

**INTERNATIONAL JOURNAL OF LAW  
MANAGEMENT & HUMANITIES**  
**[ISSN 2581-5369]**

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**Volume 3 | Issue 3**

**2020**

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# Consumer's Rights in Digital Era

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*“If you make customer unhappy in the physical world, they might each tell six friends. If you make customers unhappy on the Internet, they can tell six thousand friends.”*

**Jeff Bezos**

## ABSTRACT

*E-commerce however not explicitly characterized in any Consumer enactment, is by and large identified with purchasing and selling of merchandise and ventures over the Internet. The extent of e-commerce has developed at the same time with the development of web around the world. The gigantic stage that internet business has given the Indian merchants to exchange and trade is imperative. Not just have the merchants profited by violating regional limits for the offer of their items, the shoppers of products and enterprises have been furnished with such points of interest like different decisions, helpful conveyance administrations, quality products at serious costs and so forth. Web has in this way altered the way Indians and the remainder of the world purchase and sells their items. On one hand web based shopping entries like Flip kart and Jabong guarantee various choices for a wide scope of products online with speedy and compelling conveyance frameworks, then again , on the web tasks are attempted by Indian Railways, State Electricity Boards , banks , cinemas and so forth for installment and booking purposes. In this way the achievability of activities that online exchanges have achieved to the Indian exchange industry and different exchanges is amazing. Thus, to protect the consumer's from any mishap of misrepresentation and fraud in the internet as the usage is increasing day by day. There are laws developed by the Government to protect and safeguard them from the web scams such as the Consumer Protection Act, 2019, The Information Technology (Amendment) Act, 2008 and the Indian Contract Act, 1872.*

## I. INTRODUCTION

The discovery of World Wide Web which we commonly call as the internet was invented by Tim Berners- Lee in 1989-90 at the CERN in Switzerland. Since then the usage of internet has increased for different purposes like talking to family and friends abroad, conducting official meetings through video conferencing, E-contracts - signing of contracts online, gathering information about the history, geography, politics of one's own country and world

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and many more. This has also led to exchange of goods and services across boundaries, popularly known as E-Commerce. This has made the world shrink by reducing the distance among people, goods and services.

The concept of E-commerce has changed the business scenario in the world. Now consumers can order their basic necessities or book a cab to their place of destination by a click. There is a tough competition in the market as the customers no longer stick to one particular brand or shop. They browse online and choose the product which suits their requirement. Online business is no longer dependent on Amazon, Myntra or Flipkart. There are other online portals rising day and night on Instagram or Facebook and people choose their basic requirements from such portals. In order to control the E-commerce business and protect the rights of consumer's in regard to quality of goods, timely delivery of the product, payment of goods, there are certain rules and regulations to be followed which would be discussed below.

## **II. WHAT IS E-COMMERCE?<sup>2</sup>**

The word E-commerce basically means electronic commerce that is the electronic selling of goods and service through online portals or over the internet. It basically uses the World Wide Web for one part of cycle. The other parts are the e-mail, online bank transaction for payment, online shipment procedure, protection of data, etc. The working conditions of people across the global as led to a sharp rise in e-commerce and this is going to shot up in coming times.

The three areas of e-commerce are-

- Online retailing,
- Electronic markets,
- Online auctions.

There are three types of E-Commerce:-

- 1) B2B (business to business)
- 2) B2C (business to consumer)
- 3) C2C (consumer to consumer)

## **III. UNITED NATIONS ON CONSUMER RIGHTS IN E-COMMERCE**

The United Nations is a world organization which provides guidelines for the nations to

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<sup>2</sup><<http://www.legalservicesindia.com/article/1573/Consumer-Protection-in-the-age-of-E-Commerce.html>>accessed on 27<sup>th</sup> March 2020.

follow and live in harmony. The United Nations Guidelines for Consumer Protection (UNGCP) are

*"A valuable set of principles for setting out the main characteristics of effective consumer protection legislation, enforcement institutions and redress systems and for assisting interested Member States in formulating and enforcing domestic and regional laws, rules and regulations that are suitable to their own economic and social and environmental circumstances, as well as promoting international enforcement cooperation among Member States and encouraging the sharing of experiences in consumer protection."*<sup>3</sup>

These guidelines were first adopted by the General Assembly on 16<sup>th</sup> April 1985 and were later enlarged by the Economic and Social Council on 26<sup>th</sup> July 1999. These guidelines were recently revised by the General Assembly on 22<sup>nd</sup> December 2015. The guidelines spread awareness among the member states, businesses and civil society to protect and promote consumer protection in public and private goods and services. The changes in 2015 guidelines relate to e-commerce due to the birth digital economy.

#### **IV. INDIAN LEGISLATION ON THE PROTECTION OF CONSUMER RIGHTS IN DIGITAL ERA**

The Indian Constitution is the soul of all laws in the nation. Thus, any law enacted in the country would always be for the welfare of its people based on the ethos and values of the Constitution. The concept of E-commerce has not been discussed in proper sense in legislations but defined in one legislation,<sup>4</sup> though laws have been made for the proper functioning of agencies connected to e-commerce and the protection of consumer or buyer.

