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The Boosting Ecosystem of E-Commerce and The Protection of Its Consumers: The Drift for Evolution

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ABSTRACT

The advent of information technology has given birth to various innovations such as data interchange, electronic fund transfer, commercial transaction etc. The quick access over the internet has enabled such facilities. As per Internet World Stats, Internet Growth Statistics Report the number of internet user in the year has crossed the mark of 5.15 billion which was only 16 million in 1995. In furtherance of it the activities such as trade and commercialization over the internet has also found a new pace and has provided the world an enhanced and diverse experience. E-commerce is one the prominent element which eventually changed the structure of the social lives of the people. The development of e-commerce has brought up a great revolution in the world of trade and commerce. After the arrival of e-commerce, the choice, nature, behavior and mode of exchange of goods and services has also found a new way to operate through. Though e-commerce comes up with a number of positive benefits which has been contribution in an exceptional growth of the industry, with it also comes the increased rate of risks and ambiguity in regard to the privacy, rights and interest of the consumers at different stages. For retaliating with such risks, the necessity for the protection of the consumers of e-commerce is felt higher. The backbone of any industry is their consumers and keeping in mind the recent development and expansion of the information and technology, the proper care of the rights and interests of the consumers is much needed. With the evolution of e-commerce industries, there comes a slew of issues with regard to their consumers.

In this paper the topics like the meaning of e-commerce, the threats to consumers of e-commerce, the prevailing rules and regulation available to the consumers in case of any mismanagement has been discussed.

Keywords: *E-commerce, consumer, development, protection, evolution, customer, evolution, technology, innovation.*

I. INTRODUCTION

A number of enormous development has taken place in the social lives of the individuals, one

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out of which is the e-commerce which has drawn up a remarkable attention and has become an integral part of the social lives of the people. In today's age of daily developing innovations and technologies the market spaces and the relationship of producers and the consumers plays a very vital role, especially in the context of the rapid expansion and growth of the e-commerce industry. Even the LPG model has also played the most prominent role in the development of the development of e-commerce industry in countries like India. With the increased rate of penetration of internet and the easy access to the world of web, slowly during the year(s) 1995-1996 in India, the industry of e-commerce shared an initial growth. In simple sense, using the communication technology commonly known as the internet, as the mode of transacting businesses without having the physical interaction is known to be e-commerce. The World Trade Organization's Work Program on E-commerce has defined e-commerce as "to mean the production, distribution, marketing, sales or delivery of goods and services by electronic means".²

In India at the initial stage the services of booking tickets, ordering food online were introduced which showed up a positive response by the users operating over the internet. With the evolvement of time the industry of e-commerce introduced a variety of services by developing virtual shopping, learning and educating applications which showed up an expandable growth in the respective industry. In a country like India, where the consumers prefers the traditional way of shopping i.e. window shopping for availing goods and services, it becomes complex and leads to creation of different challenges for the e-commerce industries to provide them the best services in each and every respect to secure the trust and confidence of the consumers. The trust and confidence of the consumers primarily invokes two essentials i.e. whether the consumer is getting what they have expected and secondly, if they did not get so then the remedies available to them in such cases. The growth of technologies which led to the evolution of the e-commerce industries has sown up new confronts to the trust and confidence of the consumers. The confronts finds their existence in the forms of sharing of the data and information, threats to the privacy of data, integrity and security of data, and most commonly the threat to the variety of rights available to the consumers of the e-commerce.

Indeed, there are a number of challenges for the proper conduct of the e-commerce businesses, thought for the protection of the rights of the consumers of the e-commerce should be at the utmost priority. Though the transaction of e-commerce is available with the aid of interest allowing the consumers to conclude in the contracts relating to the exchange of goods and

² World Trade Organization: Declaration on Global Electronic Commerce, 199, WT/MIN (98)/DEC/2

services without any territorial restraint with 24/7 accessibility. With no doubt these features support the immense evolving drift of e-commerce and on the same track if the issues relating to the rights and protection of the consumers of e-commerce is not addressed in an appropriate manner by providing the adequate remedies with effective mechanism then it may result in the disturbance of the flow of information in respect to the goods and services rendered and delivered by the e-commerce platforms which may have adverse effect leading to defraud and deception upon the consumers of the e-commerce. The drift of evolution in the e-commerce sector has raised concern in regard to the protection of the rights and interests of the e-consumers. The trend of convergence of the new technological innovations along with the liberalization of the trade and commerce sector in India is taking place in India, thus in regard to this rapid expansion it becomes very important to safeguard the interest and protect the rights of the e-consumers.

