

An Analysis of Consumer's Concerns in Digital Economy and Effectiveness of Consumer Protection Laws

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Abstract

The present period can be broadly termed as consumer's era, as they have multiple substitutes available for any product or services. The consumers are more sensitive about the quality of product or services and time concern too. Majority of consumers, specially the youth are more concern about time period, this shifting the mood from monetary aspect to real time. The Consumers desire to have cheap and best product and fast services; this caused the shifting in the modes of procurements. The expectations have replaced the traditional methods of delivery, which was time consuming to online delivery. Here, there is scope of delivery of inferior quality of product and/or even damaged or incorrect product delivery. These aspects have increased the number of legal disputes. As a natural justice, this needs to be addressed in shortest possible time. For this purpose a separate Act was enacted by the Government of India in 1986 i.e.-"The Consumer Protection Act, 1986". Subsequently, this Act was amended in 2019 and known as, The Consumer Protection Act (Amendment), 2019. The focus was on various new parameters of satisfaction and includes the other missing aspects classifying the range of defective services with precise definitions. The awareness of the consumers has forced the producers to abide by quality and real time delivery of correct product. Further, in the global market, when there is a tough competition, within the product itself, service providers or producers are also concerned about their interests and survival. These aspects need more precise mechanism of grievances redressal. The present consumer search for best out of best, and these expectations have further raised the level of satisfaction, which is very difficult to define. This paper focuses to study and analyse the need to address the consumer concerns, fast grievances redressal and need of effective legal tools in the era of digitalization domestically and globally.

Keywords: Consumer, digitalization, dispute, grievances redressal

INTRODUCTION

Consumers now have access to a wide range of commercial opportunities because of the ongoing digital transformation of our economies and societies, and so are the new and developing concerns. Our economies and society are being dramatically affected by the digital transition, which is also altering how consumers engage with one another and the online market. In this setting, consumer data have developed into a crucial economic resource that supports a wide range of new and creative business models, technologies, and transactions. Long-standing issues with consumer policy have been impacted by digital transformation, including information asymmetries and inadequate disclosures, deceptive and unfair business practices, consumer fraud, product safety, cross-border enforcement cooperation, dispute

resolution and redressal, sustainable consumption. The digital transformation has fundamentally altered how consumers connect with markets and one another through the use of online platforms.

Indian government has made significant efforts to protect consumer rights and interests and to accommodate their requirements by repealing Consumer Protection Act of 1986 with new law and aims to advance and defend customers' interests against shortcomings and flaws in goods and services and to protect from dishonest practises.

OBJECTIVES

The objectives of the paper to discuss the key aspects of the New Act, consumer concerns in 21st century, and potential obstacles to the Act's effective implementation in the future. It focuses on the concerns faced by consumers in the digital age.

CONSUMERS AND DIGITAL TECHNOLOGIES

The accessibility of digital technologies and the rising popularity of e-commerce have created enormous opportunities for consumer empowerment and difficulties for the defence of consumer rights. The internet has significantly increased customers' access to goods and services offered all over the world as well as to data and tools that help them make informed purchasing decisions. Constant feedback loops between customers' devices or apps and their needs help businesses observe, anticipate, respond to, and adapt to customers' needs quickly and predictably. They also let manufacturers and service providers frequently update their goods to meet customers' changing needs. Purchases may now be made quickly and easily thanks to online shopping and mobile payments.

CONSUMER RIGHTS PROTECTION ISSUES IN THE DIGITAL AGE

E-commerce is an online-based business strategy that was created to give customers access to a marketplace where they could purchase and sell goods and services. It also includes "buying or selling of goods or services including digital products over digital or electronic network," as per the Consumer Protection Act, 2019. The regulations that regulate its operation to maintain checks and balances have to be oriented since a significant portion of products and services in India are obtained through electronic methods in an online environment. Consumer activities in the digital era are, increasingly plagued by issues connected to the complexity, opaqueness, and uncertainty surrounding the use of personal data, as well as deceptive, unethical, or dishonest business practises.

