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# An Analytical Study of E-Commerce Rules, 2020

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## ABSTRACT

*Consumer is the king. The interest of the consumer is to be kept at forefront and his rights are required to be protected. With the advent of the information technology, the internet world has evolved tremendously. It continuous to have become a space for trade and commerce, which has led to the development of E-Commerce, that is buying and selling of goods and services over the internet. However, with the presence of the concept of 'caveat emptor', that is "let the buyer beware", the position of consumers become all the more vulnerable. The sellers can easily cheat or do fraud with the buyers and buyers/consumers are left helpless and without any remedy. Keeping this in mind, Indian Parliament enacted the Consumer Protection Act, 1986 that provided for the protection of interest of consumers. Although, prior to the enactment of Consumer Protection Act, 1986, there were certain provisions in the general laws that dealt with interest of the consumers such as Law of Torts, Indian Contract Act, 1872, Sale of Goods Act 1930, The Dangerous Drugs Act, 1930, Agricultural Produce Act ( Grading and Marketing) Act 1937, The Prevention of Food Adulteration Act 1954, The Drugs and Cosmetics Act 1940, The Essential Commodities Act 1955, The Hire and Purchase Act 1972, The Patents Act, 1970, The Trademarks Act 1999 etc. These enactments were enacted to protect the interest of consumers and attracted a civil liability for contravention. This shows that consumer had no other option but to file a civil suit action which is a lengthy and cumbersome process leading to be expensive and time consuming for the consumers. To provide a solution for this, the Consumer Protection Act 2019 came to be enacted along with E- Commerce Rules, 2020 to help consumers in the cyberspace. However, the cyberspace has led to major concerns such as online identity theft, data privacy, website fraud, delay in refunds etc. Therefore, this paper has analysed the E- Commerce Rules, 2020 and discussed some of the key-terms related to E-Commerce.*

## I. INTRODUCTION

Consumer protectionism has been strengthened and the legal foundation for quick, effective management and resolution of consumer disputes has been reinforced if rapid advancements

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in contemporary technology and retail trades lead to a market which can no longer be rigidly fused by clicking a button.

On 23 July 2020, the 'E-commerce Rules 2020' of consumer protection (e-commerce) entered into force., issued by the Department of Consumer Affairs of the Ministry of Consumer, Food and Public Distribution.

These Rules have for some time been a subject for dispute. In 2019, the government published the 2018 draft guidelines on e-commerce. The requirements should only apply to e-commerce companies from business to consumer. Then it published the Consumer Protection (e-commerce) Rules of the central government in November 2019. It may be claimed that e-commerce Rules 2020 are similar to those introduced, but e-commerce organizations have had some new requirements imposed.<sup>2</sup>

## **II. E-COMMERCE ENTITY DEFINED**

The term "E-commerce entity" is one shared element between the Rules for 2020 on e-commerce and its predecessors. This is defined as a person who owns, manages, or operates electronic or digital trading or platforms, but does not include a salesman supplying e-commerce services or goods on the market, according to e-commercial regulation 2020. In line with the 2020 e-commerce Regulations, e-commerce can be categorized into the e-commerce stock and the e-commerce market.

The electronic trade inventory should be described as an e-commerce company that owns the inventory and directly provides the consumer with items or services. The eCommerce marketing firm is a digital or electronic network IT platform providing an ecological business to facilitate buyers and sellers' business transactions.<sup>3</sup>

### **(A) Applicability**

All goods and services, even digital products, acquired or sold through the digital or electronic network are governed by e-Commerce Rules 2020. They do not, however, apply to any personal conduct not a part of a regular or systemic enterprise or corporation.

The 2020 restrictions on the e-commerce of an e-commerce business which operates not in India but regularly delivers consumer products or services in India should also be stressed. The new regulations apply. This is extremely intriguing. It is extremely intriguing.