We would be discussing the major legislations of consumer rights such as IT Act 2008, Consumer Protection Act 2019 and The Indian Contract Act, 1872.

##### **A. INFORMATION AND TECHNOLOGY (AMENDMENT) ACT, 2008**<sup>56</sup>

Aside from the standard law for shopper assurance, numerous different laws spread online exchanges. Information Technology Act, 2000 (Amended in 2008) is another practical and far reaching enactment which gives a lawful system to internet business. It basically covers

<sup>3</sup><<https://unctad.org/en/Pages/DITC/CompetitionLaw/UN-Guidelines-on-Consumer-Protection.aspx>> assessed 27<sup>th</sup> March 2020.

<sup>4</sup>Section 2(16) "e-commerce" means buying or selling of goods or services including digital products over digital or electronic network; Section 2(17)"electronic service provider" means a person who provides technologies or processes to enable a product seller to engage in advertising or selling goods or services to a consumer and includes any online market place or online auction sites, The Consumer Protection Act 2019.

<sup>5</sup><[https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2626027](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2626027)> accessed on 28<sup>th</sup> March 2020.

<sup>6</sup> Bare Act: Information Technology Act 2000 and Information Technology (Amendment) Act, 2008.

business exchanges, in explicit between the administration through of its numerous functionaries and the residents. The exchanges are engaged towards e-administration and are planned for actualizing measures for validation of the electronic records by utilization of advanced mark declarations and so forth for conveying out everyday business exchanges like recording and survey official archives in the electronic group.<sup>7</sup> The IT Act, 2000 is an endeavor by the govt. to digitalize its operations by making each snippet of data accessible on the web and further guaranteeing that such exchanges are made sure about. Further, it accommodates healing estimates like arrangement of Controller<sup>8</sup> what's more, setting up a Cyber Regulations Appellate Tribunal<sup>9</sup> for punishing the digital offenses as laid under Section 43 to 47 of the Act. The biggest attribute of this Act, anyway still is that it gives legitimate acknowledgment to electronic records.<sup>10</sup> Basically it likewise changes the Evidence Act, Indian Penal Code, Bankers' Books Evidence Act and the Indian Stamp Act. This legitimate acknowledgment shapes the establishment of all the web based business embraced by clients and furthermore ensures powerful authorization of the rights of buyers, whenever encroached.

However, this demonstration doesn't comprehensively cover all the parts of web based business as for shopper rights. It principally covers business or business exchanges that are embraced by business to govt. or on the other hand the other way around. It gives insights concerning recording, holding, seeing reports regarding a business and defends and verifies those reports with the assistance of computerized marks, topsy-turvy crypto framework and so forth. A normal Indian man doesn't, in his everyday life go into such exchange; rather they generally use electronic business for web based shopping, web based banking what's more, cash move exercises and so on. No particular arrangements for the equivalent have been set down under the Act despite the fact that it is the need of great importance for the authorization of such arrangements. The goals of the Act as expressed incorporate assistance and giving lawful approval to electronic subsidize moves among banks and money related establishments notwithstanding giving lawful acknowledgment for keeping of books of records by financiers in electronic structure. In spite of the fact that these days such offices have been made conceivable, no lawful system for security of shopper rights is given under the IT Act. In this way this noteworthy part of internet business isn't secured.

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<sup>7</sup> Chapter VII of Information Technology (Amendment) Act, 2008.

<sup>8</sup> Section 17 of Information Technology (Amendment) Act, 2008.

<sup>9</sup> Chapter X of Information Technology (Amendment) Act, 2008.

<sup>10</sup> Section 8 of Information Technology (Amendment) Act, 2008.

## **B. THE CONSUMER PROTECTION ACT, 2019**<sup>1112</sup>

Though Information Technology (Amendment) Act, 2008 is the only legislation which deals with online transactions and mention all the requirements for the same. But the Consumer rights are not expressed clearly. Thus, the Consumer Protection Act 1986, which was replaced by the new Act of 2019 is a leading legislation for the protection of consumers in the market. The Act is to accommodate the interests of consumer's and for the said reason, to set up experts for auspicious and viable organization and settlement of consumer's dispute and issues associated with it. To redress the issues of consumers, the jurisdiction is provided by a three tier system from bottom to top that is the

- District Commission deals with matters up to the cost of one Crore,
- State Commission deals with matters between one Crore to ten Crore,
- National Commission deals with matters above the cost of ten Crore.

This jurisdiction can arise in case of defect and deficiency of goods and services which has been defined in the Act as mentioned below-

*"The term 'defect' means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force or under any contract, express or implied or as is claimed by the trader in any manner whatsoever in relation to any goods or product and the expression "defective" shall be construed accordingly"*<sup>13</sup>;

*"The term 'deficiency' means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service and includes—*

*(i) Any act of negligence or omission or commission by such person which causes loss or injury to the consumer; and*

*(ii) Deliberate withholding of relevant information by such person to the consumer;"*<sup>14</sup>

The foundation of the Central Consumer Protection Authority (CCPA) was a great step in the new legislation as the authority will ensure, advance and uphold the privileges of consumer's.