CONSUMER CONCERNS IN THE DIGITAL AGE

Openness and disclosure: Building consumer trust and ensuring sufficient disclosures are crucial for competitive success in the digital transformation. However, it appears to be a problem with a variety of new innovations that there is a lack of transparency and disclosures about how customer data is collected, processed, and shared that are unduly complicated, legalistic, or otherwise insufficient.

Discrimination and Alternatives: Businesses now have more opportunities than ever to use consumer profiling because of massive amounts of consumer data being collected. Businesses use these profiles to tailor offerings in ways that benefit customers, but they also use them to treat customers unfairly when it comes to price, the offers they give, or the manner that information is presented. Although

personalization might be economically advantageous to some but it might also result in unfair business practises.

Liability: Questions about who is ultimately responsible and liable if something goes wrong in a consumer transaction might be raised by new product ecosystems and business structures. In the case of interconnected ecosystems, it may be challenging for consumers to determine accountability and liability. Customers could find it challenging to pinpoint the ecosystem component responsible for the problem or malfunction. Consumers' top concerns centre on access to effective redress, accountability, and liability.

Collection and use of personal data: After each online transaction, consumers leave digital traces that constitute customer's online profile. Personal data is commonly used in personalised advertising and product recommendations. The use of personal data continues to be shrouded in a significant amount of secrecy, ambiguity, and complexity. Once preserved online, the data is permanent and can be used in a variety of ways.

Network security: Protection of online payment systems is crucial since mobile payments are becoming more convenient for online purchases. In addition to the unauthorised use of personal data, a system breach could result in monetary loss. Online account-targeting phishing, con games, and frauds have exploded recently.

Deception and liability issues: Third-party platforms, which serve as a go-between for buyers and sellers, the majority of e-commerce transactions, take place. The entrance barriers for new market participants to the e-commerce sector are low and free to enter and exit. As a result, it might be harder to detect or stop fraudulent activities that typically rely on the structural characteristics of the platforms.

No disclosure of sponsorship: The rapid increase of sponsored material that smoothly integrates with journalistic content or information that appears impartial has been fuelled by the advent of native advertising, product placement, and influencer marketing. It is frequently unclear whether or not this content is paid for, or by whom. This lack of transparency erodes consumers' capacity to make informed purchasing decisions by blurring the lines between information and advertising, between real reviews and marketing gimmicks.

Collaboration with online platforms Products available through e-commerce including online platforms present numerous challenges for product safety authorities. Market surveillance authorities continue to face growing difficulties to trace products online, identify responsible economic operators and conduct risk and safety assessments due to lack of access to the physical products or the inability to purchase products anonymously in some jurisdictions. Online platforms and consumer product safety authorities are now actively working together to reduce the availability of recalled products via these online business models. Authorities have established processes or formal agreements with major international online platforms, which include commitments such as removing listings of unsafe and recalled products, providing product safety training to third-party suppliers and strengthening internal product safety processes.

MEASURES TO PROTECT CONSUMER RIGHTS IN THE DIGITAL AGE

Data privacy should be valued and safeguarded. Especially with respect to what personal data are gathered, utilized, and in what ways. Businesses that gather and use large amounts of personal data should work to strengthen their privacy rules and make them more understandable and apparent to the consumers. Consumer organisations and regulatory agencies can contribute to monitoring how businesses handle the privacy of customer data and reporting on the effects of corporate privacy policies. Additionally, the media—both traditional and online-only outlets—could exert significant influence in revealing dishonest or unlawful corporate practises.

Consumer organizations, media, and regulatory agencies can work together to exchange knowledge, suggest best practices, and uncover commercial wrongdoings to warn the public to steer clear of market bullies. Together, they can share expertise, recommend best practices, and expose business wrongdoings to alert the public. The focus of e-commerce platforms should be on identifying and preventing unethical or illegal business practices, ensuring the security of payment methods, and taking the initiative in defending consumer rights. In order to avoid tricking customers into making poor decisions, the disclosure of sponsored content also needs to be presented with more clarity.

