid transformation of consumer transactions brought about by the digital revolution. This article looks into the evolutionary journey from the rudimentary regulatory systems that grew up over time to the modern statutory framework presently in force, that guarantees a wide spectrum of consumer rights against an ever-growing list of transgressions. It also looks into the role that globalization

has sought to play, and continues to play, in shaping consumer rights in India.

(A) Historical Perspective

First, the roots of consumer rights in India can be traced to the ages-old traditions of fair trade and good business practice that were of utmost importance in helping maintain social integrity and order, and were regulated by the customs or local laws of the day. The ancient texts (for example, the Artha shastra and others) contain several clauses legislating market regulation, including of consumer interests by restraining the use of unfair trade practices. Those were early though rudimentary concepts of consumer rights that lacked the form of law later on.

While there were some of the first regulations, for example, resembling consumer protection laws, as far back as the colonial era, largely aimed at regulating trade and commerce in service of the emerging colonial powers, the post-independence period when India was grappling with reconstructing its economy needed a strong legal framework protecting the interests of its citizens as consumers, apart from only furthering trade.

(B) Legal Milestones and Legislation Evolution

The vicissitudes of consumer rights legislation in India reflect the country's shifting epoch from a protectionist economic model to a liberalized, globalized, market economy. The Consumer Protection Act, 1986 (abbreviated and referred to here as CPA, 1986) was the first legislation explicitly dedicated to consumer protection and the adjudication and settlement of consumer disputes under a three-tier system of consumer courts at the national, state and district levels. The CPA, 1986, entrenched a framework of consumer rights that has evolved into the consumer rights jurisprudence of India.

Further amendments to the CPA, 1986, and other parallel statutes – including the Weights and Measures Act, the Food Safety and Standards Act, and the Competition Act – continued to modify the law governing consumer rights and protection. What exacted another dramatic change in the conditions and context of the broader consumer protection regime was the internet and digital commerce.

While consumer issues were not its central concern – it dealt with cybercrimes and electronic commerce – the Information Technology Act, 2000 (IT Act) did have implications for consumer protection by regulating online transactions and data privacy. The limitations of the IT Act to cover all problems inherent in the e-marketplace soon became obvious.

To fill this vacuum, the Government of India enacted the Consumer Protection Act, 2019 (hereinafter referred to as CPA, 2019). CPA, 2019 contains a number of provisions tailor-made

for the digital age. It defines e-commerce, stipulates rights and duties for digital consumers and e-commerce entities, and provides for notions, including unfair contracts and misleading advertisement in an e-commerce context. While largely beneficial CPA, 2019 may have certain pitfalls that must be addressed at a later stage. Overall, CPA, 2019 is a giant leap forwards in the evolution of the law for the protection of digital consumers.

(C) Impact of Globalization on Consumer Rights

The effects of globalization on consumer rights in India are far-reaching. When the Indian economy was liberalized in the 1990s, with the dismantling of labor market controls, the fall in trade barriers and the influx of foreign investment, the existing rules of consumer law failed to take into account the diversity and variety of goods and services on offer to Indian consumers. Rather than presenting a utopian fantasy of the consumer as a sovereign entity able to choose freely, the rationality of consumer behaviour, upon which laws are built to provide protection, was challenged by forces beyond the nation state – multinationals and the global market itself. If there is any takeaway from globalization, it is that domestic laws should be brought in harmony with international laws and conventions – which means adopting the same set of practices as the rest of the world. This made it easy for foreign concepts such as those that originated in the United Nations Commission on International Trade Law (UNCITRAL) on electronic commerce, and the OECD, in its guidelines concerning consumer protection, to seep into the way a country like India thought about modernizing its consumer protection laws for the digital era.

Furthermore, due to the increased globalization, consumers tend to make purchasing decisions across national borders. This has brought focus to the necessity of international cooperation in consumer protection. Nowadays, consumer protection authorities across countries have set up networks and partnerships, and share information with each other to tackle common international consumer protection issues.

