

Critical Analysis: Interplay of E-Commerce and Consumer Protection, in Conformity with International Standards

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ABSTRACT:

This study examines the existing legislative framework in India that safeguards the interests of online customers in light of the rapidly expanding e-commerce sector and its impact on consumer preferences for online shopping. A thorough analysis of the two recently established laws—the Consumer Protection Act, 2019 and the Consumer Protection (E-commerce) Rules, 2020—as well as a literature review support analysis of 290 online customers were carried out in order to address the study questions and achieve the objectives.¹ Important conclusions include the following: cash on delivery is the preferred method of payment for online purchases; website content and efficient customer support services foster consumer confidence; and safe and dependable systems are critical to the success of e-business firms. One may argue that the new laws are sufficiently strict to uphold the rights of internet shoppers and encourage the expansion of e-commerce in India. In addition to elements like website information, customer service, warranty, security, privacy, and redressal, laws protecting consumer rights in e-commerce also have an impact on consumers' confidence. Expanding e-commerce appears to be promising given the strong legal framework and consumer protection policies in place. The findings add to the body of knowledge on e-commerce and the protection of consumer rights by clarifying the critical elements influencing customer loyalty and trust as well as providing an insightful viewpoint on e-consumer protection in the Indian context with wider implications.

KEY WORDS: E-commerce, consumer protection, international standard, Consumer Protection Act, 2019, Consumer Protection (E-commerce) Rules, 2020

INTRODUCTION:

Over the past ten years, advances in information and communications technology have drastically altered people's lives and opened up new doors for both consumers and companies. As stated in the General Assembly's resolution 70/186, dated December 22, 2015, e-commerce is becoming more and more relevant for consumers worldwide, and the opportunities it presents should be seized to support economic development and growth based on emerging network technologies, with computers, mobile phones, and other connected devices that contribute to consumer welfare.²

¹ E – Commerce and the Rights of E-Consumers, Hina Kausar (Assistant Professor , Aligarh Muslim University,) ,Published on manupatra

² A/RES/70/186

More and more customers are using the Internet to conduct e-commerce, which makes it simpler and faster for them to obtain goods and services (henceforth referred to as products). Additionally, it poses some difficulties for customers that are not present in offline business transactions. Due to these difficulties, it is now necessary to modify the current legal and regulatory frameworks to meet the unique needs of e-commerce. The modification of the United Nations rules for consumer protection was motivated by the shift in the present business and consumer environment.³ The Organization for Economic Cooperation and Development (OECD) Recommendation of the Council on Consumer Protection in E-Commerce is another international tool in this field that underwent revisions in 2016.⁴ Considering these developments and challenges arising from e-commerce and its continuous growth, the Intergovernmental Group of Experts on Consumer Protection Law and Policy, at its first session, held on 17 and 18 October 2016, requested the UNCTAD secretariat to prepare a report on e-commerce for consideration at its second session.⁵

One of the main causes of customers not making online purchases was a lack of faith in products and their manufacturers/suppliers. E-commerce is expanding around the world, especially in India, thanks to the increasing usage of computers, tablets, and smartphones as well as the general internet access. New techniques of distribution have been brought about by the rapid expansion of e-commerce. Customers now have more options, but they are also more susceptible to new kinds of unfair trade and immoral commercial practises. Furthermore, the government is not doing enough to safeguard the rights of customers, especially those who shop online. As a result, the government passed the Consumer Protection (E-commerce) Rules, 2020 and the Consumer Protection Act, 2019, which went into force in July 2020. With fewer than six months of operation under its belt, it is premature to draw conclusions about how well the new Act and Rules will protect online shoppers. Positive comments from online shoppers, however, imply that people are beginning to feel more secure and confident when they purchase online. The preservation of consumer rights is critical to the expansion of e-commerce, which is why the new legislation fortify online consumers' grievance redress channels while also guaranteeing their security, safety, and capacity to establish confidence. The "Consumer is the King with power" now. The new reform—the passing of the two laws—also facilitates conducting business. Future operating experience may lead to some legal difficulties. Nevertheless, the safety and security of online consumers will support the expansion of e-commerce in India through judicial involvement and directions.

OBJECTIVES: The following objectives inter alia the role of consumer protection in the arena of e-commerce is listed below:

- To determine the growth of involvement of consumers inn e-commerce, making it prime for their protection
- To examine the effectiveness of present legal regime and its consistency with international standards
- Investigate into legal protection given when Persistent issues with pre-, purchase-, and post-purchase

³ Adopted by the General Assembly in its resolution 70/186.