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<sup>2</sup> Consumer Protection (E-Commerce) Rules: An Overview Of The Key Implications For The Relevant StakeholdersInc42 Media, available at, <https://inc42.com/resources/an-overview-of-consumer-protection-e-commerce-rules/> (last visited May 4, 2022)

<sup>3</sup> Ronald J. Mann., *Electronic commerce*. (Wolters Kluwer Law & Business) (2011)

That means that, independently of the location of e-commerce enterprises, the 2020 e-commerce legislation would apply to both local and international enterprises.

### **(B) Disclosure of information**

Each e-commerce entity must provide clear and available information about the platform in line with the 2020 e-commerce regulations so that users can view such information as e-commerce entity's legal name, the principal geography of their registered office and all of their branches, names, Website details and contact details.

The information concerning returns, reimbursements, exchanges, warranty, guarantee, supplies and deliveries, payment procedures and remediation mechanisms for complaints, and any such information that can be required for informed consumer decisions shall also be required for any e-commerce marketplace entity.<sup>4</sup>

Further information on the methods of payment available, security for these modes of payment, any fees and expenses that can be paid to users, the process of cancelation and refund options, wherever possible, should also be provided to all the electronic commerce market entities, and contact information for the appropriate payment service provider.

The E-commerce rules 2020 enable the seller offering products or services by means of an e-commerce firm and every e-commerce inventory company with an extensive collection of information.

### **(C) Grievance Redressal Mechanism**

The Consumer Protection Act 2019 complaints about infringements and rules were specified as any complaints made to an e-commerce entity.

A suitable corrective mechanisms for grievances shall be established for the number of grievances received in India by the electronic business entity and a corrective grievance officer shall be nominated and on his platform, the names, contact details and names of the Consumer Grievance Officer shall be dispatched.

Each e-commerce firm must ensure that the grievance officer acknowledges all consumer complaints and corrects the grievance officer between 48 hours and one month of receiving the grievance complaint.

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<sup>4</sup> Consumer Protection (E-commerce) Rules, 2020 - A blessing for Consumers. Available at, <http://www.businessworld.in/article/Consumer-Protection-E-commerce-Rules-2020-A-blessing-for-Consumers/12-01-2021-364776/> (last visited May 6, 2022)

**(D) False Representation**

Interestingly, Rules 2020 of e-commerce expressly stipulate that sellers are not customer and that the quality or attributes of any product or service are not misrepresented or post-reviewed. The e-commerce inventory entity is required to meet the same standard.<sup>5</sup>

**(E) Violation of IPR**

In accordance with the Copyright Act, 1957, the Trade Marks Act, 1999 or the Information Technology Act, 2000, E-Commerce Rules, 2020 puts a duty on all e-Commerce entities for making reasonable attempts to record important information which allows identification, of all vendors who have retailed or disabled their previously deleted or disabled products and services.

**(F) Manipulation of Prices**

Note, no e-commerce entity manipulates in a manner that would produce unreasonable profit by imposing on consumer unjustifiable prices the products or services offered by the installation given the market conditions, the essentials of good or service, any unusual circumstances of the offered good or service and any other exceptional circumstances.

The Consumer Protection Act, 2019 and the Consumer Protection (E-Commerce) Rules, 2020 (E-Commerce Rules) was brought into effect by The Ministry of Consumer Affairs, Food and Public Distribution. CPA 2019 brought significant amendments to its 1986 Statute with a view to addressing particular issues of digitalisation and E-Commerce. The regulations on e-commerce establish the basis for supervising online marketing, sales and purchases of goods and services.