III. LEGAL FRAMEWORK GOVERNING CONSUMER RIGHTS IN INDIA

Punctuated by the digital economy's impact, India's consumer protection legislation has also significantly undergone changes to keep abreast of the market dynamics and new fears in the digital space. Consumer Protection Act, 2019 (CPA, 2019) has now replaced the erstwhile Consumer Protection Act of 1986 as the central legislation in India's statute book protecting consumers. However, challenges to consumer protection are not new. With the IT Act, 2000 (IT Act) and other key legislations now becoming the litmus test for many of the businesses to adopt digital tools and strategies and run their entities on an online platform and with

digitization growing in leaps and bounds, it becomes imperative for the market to evolve with right regulations to meet the demand of challenges of new marketplaces.

(A) The Consumer Protection Act, 2019

The CPA, 2019, is a legislation that will drastically change the way consumer protection is approached in India, and more importantly, in the arena of digital transactions. The Act has come about because the marketplace has become more complex and consumer rights require additional policing.

Key Provisions and Amendments

E-commerce Jurisdiction The expanded jurisdiction of the CPA, 2019 over online e-commerce transactions acknowledges the current reality of digital marketplaces as commercial spaces where transactions have taken shape. It also materially realizes that the fundamental principle of consumer redressal under the CPA of ensuring ‘just and reasonable compensation’ for harms should extend to effective remedies for digital consumers as well, and not just to those shopping in mortar stores.

Central Consumer Protection Authority (CCPA): The Central Consumer Protection Authority (CCPA) established under the CPA, 2019 will regulate matters which deal with violation of consumers’ rights, unfair trade practices or misleading advertisements. The CCPA will issue safety notices for goods and services, and pass orders to recall goods, discontinue services and refund consumers, a relevant provision considering the digital age where such issues have been particularly rampant.

Consumer Rights and E-commerce Rules: The rights of consumers are explicitly set out in the Act, including the right to be assured, among other things, of the quality, quantity, potency, purity, standard and price of goods or services as advertised. The E-commerce rules deal with disclosures, among other things. It is now required by law for e-commerce entities to put out and display details of sellers, return and refund in the event of a dispute, exchange, warranty/guarantee, delivery, and shipment of goods or services.

Strict Regulations on Unfair Trade Practices and Misleading Advertisements: Despite the advantages of e-commerce, a major challenge arises in the presence of many unfair trade practices and misleading advertisements. The new CPA, 2019 has strict provisions for such crimes. Although there is some regulation of such practices, including false advertising in other policies, the CPA, 2019 provides for tougher penalties and punishments. This will, in turn, boost consumer confidence and help prevent online fraud.

(B) The Information Technology Act, 2000

Obviously, the CPA, 2019 is the primary consumer law for every product and service, but the IT Act makes electronic transactions and data protection legal and practical as consumer transactions apply to online shopping or businesses being conducted online.

Electronic Contracts: One very important provision in the IT Act legalizes and facilitates electronic commerce and electronic contracts. As the preamble states, it ensures that contracts formed through electronic means are ‘considered to have been made in writing or recorded, or both’. This is a very important provisions for consumer protection as contracts are generally formed in the e-commerce context without any handwritten signatures or physical signatures.

Reasonable Security Procedures: Under the IT Act, all persons handling sensitive personal information must take ‘reasonable security practices and procedures’, which means a lot more now that the data of all consumers is collected on various transactions online.

Penalties for Data Breach: The Act allows consumers whose personal data is stolen or compromised to sue an entity that fails to adequately protect consumer data. This is crucial in an age where identity theft and the loss of consumer privacy has become a major issue – often resulting from data breaches by large corporations.

(C) Digital Contracts and Consumer Rights

In this way, contracts in digital form have come to reflect the form of operation of the digital marketplace. Personal data protection online is governed by terms and conditions for use of a website, a mobile application (app) or online service. The legal recognition of a contract in digital form under the IT Act, 2000, coupled with provisions under the CPA, 2019, for consumer protection, has led to a reliable and efficient system for user protection in digital transactions.

But often the complexity and opaqueness of digital contract makes it more difficult for the consumers to understand the rights and obligations under the contract. For example, it is common for people to agree to some unfair terms because they did not take much time seriously reading the long and complex terms and conditions. The CPA, 2019 addresses this issue by making the terms and conditions of digital contracts transparent and fair to ensure the consumer’s rights and insight on the contract.

(D) E-Commerce Regulations

There are commodity-specific regulations, too; the fast-paced development of e-commerce prompted the Indian government to add a chapter on e-commerce to the new Consumer Protection Act, 2019 (CPA, 2019). This is scheduled to be implemented in the coming months

to add specific requirements aimed at e-commerce, with the aim of bringing a greater level of transparency and a stronger consumer protection framework to the marketplace of digital goods and services.