⁴ OECD, 2016, Recommendation of the Council on Consumer Protection in E-commerce (Paris), available at http://www.oecd-ilibrary.org/industry-and-services/oecd-recommendation-of-the-councilon-consumer-protection-in-e-commerce_9789264255258-en

⁵ This report is based on responses to an UNCTAD questionnaire on consumer protection in e-commerce received from Argentina, Botswana, Brazil, Burkina Faso, Cambodia, Colombia, Ecuador, France, Germany, Hungary, India, Israel, Jamaica, Lebanon, Mexico, Myanmar, Oman, Pakistan, Portugal, Spain, Switzerland, Tunisia, State of Palestine, Consumers International and the European Consumer Centre in Portugal.

consumer protection in e-commerce occur

- Analysis into draft amendments to the 2020 Rules Consumer Protection (E-commerce)

5. RESEARCH QUESTION: They are listed below:

1. Question the very rational into the importance of protection of consumer in e-commerce at every step
2. Evaluate the present legal regime with international standards while critically analyzing the draft of consumer protection in e-commerce 2020 rules.

RESEARCH METHADODOLOGY: The methodology applied to conduct this research is content analysis and descriptive method. The present study is doctrinal, partly empirical, descriptive and analytical which includes the perusal of published work like researching through archives of public library and academic journals.

LITERATURE REVIEW

1) Dilshad Shaik and Ms.V. Poojasree, **Consumer Protection in E-Commerce: A Legal and Compliance Framework in the Digital Market**⁶

The paper discusses the legal environment and compliance with regard to E-Commerce in the digitalized global market. The authors highlight the importance of consumer and merchant security in the virtual world and identify numerous serious threats to consumer and merchant protection in E-Commerce. They also discuss the legal framework that governs the purchasing and selling of products within the E-Commerce zone and provide a conceptual framework on jurisdictional aspects to resolve disputes arising in E-Commerce. The authors argue that governments should pursue initiatives with close dialogue with private sector-led forums such as GBDs and GIIC to develop a uniform legal framework for E-Commerce transactions. They suggest that the development of a uniform legal framework for E-Commerce transactions is necessary to ensure consumer and merchant protection. Overall, this file is a valuable resource for anyone interested in the legal and security risks associated with E-Commerce

2) Neelam Chawla and Basanta Kumar, **E-Commerce and Consumer Protection in India: The Emerging Trend**⁷

The article's in-depth examination of India's legal system as it relates to e-commerce is one of its strong points. The Consumer Protection Act of 2019 and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules of 2021 are both given in-depth summaries by the writers. Additionally, they go over the function of the Consumer Protection Councils (CPCs) and the National Consumer Disputes Redressal Commission (NCDRC) in defending the rights of consumers. This analysis gives a strong foundation for comprehending India's legal system for online commerce. The article's effectiveness is however constrained by a few flaws. The absence of empirical evidence to back up the writers' arguments is one problem. Although the authors offer some data on the expansion of e-commerce, they do not offer any information on customer behavior or opinions towards it. This makes it difficult for the essay to offer a thorough examination of Indian e-commerce and consumer safety.

⁶ Consumer Protection in E-Commerce: A Legal and Compliance Framework in the Digital Market, Dilshad Shaik and Ms.V. Poojasree, Proceedings of the 1st International Conference on Law and Human Rights 2020 (ICLHR 2020), Atlantis Press - Volume 549

⁷ E-Commerce and Consumer Protection in India: The Emerging Trend, Neelam Chawla and Basanta Kumar, Journal of Business Ethics (2022) 180:581–604, Published online: 9 July 2021, [E-Commerce and Consumer Protection in India: The Emerging Trend | SpringerLink](#)

3)Hina Kausar, E – Commerce and the Rights of E–Consumers⁸

Hina Kausar's paper "E-Commerce and the Rights of E-Consumers" addresses the advantages of online shopping, the necessity of consumer protection laws, and the many e-consumer safeguards. The article highlights how important it is for online shoppers to have comprehensive and correct knowledge about the company, the products or services being sold, and the entire transaction procedure. The article also discusses the drawbacks of online shopping, including the absence of in-person interactions between buyers and sellers, and the strategies that e-commerce platforms have implemented to guarantee that customers receive high-quality goods. The legal foundation for e-commerce in India and the e-consumer protection procedures are not, however, critically analysed in this article.

4)UNCTAD secretariat, Consumer protection in electronic commerce, United Nations Conference on Trade and Development⁹

The difficulties customers encounter in e-commerce are covered in the UNCTAD secretariat's brief on consumer protection in electronic commerce, along with legislative solutions aimed at fostering consumer confidence. The letter emphasises that in order to safeguard consumers in e-commerce, there is a need for further international harmonisation and coordination of rules and regulations. It lists a number of legislative initiatives, such as consumer education, ethical corporate practises, and international collaboration, that may be utilised to increase customer confidence in e-commerce. The letter, however, does not address the problem of enforcement or offer a thorough examination of the efficacy of various policy approaches. Furthermore, it ignores the problem of e-commerce accessibility, especially in developing nations.