The following are analyzed Key provisions of the rules on e-commerce:

**III. SCOPE AND APPLICATION**

The rules governing e-commerce apply to:

- (a) all goods and services, including digital products, obtained or sold over digital or electronic networks;
- (b) e-commerce marketplace entities and inventory entities of e-commerce (Inventory Entities),

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<sup>5</sup> The Consumer Protection (E-commerce) Rules, 2020 - Consumer Protection – India, available at <https://www.mondaq.com/india/dodd-frank-consumer-protection-act/985606/the-consumer-protection-e-commerce-rules-2020> (last visited May 6, 2022)

(c) in single and multi-format formats such as individual brand distributors with several channels, such as electrical trade and offline; multi-channel single brand retailers and single brand retailers; (c) in a variety of formats;

(d) in all areas of e-commerce all types of unfair commercial practice (as defined in CPA 2019).

Marketing companies offer a transaction IT platform whereas stock firms own and sell stuff to consumers directly. The E-Commerce rules also apply to non-Indian companies which often serve customers in India with products and services.

Similarly, e-commerce businesses have a wide range of other standards to control, including the 2017 (LMR) Legal Metrology (Packaged Goods) rules mandating all e-commerce companies to display specific data from their own sites; The 2019 Foreign Exchange Regulations (Non-Debt Instrument).<sup>6</sup>

#### **IV. IMPLICATIONS FOR B2C AND B2B ENTITIES**

The CPA 2019 and the rules on e-commerce govern consumer buying. The word 'consumers' therefore applies under the 2019 CPA to everyone who buys products or services, except those gained for living through self-employment and not commercially available. The acquisition of companies for their activities is therefore often not precluded by the CPA2019 and the regulations on e-commerce. Consumers are therefore not characterized exclusively as partnerships and entrepreneurs. If a customer purchased products and services only for self-employment, the consumer had to be considered 'customer,' and the B2B platform would be responsible for such sales in accordance with e-commerce rules.

The E-commerce Regulations also introduced a more broad-based "user" notion than the customer, covering anyone accessing or using computer resources for any e-commerce enterprise. CPA 2019 may include a user under the definition of "person," because it is a corporation which encompasses both individual and corporate companies. In addition to their client duties, e-commerce enterprises must also disclose specific information to consumers on platform sellers, on platform items or services and on the available platform payment choices. Whether users would be required to provide a reference to the user rather than a classified user just for B2B e-commerce enterprises is unclear, despite the 2019 CPA and the laws governing e-commerce only regulating consumers.<sup>7</sup>

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<sup>6</sup> Consumer Protection (E-Commerce) Rules: An Overview Of The Key Implications For The Relevant StakeholdersInc42 Media, available at <https://inc42.com/resources/an-overview-of-consumer-protection-e-commerce-rules/> (last visited May 8, 2022)

<sup>7</sup> Digital economy report 2019: value creation and capture: implications for developing countries. (United Nations) (2019)

## **V. PRESENCE IN INDIA**

The e-commerce regulations recognize, manage and supply special services, for example for customers in India, which are not based in India, but systemically given to customers. E-commerce enterprises must comply with e-commerce standards:

- (a) a company incorporated in India, or
- b) an enterprise with business establishments and operating in India, including by electronic means, with all commercial activities in India;
- (c) an office / branch / organisation, owned or operated outside India, for the persons living in India. In order that CPA 2019 may be fulfilled, the e-commerce enterprises will also nominate the India resident as the key contact person.

In line with the analogous categorization, the provisions of the CPA 2019 extends the application to foreign corporations operating in India and ensures regulatory and enforceability control of foreign goods and services companies in India.

Furthermore, all existing e-commerce enterprises inevitably fall under the scope of this section. It is not clear whether these terms require existing e-commerce platforms like LLPs to become companies or enterprises. Although this change has no clear explanation, there is a similar technique under the NDI regulations. Only e-commerce firms can operate according to the NDI directives and the LLPs of their companies are not defined as e-commerce enterprises.<sup>8</sup>

## **VI. DUTIES OF E-COMMERCE ENTITIES**

All e-commerce companies must:

- (a) display crucial information such as name, contact details and address visually on the platform;
- (b) construct a customer service line and a Platform Redress Official, whose platform details should be disclosed, to provide remedy procedures for consumer grievances;
- (c) best efforts to rapidly resolve consumer complaints by participating in a nationwide consumer help system;
- (d) identify the name and details of the importer on imported goods or services;
- e) ensure that customer consent is granted, instead of using an automatic process such as a pre-taken control box, by explicit and active action to acquire products or services;

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<sup>8</sup> E-Commerce Laws and Regulations in India, available at, [Vakilsearch](https://vakilsearch.com/advice/e-commerce-laws-and-regulations-in-india/), <https://vakilsearch.com/advice/e-commerce-laws-and-regulations-in-india/> (last visited May 10, 2022)

(f) make all refunds in accordance with the RBI rules within a fair amount of time.

In addition, in accordance with CPA 2019, laws on e-commerce require e-commerce undertakings to refrain:

- (a) the adoption of unfair commercial practices;
- (b) cancelation fees, unless the seller has canceled corresponding fees
- (c) modify product/service price on their platform so that undue profit may be derived from the existing market or any other relevant consideration;
- (d) Discrimination or the development of arbitrary classifications among consumers of the same class that affect their CPA 2019 rights. For instance, this classification should be appropriate when bidding and promo codes are only available for selected consumers.<sup>9</sup>

It is not possible to identify whether acts can be categorized as "unreasonable" or "unjustified." This misunderstanding could lead to an examination of the e-commerce pricing mechanism by the consumer protection authorities. Many e-commerce companies utilize, for example, algorithms to establish prices based on multiple parameters and it is illogical to employ these pricing strategies. For example, ride hailing applications frequently impose "spike rates" at certain periods. While these approaches themselves are data-driven and therefore not arbitrary, the prohibition of prices pursuant to e-commerce provisions may allow consumers to challenge e-commerce corporations changing these prices. E-commerce enterprises now need to ensure internal observance and price explanations so that price judgements based on algorithms do not exceed that limits. The further consequence is that the restrictions for different channels of distribution of the same products vary, with strong price constraints for online purchasing. This can have a negative impact for e-commerce expansion.

Data-driven pricing might be a problem particularly if individual client offers or discounts are provided. The use of algorithms to update offers or target certain consumers has no evident justification for this categorisation. This could lead to insecurity.

## **VII. LIABILITIES OF MARKETPLACE ENTITIES**

The e-commerce rule also imposes special requirements on market organizations in addition to the broader obligations mentioned above. Include the following:

- (a) stress the IT act and IG rules intermediates' duty of due diligence;

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<sup>9</sup> E-commerce rules, 2020: Who are you? What are your duties?, available at, <https://www.mylawrd.com/e-commerce-rules-2020-who-are-you-what-are-your-duties/> (last visited May 13, 2022)



(b) ensure that the products or services descriptions are real and are directly connected by the seller's business to the quality of such goods and services;

(c) any treatment shall be detailed for the differences accorded to goods, services or suppliers that are members of the same class. This could include possibilities for a provider to advertise the platform;

(d) take appropriate actions to register sellers who sell items or services routinely that have been removed under the IPA or IT Law.

Marketplace Entities may supply warehousing, logistics, order fulfillment, payment collection and various other services platforms. The CPA 2019 contains the idea of the seller including marketing companies, preparation, maintenance and "marketing product" supply. Such companies may be responsible for the customer's damages. There is no question of rules governing e-commerce addressing the administration, for the purposes of the product liability claim, of added services by marketplace organizations that could lead to a classification as product sellers. This, however, goes against their appointment as sales intermediaries, and clarity is crucial.

Moreover, market companies must disclose to consumers of their platform specific details. Information for educated consumer decisions is included, for instance:

(a) all data given to marketing entities by their vendors shall be shown to platform users

(b) information on available payment choices, returns and refunds, exchange of information, guarantee procedures, transport and delivery procedures and remediation mechanisms for the platform grievance;

(c) the methods of payment available and;

(d) any group salesperson or product ranking, feedback or simple explanation which shows the essential parameters and relative relevance for the rating of such salespersons.