II. THE PROTECTION OF THE CONSUMERS: NEED AND IMPORTANCE

The concept of consumer protection is not a new concept in context of India. The concept of consumer protection can be traced back from 3200 B.C. At that time the ethical practices were of great importance has the rulers were not only interested in the social life but in the economic lives of the people as well. For the protection of the interests and rights of the buyers there were a number of trade restrictions made and enforced. Further in Manusmriti, Manu has discussed about the adulteration of goods that is the mixing of the commodities with other commodity of same nature must not be sold in the name of its pure origin. Further, the punishment for adulteration was very harsh, mutilation in case of fraud, selling fake items as the original were mentioned in Manusmriti.³ Entering into contract with minor, aged persons were also unauthorized and restricted. The seeds of consumer protection can also be traced in Kautilya's Arthashastra.⁴

In general sense the protection of consumers from an assortment of unfair trade practices is called to be consumer protection. Hon'ble courts at different paralances has interpreted the importance of the need of the mechanism \s necessary for the protection of the consumers. For instance in the case of Raghbir Singh vs. Thakurain Sukhraj Kaur⁵, it was explained that the rationale behind the need of such protection is to avoid the exploitation of the consumers at the end of the business community and to restrain the variety malpractices of the business. The well organized, better informed and having a better position in the market allows commercial

³ Ikshula, THE LABYRINTH OF LAW IN INDIA OMICS INTERNATIONAL (2016).

⁴ Sonika Sekhar - et al., THE HISTORY OF CONSUMER PROTECTION LAW TIMES JOURNAL (2019)

⁵ AIR 1939 Oudh 96 at 99.

organizations to easily exploit the consumers. Thus in order to protect the consumers and provide remedies to the affected victims of the commercial organizations, it is essential to protect the consumer which gives birth to the importance of the principles of consumer protection⁶. The prominent feature of consumer protection is to safeguard the consumers from the variety of unfair trade practices in order to avoid such exploitation and to keep check upon the business transactions that may be detrimental to the rights and interest of the consumer in the competitive markets. The worst affected victims of the commercial organizations need to be protected and hence the consumers need to be protected through adequate consumer protection mechanism to uphold their rights in commercial transactions and save them from the commercial exploitation at the end of the business organizations. In order to maximize the profits and revenues of the businesses many commercial organizations exploits the consumers by providing an inferior quality of goods at higher prices, further they adopt the unfair trade practices such as adulteration and many more which puts the consumers at the risk of the economic exploitation and also deprives them from getting value for their money. Hence, where there are chances that the corporations may violate the rights and interest of the consumers either with intention on it order to adding revenues for the accomplishment or for contributing the proceeds for healthy economy, in such cases the role of consumer protection comes into play, not only protecting the buyers from the suppliers but also to ensure equitable global standards. In the era of rapid expansion of e-commerce where the industries want to earn more and more profit even though the consumers are deceived, the consumers needed to be protected from such malpractices.

A variety of reasons also supports the need of the protection of the consumers which includes ensuring customer satisfaction, upholding the principle of trusteeship, ensuring social justice, and ethical responsibilities. It is a necessity to ensure social ethical and professional responsibility off the industries with perspective of running a healthy business⁷.

III. E COMMERCE AND CONSUMER PROTECTION : STAGES AND THREATS

The way through which business is knobbed by the society has changed after the development of new technologies. With the help of Internet, ecommerce has grabbed a new height at a global platform⁸. The advancement of the new technology and evolution of e-commerce have caught the attention of the individual consumers, governments and international organizations not only

⁶ Indian Oil Corporation v. Consumer Protection Council, 1993 SCC (1) 397.

⁷ Ian Ramsay, *Consumer Law And Policy: Text And Materials On Regulating Consumer Markets* (Hart Publishing, 2007).

⁸ Eisingerich, Andreas B.; Kretschmer, Tobias, In *E-Commerce, More is More*, 86 *Harvard Business Review* 20–21 (March, 2008):

as a platform to facilitate growth of business but is also posing A variety of challenges and confronting the various elements of social and individual interest including data protection, privacy violation etc.⁹ The need of developing A regulatory framework to counter the challenges posed by e-commerce for the adequate protection of rights of the consumer occurred. Without any doubt, e-commerce is serving enormous benefits to the consumer, but on the other hand for the protection of the rights of the consumers of ecommerce it is much detrimental. The easement and recompense provided by e-commerce platform are remarkable but at the other side ecommerce through its mechanism poses a threat to the basic rights an interest of its consumers through the portal, where there are chances that there would be great violation of the vital rights of the consumer and to expose the consumer to unfair trade practices. The primary consumers concern includes the insufficient information disclosure, in regard to refund policies, cancellation terms, warranty information merchandise and delivery practices, insecure payment method, transaction confirmation and cancellation policies, unsafe products confidentiality of information provided by the consumer, seller's identity, grievance mechanism, misuse of personal data etc. Thus the protection that should be provided to the consumers at 3 stages i.e. the pre purchase stage, purchase stage and the post purchase stage.¹⁰

At the pre purchase stage due to the nature of Internet and complexity to which the consumer may not always be aware, it is more prominent to have an informative asymmetry to safeguard the consumers from online misleading conducts. At the purchase stage after deciding that what product the consumer is going to buy online, the consumer has to face the problems like unfair contract terms, online payment security, protection of data and privacy. And finally at the post purchase stage the involved threats are liability and arrangements for the return and refund of goods and services in case of non delivery or delivered in unsatisfactory condition or materially different from the product actually ordered. At this stage the difficulties to reach the provider may also faced by the consumer.