<sup>11</sup><<http://egazette.nic.in/WriteReadData/2019/210422.pdf>> accessed on 28<sup>th</sup> March 2020.

<sup>12</sup><<http://www.legalservicesindia.com/article/1573/Consumer-Protection-in-the-age-of-E-Commerce.html>> assessed on 27<sup>th</sup> March 2020.

<sup>13</sup> Section 2 (10), The Consumer Protection Act, 2019.

<sup>14</sup> Section 2 (11), The Consumer Protection Act, 2019.

The CCPA will direct cases identified with unfair trade practices, misleading commercials, and infringement of purchaser rights. The authority will reserve the option to force a punishment on the violators and passing requests to review merchandise or pull back administrations, cessation of the uncalled for exchange practices and repayment of the cost paid by the customers. The Central Consumer Protection Authority will have an examination wing to enquire and research such infringement. The CCPA will be headed by the Director-General.

The legislation has the arrangement of the foundation of the Consumer Disputes Redressal Commissions (CDRCs) at the national, state and local levels. The CDRCs will engage grievances identified with;

- i. Cheating or beguiling charging
- ii. Unjustifiable or prohibitive exchange rehearses
- iii. Offer of perilous products and enterprises which might be unsafe to life.
- iv. Offer of imperfect products or administrations

We would now discuss the meaning of consumer under the Act is as follows-

*“The term ‘Consumer’ means any person who—*

*(i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment, when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or*

*(ii) hires or avails of any service for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such service other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person, but does not include a person who avails of such service for any commercial purpose.*

*Explanation.—For the purposes of this clause,—*

*(a) The expression "commercial purpose" does not include use by a person of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self-employment;*

*(b) The expressions "buys any goods" and "hires or avails any services" includes offline or online transactions through electronic means or by teleshopping or direct selling or multi-level marketing;*<sup>15</sup>

Therefore, it means that a person who avails services or goods for a money in both offline and online mode apart from commercial purposes is a consumer.

Following are the Consumer Rights under the Act-

- i. To have data about the amount, quality, virtue, power, cost, and standard of products or administrations.
- ii. To be shielded from dangerous merchandise and enterprises.
- iii. To be shielded from out of line or prohibitive exchange rehearses.
- iv. To have an assortment of merchandise or administrations at serious costs
- v. Preclusion and punishment for misleading advertisement-

The Central Consumer Protection Authority (CCPA) will have the ability to force fines on the endorser or maker as long as 2-year detainment for deluding or bogus commercial (Like Laxmi Dhan Warsha Yantra). Worth to make reference to that rehashed offense, may pull in a fine of Rs 50 lakh and detainment of as long as 5 years.

### **C. THE INDIAN CONTRACT ACT, 1872**

This act mentions the requirement for a valid contract under Section 10<sup>16</sup> which states that the parties to a contract must be competent that is of sound mind and age, there should be two parties atleast, the provisions of contract should not be void or voidable, there should lawful consideration and lastly impossible agreements would not become a contract.

Though the Act doesn't mention E-Contract explicitly but the amendment of IT Act 2000 in 2008 added Section 10A<sup>17</sup> which gives validity to e-contracts made for execution of a promise between the parties. It won't be declared invalid on the ground that it is made online. The enforceability of both online and offline contracts is at par.

The types of e-contracts are click wrap, browse wrap and shrink-wrap contracts.<sup>18</sup>

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<sup>15</sup> Section 2(7) The Consumer Protection Act, 2019.

<sup>16</sup>Section 10, Indian Contract Act, 1872.

<sup>17</sup><<https://indiankanoon.org/doc/123351751/>> accessed on 28<sup>th</sup> March 2020.

<sup>18</sup><<https://www.mondaq.com/india/CorporateCommercial-Law/348334/E-Commerce-In-India>> accessed on 28<sup>th</sup> March 2020.



- In click wrap contract, the party's affirmative acceptance is taken by means of checking on an 'I accept' tab with the scroll box that allows accepting party to view the terms and conditions.
- In case of browse wrap agreement the mere use (or browse) of the website makes the terms binding on the contracting party.
- In case of Shrink wrap agreement the contracting party can read the terms and conditions only after opening the box within which the product (commonly a license) is packed. Such agreements are relevant in the context of e-commerce mostly because of the kind of goods associate with shrink-wrap agreements.

Thus, the consumer's must read carefully the terms and conditions in order to avail any remedies under the Act.

## **V. CONCLUSION**

Discussions are ongoing in the Parliament regarding the Data Protection Bill which once passed would be a remarkable step for the public. This magnifies the level of importance that e-commerce has achieved in the Indian economy. It has made lives of consumers and trader simple by allowing the delivery of products worldwide without any obstruction. The only problem for Indian legal system is that there aren't many laws to cover all aspects of e-commerce. Thus, there is an urgent requirement to make new legislations and overcome all issues and disputes regarding e-commerce in our country because time is changing and so does our world market.

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