According to the CPA, 2019, all e-commerce entities are mandated to provide information about the details of the sellers, return, refund and warranty policies, delivery and shipment and any redressal of grievances mechanisms etc. This information provides consumers an opportunity to take informed decisions with the help of the robust data-backed resources online, and save them from fraud in any form if they encounter dissatisfaction.

Furthermore, the regulation requires e-commerce platforms to receive the prior consent of consumers in order to collect and utilize their data: This serves to not only protect consumers but also ensure data privacy. This part of e-commerce regulation is of special importance in the age of digitization when data privacy is a prime concern.

FDI Policies in E-Commerce

FDI policy in e-commerce have been devised by the Government of India to facilitate investment inflows while ensuring that small retailers and consumers are not harmed. India permits 100 per cent FDI under the automatic route in the marketplace model of e-commerce. However, FDI up to 49 per cent is permitted in the inventory model to protect offline retailers and prevent predatory pricing practices.

This distinction between marketplaces and inventory models is important because, as far as the policy is concerned, the former is akin to a level playing field between all sellers on the platform, while the latter leads to or promotes the online marketplace's likely emergence as a monopolist, which would no longer be fair. Winning a bid would force an e-commerce seller to supply the product to your company for consumers, the monopolistic practices of the demand aggregator, playing the role of the designated winner, could include things such as demand-side price discrimination or forced market access. The former would mean exploiting your company's purchasing power to get the best price from sellers, while the latter would mean forcing higher cost or lower quality sellers to join its platform.

Guidelines for E-Commerce Entities

In the public interest, the Department for Promotion of Industry and Internal Trade (DPIIT) under the Ministry of Commerce and Industry has issued guidelines for e-commerce entities to maintain an ethical marketplace online that would create a level playing field and non-discriminatory practices between buyers and sellers of goods and services, maintaining transparency in the terms and conditions of online sale.

Terms of contracts with sellers that are displayed by an e-commerce entity must not include any unfair or confusing clauses, and must give the consumer the right to seek a remedy when the item does not match the description on the site. It is also necessary for every e-commerce platform to have a complaint redressal mechanism for the consumer, which is very important to be compliant and for consumer trust at the same time.

The guidelines further state that they are to be 'binding' on e-commerce entities, which should 'ensure that they comply, as far as they are concerned, with the applicable laws that are aimed at protecting the interests of consumers. This signals to merchants that consumer rights will be held and upheld in the virtual sphere.

Role of the Competition Commission of India (CCI) in the Digital Marketplace

The Competition Commission of India (CCI) ensures that the digital marketplace operates more like a level playing field and less like 'clickety-clack coercion' The CCI has displayed a keen sense of digital marketplace vigilance. Last November, it took enforcement action against Amazon, accusing it of entering into exclusive agreements with 'preferential sellers' in India, indulging in predatory pricing, and fostering an anti-competitive culture.

The CCI plays a significant role in helping the digital marketplace function in a healthy competitive manner. It aims at consumer welfare on two levels – preventing a single player from becoming too dominant, to the detriment of consumers or small retailers (slide 3) and ensuring that the market is vibrant by encouraging lower prices, increased competition and product and service quality through greater consumer choice (slide 4).

In a number of these cases, the CCI has issued intervention orders against e-commerce platforms, thereby restraining trade practices prejudicial to consumers' interest. The powers vested in the CCI demonstrate the important role it can play in asserting and defending the rights of consumers as these markets become digitalized.

IV. CONSUMER RIGHTS IN THE DIGITAL MARKETPLACE

The digital marketplace, with its vast array of products, services and unified distribution systems and cashless modes of transacting, has radically transformed the relationship between the consumer and the products or services she purchases. While this transformation provides the consumer with several advantages such as choice, convenience, ease of access, etc., it also presents distinct challenges to the regime of consumer rights. The Indian legal structure has played a key role in extending and strengthening the regime of consumer rights into the digital marketplace in a manner that is adaptable to meet the challenges posed by the digitally

empowered economy. This segment discusses the primary consumer rights recognized in the digital marketplace: the right to information; the right to choose; the right to safety; and the right to redressal, along with their meaning, legal provisions and the plethora of platforms available for enforcing these rights.