LAWS GOVERNING E-COMMERCE

Information Technology Act, 2000

The IT Act contains various provisions that serve as a guideline for e-commerce operations. Section 84A of the IT Act mandates the Central Government promote e-governance and e-commerce. Additionally, it must ensure that digital platform is used safely. Further, it has measures for data protection. Under Section 66A of the IT Act, E-commerce companies are subject to the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011. Websites that act as intermediaries and the content they display are subject to the 2011 Intermediary Rules. The Rules, among other things, limit the amount of time that information must be preserved and prohibit intermediaries from hosting, storing, publishing, etc. Furthermore, intermediaries are required to regularly inform consumers of their rules and policies, privacy policies, and user agreements by posting them on their websites and mobile applications.

Consumer Protection Act, 2019

To address particular problems that have emerged in this age of digitalization and e-commerce, the CPA 2019 made significant amendments to the consumer protection 1986. The E-Commerce Rules offer a framework to control online advertising, product sales, and customer purchases. The E-Commerce Rules are applicable to all goods and services (including digital goods) transacted over an electronic or digital network, all e-commerce models and retail and all unfair trade practises across all e-commerce platforms.

The E-Commerce Rules do not apply when a person undertakes a transaction only for personal reasons and not frequently or consistently in the course of engaging in any professional or commercial activity, even though they do apply to e-commerce organisations. This may result in the exclusion of natural individuals who infrequently interact with other consumers or businesses in commercial transactions.

The E-Commerce Rules also apply extraterritorially to those e-commerce businesses that may not be based in India but routinely provide goods and services to Indian consumers.

Foreign Exchange Management (Non - Debt Instruments) Rules, 2019

The Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 currently regulate e-commerce businesses and platforms with foreign direct investment (FDI).

Legal Metrology Act, 2009

A company incorporated under the Companies Act, 1956 or the Companies Act, 2013, a foreign company covered by Section 2(42) of the Companies Act, 2013, or an office, branch, or agency in India covered by Section 2(ii)(v) of the Foreign Exchange Management Act, 1999 that is owned or controlled by a person residing outside of India and engages in e-commerce business are all considered to be "E-commerce entities"

Legal Metrology Act, 2009 read with Legal Metrology (Packaged Commodity) Rules, 2011, states that the online platform must display such mandatory information about the goods on the network, as is required to be displayed on physical packages as well, mandate that any e-commerce entity comply with and meet the standards relating to labelling and packaging. While the Legal Metrology Act and rules hold the manufacturer, seller, dealer, or importer accountable and punishable for false information posted on a marketplace-style e-commerce portal, the e-commerce institution will be held accountable and punished for failing to make the pertinent pronouncements as required by the Legal Metrology and rules.

Competition Act, 2002

The Competition Act of 2002 outlines some e-commerce ecosystem components that are likely to be affected by competition-related issues. Exclusive contracts between online merchants and vendors, steep discounts made available on frequently predatory online marketplaces, platform neutrality and platform parity provisions. E-commerce platforms are also subject to the provisions of Section 3 involving anti-competitive agreements and Section 4 regarding abuse of dominant position.

EFFECTIVENESS OF CONSUMER PROTECTION LAWS

INDIA'S ODR POLICY PLAN

ODR (Online Dispute Resolution) refers to the process of resolving conflicts, particularly those with small and medium-sized financial stakes, through the use of digital technology and ADR (Alternative Dispute Redressal) approaches like arbitration, conciliation, and mediation. There have been numerous cases in India where the courts have endorsed an ODR strategy. Analysis of the nation's readiness for this systemic transition becomes necessary.

The head of Niti Aayog, Justice AK Sikri published a report titled "Designing the Future of Dispute Resolution: The ODR Policy Plan for India" by incorporating dispute avoidance, dispute containment, and dispute resolution, the paper aims to build an action plan for the online dispute settlement process in India.