LM rules demand packaged goods to provide the maker, importer, packager and country of origin with information and addresses. The laws on e-commerce seem to cover the provisions of the LM regulations. Therefore, even the e-commerce company that provides this product has a responsibility to reveal this information.<sup>10</sup>

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<sup>10</sup> Consumer Protection (E-commerce) Rules, 2020 - A blessing for Consumers. Available at, <http://www.businessworld.in/article/Consumer-Protection-E-commerce-Rules-2020-A-blessing-for-Consumers/12-01-2021-364776/> (last visited May 15, 2022)

## **VIII. DUTIES OF SELLERS USING MARKETPLACE ENTITIES**

Marketplace entities are selling products or services which include seller information, price and division, specific relevant data on products or services to be offered for sale to the seller, including the country of origin, importers and/or producers, goods details, warranties and other information, including information on their delivery details,

Sellers must also have documented prior arrangement, ensure proper advertising and set up a complaints officer to tackle the situation immediately. For small and single vendors, like the sole property, the duty to appoint a complaint officer could be expensive, without exceptions. Also, vendors should refrain from abusive trade tactics, disappointing claims, and refusal of CPA 2019 reimbursements.

Therefore, marketplace companies have to ensure that these standards are complied with in order to ensure conformity to e-commerce rules. This can be done through contractual obligations.

## **IX. LIABILITIES OF INVENTORY ENTITIES**

As far as the stock business model is concerned, e-commerce regulations force them to satisfy all market and seller requirements. The display criteria also apply in inventory entities, including all information given according to the LM Rules. However, there are various market-based requirements of private company companies, such as IT Act due diligence and compliance criteria for salespeople.

Inventor firms are requested to provide certain information such as market sellers, such as prices or price breakdowns, places of origin, delivery details, guarantees or warranties, and other compulsory notifications and information. In addition to this, inventory bodies shall avoid unfair trade, misrepresentations and refunds as needed under CPA 2019.

In particular, inventory companies who guarantee or promise, officially or implicitly, that the goods or services are authentically offered are accountable for all activities related to their authenticity.

## **X. CONTRAVENTIONS**

CPA 2019 can apply and, if applicable, authorities may order electronic trade enterprises to abide by the necessary fines and directions in respect of breaches of the e-commerce regulation. If such directions are not complied with, fines or prisons might be imposed. Without clarification, fines under the LM rules can also be levied for failing to comply on an e-

commerce company, and e-commerce regulations include e-commerce requirements under the LM Regulations.

## **XI. CONCLUSION**

The E-commerce 2020 rules enable increased customer authority and substantially improve customer rights. In due course, the rules came. Some tried to make the money of merchants, especially during the continuing pandemic, by influencing the price of the products. These rules put an end to a practice which damages customers and makes required information known. Vendors may not publish fake product reviews on the market, in addition to the e-commerce rules. This is a huge advance since high grade goods, which directly affect consumers, are often used for fake and favorable reviews.

Naturally, such a stringent system of compensation for complaints must be put into place. In creating E-commerce Rules 2020, the government took a step in the right direction. The rising e-commerce company has not been regulated by such rules. The rules against unfair commercial activities and difficult advertising are in compliance with Consumer Protection Act 2019.

But the e-commerce Rules 2020 are not a problem. You do not speak of shipping rates, which are typically high. The sellers should have a maximum ceiling for billing charges. The "add-on expenses" is another problem not addressed. Sellers promote inexpensive prices at the start of the purchasing process, but afterwards other taxes, fees and additional taxes are charged and/or disclosed. This is known as a 'drop price.' Different internet providers are using this concept to lure and mislead consumers by citing low pricing.

The general problems of the e-commerce business have been addressed in e-commerce rules 2020.

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