(A) Right to Information

In the e-commerce infrastructure, the right to information as a precondition for a well-informed consumer supply the relevant details about the products or services before making the purchase decision. E-commerce entities are recognized as mandatory obligations under the Consumer Protection Act, 2019 (hereinafter CPA, 2019) to publish information regarding return, refund, exchange, warranty, delivery and grievance redressal mechanisms clearly while enabling access to the users. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 enforces the disclosure of terms and policies (such as terms and conditions, privacy policies and user agreements comprised of the rules governing access and usage of e-commerce platform) on e-commerce entities – which are classified as intermediaries.

The right to information leads to transparency and empowers consumers to make informed choices, with the expectation that the asymmetry of information associated with online transactions will be substantially reduced. Prominent judicial case law, including *Big Bazaar (Future Retail Ltd) v. Ashok Kumar*, upholds this principle, in directing that the information required to be supplied to consumers must be complete and accurate, and that any misleading or lack of information amounts to a breach of consumer rights.

(B) Right to Choose

The Right to Choose gives priority to consumer sovereignty in the digital market, and that right is protected by the requirement that, apart from exceptions, there must not be any unfair trade practices or restrictive trade practices carried out by e-commerce entities. This might make matters that limit or restrict consumer access to goods and services to a single platform illegal.

The right to a contestable market is in part protected through the Competition Commission of India (CCI), which prevents anti-competitive conduct that decreases consumer choice. It has been quite active in taking action against digital platforms that engage in such conduct decreasing consumer choice (e.g., against online ticketing platforms, and more recently against hotel services platforms).

(C) Right to Safety

Consumers have a right to a safe marketplace in the digital realm, which obliges sellers of

products and services (and of the information that mediates and records them) to protect them from exchanges that could harm their health, safety or privacy. digital transactions extend this right to their own data.

The IT Act, 2000 (Information Technology Act) and the Digital Personal Data Protection Act, 2023 are some of those legal defenses to prevent misuse of personal information and protect privacy, which is at the core of consumer rights in the digital realm. The IT Act has due diligence obligations from intermediaries to protect users' confidentiality. Also, it provides penalties for breaches of privacy and exercise of right to online safety.

Additionally, provisions against sale of dangerous and defective goods and services were introduced under the CPA, 2019: It also stipulates that e-commerce entities are under an obligation to exercise due diligence while ensuring that goods and services listed on their platform conform to the applicable laws.

(D) Right to Redressal

The right to seek redressal of grievance or dispute pertaining to any digital supply is an important right. That right is now conferred by the CPA, 2019. For the redressal of such complaints, if any arises, the CPA, 2019 has notified a new and very important authority, the Central Consumer Protection Authority (CCPA). Along with the creation of this authority, the CPA requires the mediation as a form of dispute resolution in any case involving unfair trade practices. A simplified and a digitized complaint process has been provided under the Act, so that a consumer may file complaint easily.

The CPA, 2019 asks the seller to reply to any consumer complaint received within 48 hours and to redress the complaint within one month from the date of receiving it. This timely handling of grievances becomes important in the fast-paced digital marketplace.

Moreover, the Consumer Protection (E-Commerce) Rules, 2020 prescribe that all e-commerce entities must mandatorily display the return, refund and grievance redressal policies on their platform, which will help protect consumers from any potential harm.

(E) Digital Fraud and Cybercrimes

But no one will be surprised to learn that the spread of the marketplace online — with its virtually limitless range of products and opportunities for both brands and customers — has also become a fertile habitat for scammers and online criminals. The lack of embodiedness and sheer scale and impersonality of the interconnected information space have encouraged perpetrators to explore new levels of ingenuity in perpetrating identity theft, phishing and other

kinds of online fraud, and broker fakes. In India, the laws aimed at forestalling them are seeing a quiet revolution. The goal is both to prevent such evils through precautionary provisions and securing consumer rights through punitive measures.

The IT Act, 2000 (pertaining to Information Technology, 2000) is the primary statute regulating cybercrimes and electronic offences in India. It provides the legal framework for e-governance, specifying the entity of electronic records (including digital signatures); and it lays down the offences in the cyber world together with the punishment for each of them. To illustrate, Section 66C provides for the commission of digital identity theft, an extremely frequent kind of consumer electronic frauds; Section 66D provides for offences such as cheating by personation with a computer resource.