Any new institution in the social framework needs a governance framework for regulatory objectives due to the changing conditions. A number of relevant laws address the ADR and technological aspects of ODR. The 1996 Arbitration and Conciliation Act regulate the ADR fields. The Code of Civil

Procedure, 1908, is the primary piece of legislation. In accordance with Section 89 of the Code, the court has the authority to subject the parties to all ADR procedures. Under section 74 of the Consumer Protection Act of 2019, "Consumer Mediation Cells" have been established in each district to provide consumers with access to extensive mediation. ODR was also made possible by the Consumer Protection Act (E-Commerce) Rules, 2020, which set forth requirements for e-commerce companies' internal grievance redressal processes. The Act can be used as a support mechanism for the digitalization of the justice delivery system, which urgently needs legal acknowledgment.

Pre-litigation mediation was introduced to India by Section 12A of the Commercial Courts Act of 2015. If there isn't an imminent need for temporary relief, the parties should consider mediation before filing a lawsuit. Under section 74 of the Consumer Protection Act of 2019, "Consumer Mediation Cells" have been established in each district to provide consumers with access to extensive mediation. ODR was also made possible by the Consumer Protection Act (E-Commerce) Rules, 2020, which set forth requirements for e-commerce companies' internal grievance redressal processes.

Sections 4 and 5 of the law recognise electronic records and signatures. The Act can be used as a support mechanism for the digitalization of the justice delivery system, which urgently needs legal acknowledgment.

In Meters and Instruments Private Limited v. Kanchan Mehta, the Supreme Court made the following observation: "Use of modern technology needs to be considered not only for paperless courts but also to alleviate court overcrowding. There seems to be a need to take into account case types that can be partially or completely resolved "online" without the parties' actual presence by streamlining the processes where severely disputed questions do not need to be decided.

CONSUMER PROTECTION ACT, 2019

Aiming to protect consumer's rights, The Consumer Protection Act of 2019 has established authorities, an efficient administration, and forums for consumer education. In order to stop the harassment of consumers who may or may not be aware of their legal rights, consumer rights are designed to ensure that free and fair trade practices are followed in the marketplace.

The purpose of Consumer Protection Act, 2019, is to protect the interests of consumers and to establish authorities for the prompt and efficient administration and settlement of consumer disputes, as well as for matters related to or incidental to those disputes. Consumer councils and other authorities for the settlement of consumer grievances are established at the national, state and district levels with a goal of protecting consumer's interests and raising awareness. The Act aims to protect and advance consumer rights by facilitating the resolution of consumer disputes and related issues.

A consumer is a person who purchases goods and services for personal use. He plays a pivotal role in shaping the economy of the country as because of his demand either the industry flourishes or gets in the depression phase. With ever increasing demand of goods and services has moulded the new world in the present century. The consumer behaviour was also pertinent in how the world saw industrialization. People do not buy products just because of their material needs but also because of their symbolic value. The United Nation General Assembly adopted a resolution viewing the need of consumer interest's protection and recommended to all developing nation to adopt them. These guidelines are:

- To achieve and maintain adequate protection to their consumers.
- To render help in production and distribution in accordance with the needs and desires of consumers.

- To encourage the standards of moral conduct of the persons involved in rendering goods and services
- To help to suppress the defective business systems affecting the interests of the consumers domestically and globally.
- To encourage the condition of markets which may provide more opportunities of choice at less cost?

The Indian Prime Minister, Shri. Narendra Modi said that “The proposed Act focuses considerable emphasis on consumer empowerment. To guarantee that consumer complaints are resolved as quickly and inexpensively as possible, rules are being made simpler. There are planned strict regulations for deceptive advertising. For prompt corrective action, a central consumer protection authority with executive powers would be established”.