Ecommerce and the protection of its consumers are considered as two sides of the same coin. On one side for ensuring the protection of rights and interests of the consumer there exists Consumer Protection Act of 2019, for the enforcement of rights of the consumers and claim remedy and on the other sides dead exists Information and Technology act of 2000.

Further, article 38 of the Indian constitution, Indian contract act of 1872, Indian Penal Code 1860, Sales of Goods Act, 1963 are the statutes providing remedies to the consumers in the case

⁹ Elizabeth Goldsmith and Sue L.T. McGregor (2000); E-commerce: consumer protection issues and implications for research and education; J Consumer Studies & Home Economics; Vol.24, No.2, June 2000, pp.124–127

¹⁰ Consumer protection in electronic commerce Note by the UNCTAD secretariat.

of any malpractices. One of the purposes for enactment of the Information and Technology act was to facilitate the conduct of e-commerce transaction and to scrutinize and redress the challenges that may in any manner hamper the conduct of the platform. View provisions of the Information and Technology Act reflects the consumer centric approach to protect the rights of the consumers of e-commerce. Section 6A of the Act binds the provider to efficiently deliver the services. In regard to the regulation of the online transaction Section 8 is provided. Section 10 A confirms the validity of contract being entered through the electronic means, however it does not provide the contents of the contractual terms for the protection in e-commerce transaction. Under chapter V, Section (s) 14 to 16 Information and Technology (Amendment) Act 2008, the transactions are meant to be secured by elaborating that electronic transactions will be considered to be secure transactions or payment, however it fails to provide any remedy in case of person suffered unsecured transaction.

For the breach of confidentiality and privacy Section 72, 72A gums with penalty but have limited application as it fails to decide the limit of penalty to be imposed upon the non payer. If the seller cheats on the buyer by wrongfully personating to other person and organization he can be booked under Section – 66 D of the Act. Section 43 provides for the breach of data, where in case any person without the permission extracts any data and store it, can be held liable for the compensation by way of damages to the affected person. Section 43 A makes it the responsibility of the body corporate to provide compensation to any person affected by the loss of sensitive and personal data.

The Consumer Protection Act of 2019 same intention as of its genesis i.e. the Act of 1986 which is to safeguard the rights and interest of the consumers, effective and speed administration and adjudication of the consumer disputes. The need of the modern consumers were kept in mind, and thus new technologies were added in the act of 2019, such as the definition of “advertisement”. Under Section 2 (35) CONSUMER PROTECTION ACT, 2019 the “product liability action” clause has been added¹¹. Further in case any minor buys a product, he is eligible for claiming remedy in case of any trouble through his/her parents¹². Under section 2 (9) various rights in regard to the consumers has been added. Further the inclusion of e-commerce in the ambit of the protection of the consumer is most important. Section 2 (16) talks about the e-commerce and Section 2(17) deals with the electronic service provider. The newly included provisions has enlarged the scope of the Act keeping in mind the better protection of e-

¹¹ Section 2 (35) CONSUMER PROTECTION ACT, 2019

¹² Section 2(5)(vii) CONSUMER PROTECTION ACT, 2019

commerce consumers.

IV. CONSUMER PROTECTION (E- COMMERCE RULES), 2020

The most specific and necessary rule in regard to the ecommerce platforms and for the protection of its consumer is consumer protection e-commerce is Consumer Protection (E-commerce Rules), 2020 which makes the rules not advisory but mandatory. The most important rules include;

- a) every e commerce entity must provide the information to the buyer about the return, refund and exchange of goods which he is going to buy. Further the date of delivery, the method of payment, redressal mechanism and other crucial information must be disclosed.
- b) In case where any complaint in regard to product or service has been received then within 48 hours the ecommerce platform must address the issue and have to redress it within one month of receipt of complaint.
- c) in case any damaged or defective item has been delivered or the delivery is later than the mentioned time or if there is any disparity between the description of the product and the original product there the consumer reserves full right to return such product and no seller has the right to refuse the return or withhold the refund Further there is complete prohibition upon the manipulation of the prices of the goods and services to gain more profit from it.

V. CONCLUSION

Due to surge in the technology and business sector in India, the Consumer Protection Act, the consumer protection (e-commerce) rules 2020, Information and Technology Act admires at most faith of the consumers. The rate of advancement of technology is much more than the legislation and perhaps it will continue in the same frequency. The consumer faces numerous issues as a result of the lack of appropriate redress mechanism, especially in the case of e-commerce businesses. For the enhanced security, the consumers of e-commerce should have to be more cautious and apply the maxim such as of caveat emptor while transacting through the e-commerce platform. The advancement of the Acts like the Consumer Protection Act, the consumer protection (e-commerce rules) 2020, Information and Technology Act aims to protect the right of the consumers and safeguard their interests. It eliminates the major chances of seller's engaging in unfair trade practices.

With the rise in ecommerce transactions, ecommerce rules and regulations are moving towards

the solution of the complaints of the consumer with prescribing the best practice for ecommerce.