Moreover, the IT Act securities safeguard the data protection and privacy of consumers who are hacked and adapted as a target with the help of 'suitable security practices and procedures' related to 'protection of sensitive personal data or information'; and 'penalty for breach of confidentiality and privacy'.

(F) Analysis of Landmark Judgments

It is the Indian judiciary that has come out with important pronouncements on crafting and adjudicating laws on digital fraud, cybercrimes, and failures in delivery of digital services. The way forward in most of these judicial pronouncements in the Indian context place the position of the weak private consumers above huge commercial players.

Shreya Singhal v. Union of India

This judgment is an especially important milestone both for its interpretation of online speech and the implementation of cybercrimes under the IT Act. Though it is not a consumer rights case as such, it has important ramifications for digital freedoms and protections against arbitrary actions that can impact consumers' ability to access information or services online. The Court struck down Section 66A of the IT Act that provided for punishment for sending offensive messages through communication services as unconstitutional and violating the freedom of speech. It reconfirms the need to find the right balance between consumer protection and user rights when it comes to safeguarding consumers from digital fraud.

M/S. Bharathi Airtel Ltd. v. Rohit Sharma

In such circumstances, it was held that the ARPU provision is not applicable and the interest of the consumer will be predominant. For instance, a consumer approached the NCDRC complaining of frequent switching off of the broadband internet connection which had led to a

disturbance in his work/class/business despite repeated complaints. The service provider denied the charge, stating that the quality was as per industry standards and the claim had no merit. It was held that the service provider was guilty of committing a deficiency in service and was directed to compensate the complainant.

This judgment implies on the one hand an obligation on the part of digital service providers to see that their services are of good quality, and on the other hand, a claim to redress for a consumer who suffers damage in the context of the delivery of the service.

(G) Notable National Consumer Disputes Redressal Commission (NCDRC) Judgments

It is also the largest source of judgments (in disputes under consumer protection laws) concerning e-commerce, and many of its orders have helped clarify the contours of consumer protection jurisdiction in cases concerning inadequate service, misleading advertisements and other abuses of consumer rights in e-commerce.

Ambrish Kumar Shukla and 21 ors v. Ferrous Infrastructure Pvt. Ltd. – Although the judgment is not specifically on digital marketplace, the judgment of the National Consumer Disputes Redressal Commission in this case – related to advertisement and sales of iron sheets – is useful for its interpretation of the phrase ‘unfair trade practices’ under the Consumer Protection Act. The broad meaning given to concepts of ‘unfair trade practices’ in this judgment is relevant for assessment of deceptive advertising and other aspects of the digital marketplace. It strengthens the consumer protection regime on digital marketplace against ‘unfair trade practice’.

The latest judgment in the case of *Dharmander Kumar v. Flipkart Internet Private Limited* is worth quoting at length. The NCDRC observed with regret that the e-commerce major ‘has sold a defective mobile telephone to the complainant’ and that, post-sale, ‘there is absolutely no redressal mechanism available to give any relief to the consumer’. It held that the e-commerce entity had engaged in ‘unfair trade practices’ that were ‘damaging to the consumer at large’. It ordered the designation of the e-commerce entity as a ‘defaulting’ regulated entity and, against the latter, it ordered the refund of the price actually paid by the consumer as well as that the entity must pay compensation to the consumer. This landmark judgment signals the stance of the NCDRC toward the liability of e-commerce entities to consumers.

V. CHALLENGES AND FUTURE PERSPECTIVES

This discusses the challenges to consumer rights in the digital marketplace:-

1. Digital Literacy and Awareness Among Consumers

Digital literacy and consumer awareness is another factor critical for developing Consumer

Justice rights in the digital marketplace. Digital literacy means more than just being digitally literate (i.e., knowing how to text on a mobile phone, or using a computer). It involves knowledge about the rights and responsibilities of a user of digital equipment or platforms, an awareness of avoidable risks, and an understanding of what to do to get remedy.