The new law has broadened its substantive requirements by clearly recognising the dangers of deceptive advertising, abuses of consumer rights, and by elaborating on the types of unfair trade practises. However, it has an overly rigid criminalization strategy, which begs the question of whether criminalization was really necessary. The new Act appears to create confusion to the law's application by forming the Central Authority, which has expanded authority but also more complicated procedural features due to the addition of specific sections. The new Act places a strong emphasis on making criminalizing various wrongs. On the basis of specific criminalization principles, it must be decided whether or not a wrong should be made a crime. The prevention of injury to a person is one of the goals of criminalization. The new Consumer Law, which strives to avoid certain injuries perpetrated on consumers owing to their rights being violated, unfair trade practices, or deceptions created by misleading marketing.

RULE FOR INFLUENCER’S

To increase transparency and safeguard consumers, the government enacted a new set of rules for social influencers that include providing transparent disclosures about brand relationships. When an advertiser has a "material connection" with a celebrity or influencer, disclosures must be made public. As businesses rely on them more to advertise items to their audience in a more accessible and personal way, the social influencer market is expected to reach \$2,800 crore by 2025. All people who "have access to an audience and the power to Influence audiences' purchasing decisions" are subject to the rules. "The disclosure in an endorsement statement should be done in a way that is very obvious, out in the open, and difficult to miss. The Consumer Protection Act, which is in charge of defending consumer rights, serves as the general framework. The control and prevention of unfair trading practises is, in this context, the key. "Consumers should be aware if they are receiving information from digital media that the person or organisation sponsoring it has received payment or has some other relationship with the brand. It has been made clear that deceptive advertising of any kind is prohibited.

CHALLENGES FOR GOVERNMENT

Governmental organisations must be flexible given the quick speed of change. To ensure that there are no "gaps," governments must determine if the current consumer protections are still effective in the digital transformation. Governments should also make sure they possess the necessary skills. Businesses and the sector have a part to play as well.

Consumers must be safeguarded: In this era of quick technology advancement, governments must think through how to modify and put into practise the current consumer protections and legislation. Governments should continually monitor and study developments in digital markets to ensure that consumers are appropriately protected and can benefit from those markets, even if consumer policy is frequently technologically neutral and broad enough to accommodate new technology and business models.

Governmental capabilities: Governments must have the technological know-how essential to comprehend these new difficulties if they are to stay on top of consumer concerns in the digital transformation.

Cross-disciplinary and jurisdictional cooperation: The dangers mentioned above cover a range of concerns, including those related to consumers, competition, data privacy, and security. Therefore, consumer authorities must cooperate and coordinate. Further, because of the global character of the digital transition, governments will increasingly need to work together across international borders. Businesses and industry organisations should be heavily involved in creating new technology and regulations that offer consumers strong protections.

SUMMARY

The Consumer Protection Act, 1986 has been mostly ineffectual, because of the poor implementation and the lack of interest on the part of governments. Although some specific rules were important to defend consumer interests in their entirety, some modification was nevertheless necessary. As a result, the new Act declares some violations of consumer rights as crimes and also includes legal safeguards necessary to preserve those rights. It was also crucial to control advertising endorsements that were deceptive and to establish product liability for goods. The primary modification made by the new law is the addition of criminal culpability alongside civil penalties. The question of whether this strategy will have the desired "deterrent" effect may be resolved in due course. India still has a long way to go in the area of ODR, despite the various laws supporting ADR and technology both alone and together. The government ought to embrace a futuristic approach to technologies to maximise the benefits while also taking precautions to reduce the risk involved in integrating technology into dispute resolution. ODR is unquestionably on the correct track to overcome challenges like cyber security and widespread technical awareness. ODR has improved how simple it is to conduct business in other nations. The e-commerce sector's explosive growth has raised issues that the nation's legal system has been addressing, as well as reflecting the public's growing acceptance of it. Additionally, the legislation governing the e-commerce industry is dispersed and has a very dynamic nature. This legislation could go a long way towards realistically protecting 21st-century consumers who have long been the victims of illegal advertisements, unfair trade practices, and other deceptive trade practises if it is implemented in the right spirit and with effectiveness.