While internet penetration and digital adoption have sharpened considerably during the pandemic, rural and semi-urban consumers in the country are yet to be educated on digital rights which puts them at a risk for online fraud, data breaches and unfair trade practices. It is only now that the emergent worries surrounding the nuances of digital rights are being addressed with the provisions under the Consumer Protection Act, 2019 and the many initiatives of the Digital India programme. Following the 2022 amendments, repackaging no longer appears to be a euphemism for a tryst with digitalism by the Indian state. It feels like the Indian state is headed in the right direction. The goal of improving legibility in digitalism for millions of Indians in terms of safeguarding them from unfair uses and harms involving their data is a matter of iterations. It will need coordinated interventions by the state, private players and the civil society for imparting the digital literacy that citizens need to exercise their rights and navigate their digital existence.

2. Regulatory Challenges in the Fast-Evolving Digital Marketplace

The constantly changing nature of the digital marketplace is particularly challenging for regulation. It's hard enough to draft laws keeping pace with technology after it already exists, but drafting in advance, and then remaining responsive to new commercial practices and other changes in the regulatory landscape after a law is made, poses its own difficulties. New technology pushes against the limits of regulators, who attempt to define what problem they are trying to solve, establish the capability, and then go in search of it. Early regulatory limbs-length approaches may also change in response to new commercial models. Take the example of the so-called gig economy. Here new business models and the use of platforms to facilitate digital labor create significant difficulties in defining what is a consumer and what is a service provider or intermediary. As a result, many of the consumer protections available in the classic consumer-vendor relationship do not apply.

The Consumer Protection Act, 2019 is a new, comprehensive reform of the existing consumer protection regime in India by adding supplementary provisions tailored to the digital age. The way forward through a governance challenge such as this, one of technological change that moves continuously, is to use a dynamic regulatory approach that takes account of fast-moving markets without stifling the interests of consumers.

3. Future of Consumer Rights in the Age of Artificial Intelligence and Machine Learning

The development of AI or ML have both positive and negative impacts on the digital marketplaces nowadays regarding the consumer rights.

On the one hand, it has the opportunity to offer amazing promises to the experience when directly or indirectly access to the market service, depend on the convenient, the personalization requirement and efficiency.

However, there is a lot of threats towards customers' right, and the privacy, the information security, the algorithm and AI bias, and the transparency are all the core factors that cause this impact.

For instance, decision power in the hands of AI might create incomprehensible and unchallengeable results for the consumer. Aside from a lack of transparency, algorithmic bias is a key threat to consumer rights. It can actively lead to discrimination.

What the future of consumer rights in a digital world will look like is dependent both upon the ability of regulators, businesses and consumers to navigate the issues presented by AI and ML, and upon the formulation and enforcement of ethical guidelines for AI use, transparency around algorithmic decision-making and cross-sector cooperation in tackling bias and protecting consumer privacy.

Further, the employment of AI and ML, either, for consumer protection purposes, such as automated dispute resolution systems or automated tools for withstanding fraud, stand to substantially enhance the mechanics of consumer rights enforcement. Investments in research and development to leverage such technologies, and mitigate its risks, will be critical to advancing consumer rights in the digital domain.

VI. SUGGESTIONS

Just like the rest of the world, there has been a tremendous growth, in India too, of the digital marketplace with the progress of technology and timely proliferation of internet, that has come around with many advantages for the consumers but with the growth take the disadvantages too that have in some way unique implications to consumer protection and ultimately to themselves. Now these days there is a good connection right up to consumer especially for the rural people who used to face issues when it comes to buying things from bigger shops for variety sometimes the complex pricing by the sellers make them stand helpless and now with the access to internet and digital marketplace many of them can find quite profitable and economical deals as far as buying products goes. In order to accommodate the unlimited demands of the customers, the

online marketplaces should have required legislative interventions for making the laws and regulations strong to enable the key smart steps to enter into the Indian marketplace. Below is showing some of the key proposals towards regulation of the digital marketplace in India.

1. Strengthening Legal Framework and Policies

The rapid evolution of the nature of digital transactions, including the underlying contractual structures, has given rise to a multitude of issues relating to consumer rights. Hence, it is imperative to undertake a systematic review and timely update of existing laws which are relevant to consumer transactions including the Consumer Protection Act, 2019. This needs to be done in the context of new evolutions including in relation to e-commerce, digital fraud, new technologies like AI and blockchain, among others.

The law should provide special rules in relation to the use of AI, ML and other new technologies in trade. Such rules would be focused on the development of transparency, accountability and fairness in automated decision-making affecting the consumer.

Due to the borderless nature of the digital marketplace, India should consider bilateral/multilateral agreements with foreign jurisdictions to foster cross-border co-operation in the field of consumer protection, which would facilitate international e-commerce transactions (such as cross-border non-guaranteed transactions, consumer rights protection across borders and choice of foreign laws jurisdiction).

Legal recognition of digital goods and services should be incorporated in statute (i.e., on a state or federal level), including definitions of digital goods and services and standards for quality, safety and delivery. This would also provide a statutory basis for categorizing digital product and services that are subject to consumer protections.

2. Enhancing Consumer Awareness and Education

- **National Digital Literacy Campaigns:** Launch digital literacy campaigns at the national level that explain what consumer rights and obligations look like in the digital marketplace. What rights do consumers have when it comes to secure online transactions? What rights do I have in respect of privacy? What do terms of service mean? How can I track down a vendor if something goes wrong? How do I engage in a redressal mechanism?
- **Curriculum Integration:** Digital literacy and consumer rights should be embedded into school and university curriculums to teach younger generations how to negotiate the online world in a safer and more confident manner.

- **Utilize Digital Platforms for Consumer Education:** Engaging digital platforms (social media) to educate about consumer rights, stay safe online and how to report abuse and violation can help spread timely information to a wide audience at a cheaper rate.

Establishment of dedicated consumer assistance centers online and offline to assist consumers in helping them to resolve problems they might encounter in digital transactions. The responsibilities of these centers could include – providing legal assistance and dispute mediation; help in filling complaints with the relevant authorities.

3. Role of Technology in Protecting Consumer Rights

Investment in the Development of Consumer Rights Protection Tools: Provide incentives for the development of technological tools to enable consumer rights protection, such as smartphone apps for verifying the authenticity of e-commerce platforms; blockchain technology platforms to enable safe payments; artificial intelligence technology to detect fraud.

- **Protection features in digital services:** Make electronic commerce services and digital service providers implement features to protect consumers. These could include clear and accessible display of its terms and conditions of use, ease of access to data privacy settings, real-time alerts of transaction tracking, and simplifying declaration of complaints.
- **Promote the Adoption of Secure and Transparent Technologies:** Encourage companies to adopt secure and transparent anti-counterfeit and anti-fraud technologies. Blockchain technology, for example, would verify that products being sold online are legitimate and ethically sourced. Informing consumers will also greatly hinder counterfeiters, giving more influence to demand-side strategies: consumers are less willing to purchase a fake product if they can verify that it is genuine.
- **Improving Online Dispute Resolution:** Improve Online Dispute Resolution (ODR) mechanisms, such as digitizing the process, using AI to increase efficiency, and improve ease of use; Classifying complaints, expelling unsuitable ones, and matching unresolved complaints with similar resolved ones to generate warrants for appropriate resolutions; Adapting volume and language of text into legal and readable form while retaining citations; and Mediating disputes between consumers and sellers if parties cannot reach an amicable settlement.

VII. CONCLUSION

The detailed analysis of the report gives us a glimpse of how the context of consumer rights is

constantly evolving in India's digital marketplace and taking in the strange and unique legal cases necessitated by digital transactions. It studies in detail two of India's key laws – the Consumer Protection Act 2019 and the Information Technology Act 2000 – both of which came under casual scrutiny in the present case and how they were born to adapt to the contours of the digital economy, taking digital fraud and data privacy into account, and much more.

Furthermore, it underscores the pivotal role of the judiciary in molding the contours of these laws and their interpretation by specific judgments – not only in adjudicating upon immediate issues such as misrepresentation and deficiency in services – but also in laying down precedents for the application of consumer protection laws in the digital realm.

The gargantuan list of challenges paints a picture of the multifaceted approach needed – ranging from consumer digital literacy and legislative delays, to the regulatory adaptability in the face of emerging technologies, along with their repercussions. The way forward does not only include changing the law, but also stronger consumer awareness and education as well as smarter uses of technology.

To conclude, the article highlights the need for a proactive and shared approach in consumer protection for the digital marketplace ensuring constant legal development, consumers' education, international cooperation and the use of technology to increase transparency and fairness in the transactions. A dynamic context like the one described in the main text, should be paralleled by dynamics in the area of protection of consumers' rights. A strategy aimed at fulfilling legal, educational and technological goals, to ensure a consumer-friendly digital economy affecting all the stakeholders fairly and proportionally, is a must.

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