ANALYSIS:

1. The Rationale for Consumer Protection in E-commerce:

Globally, consumer protection is one of the most important issues in e-commerce. A system that facilitates sales of products and services through electronic exchange is known as e-commerce. Through cost savings, competitiveness, and improved manufacturing process organization, e-commerce broadens choice and boosts productivity¹⁰. E-commerce is defined as online commercial operations that include ordering, invoicing, and payment processes as well as communications, such as marketing and advertising, in accordance with the Organization for Economic Cooperation and Development's (1999) principles (OECD, 2000). Among other things, the OCED-1999 recommendations acknowledged three crucial aspects of online consumer protection. E-commerce must be accessible to all customers. In order to foster customer confidence in e-commerce, it is imperative that consumer protection procedures remain clear and effective. This will help to prevent unfair, deceptive, and fraudulent acts from occurring online. Third, the development of efficient redress mechanisms has to be a top priority for all parties involved, including the government, corporations, consumers, and their representatives. These regulations largely apply to international transactions (OECD, 2000).

Through encouraging innovation and competition, the 2016 guidelines seek to address the growing issues surrounding the protection of e-consumers. Consumer-to-consumer (C2C) transactions, digital content

⁸ E – Commerce and the Rights of E–Consumers, Hina Kausar (Assistant Professor , Aligarh Muslim University,) ,Published on manupatra

⁹ Consumer protection in electronic commerce , UNCTAD secretariat, United Nations Conference on Trade and Development, Intergovernmental Group of Experts on Consumer Protection Law and Policy Second session Geneva, 3–4 July 2017 Item 3 (e) of the provisional agenda,2017

¹⁰ Vivekananda Institute of Professional Studies, Guru Govind Singh Indraprastha University, New Delhi 110027, India

items, non-monetary transactions, mobile devices, privacy and security hazards, payment protection, and product safety are some of these challenges. Additionally, it highlights how crucial it is for consumer protection agencies to maintain their capacity to defend online shoppers and collaborate on international issues (OECD, 2016). In its notes from 2017, the United Nations Conference on Trade and Development (UNCTAD) acknowledged that e-commerce has comparable consumer protection issues.

E-commerce allows for both cross-border (international) and domestic (intra-border) transaction routes. According to UNESAP and ADB (2019) and Kumar & Chandrasekar (2016), there are six e-commerce models that are always applicable to different countries: business-to-business (B2C), business-to-business (B2B), consumer-to-business (C2B), consumer-to-consumer (C2C), business-to-administration (B2A), and consumer-to-admiration (C2A). Regardless of the model, the customer must defend his interests since he is the King in the marketplace. This article, however, focuses on the main B2B and B2C e-commerce operations.

Two international organizations that protect consumers and encourage fair and competitive international commerce are the OECD and UNCTAD. Consumer International¹¹ (CI), was established in 1960 and consists of over 250 consumer organisations from over 100 countries. Its mission is to protect and promote consumer rights in forums related to international trade and policy. Other prominent international organisations that promote healthy competition in both domestic and international trade include the European Consumer Cooperation Network, ECC-Net (European Consumer Centre Network), APEC Electronic Consumer Directing Group (APECESG), Iberoamerikanische Forum der Konsumer Protection Agenturen (FIAGC), and International Consumer Protection and Enforcement Agencies (Durovic, 2020). After reorganizing in 2002, ICPEN has grown to become a worldwide association of consumer protection agencies from 64 nations, with India becoming a member in 2019. It also has six observation authorities (COMESA, EU, GPEN, FIAGC, OECD, and UNCTAD). It does not oversee financial services or product safety, even though it discusses collaboration and coordination on consumer protection enforcement concerns, offers best practices on consumer protection legislation, and disseminates information on consumer protection trends. International internet fraud is addressed by ICPEN and the Federal Trade Commission (FTC) through the econsumer.gov enduring program.¹² [Econsumer.gov](http://econsumer.gov), a collaboration of consumer protection agencies from 41 countries around the world, investigates the following types of international online fraud: • Online shopping/internet services/computer The following categories of international internet fraud are looked into by Econsumer.gov, a consortium of consumer protection organisations from 41 different nations: • Computer hardware, online shopping, and internet services • Bank and credit cards; • Telemarketing and spam; • Employment and income generation; • Fraud involving family, friends, government, business, or romance; • Lottery, sweepstakes, or prize scams; • Travel and getaways; • Cell phones and other mobile devices; • Other.

The need to talk about consumer protection in e-business in a regional context—India—was spurred by the global situation and perspectives on e-commerce.

This is because India has emerged as a top victim of online consumer fraud, drawing attention to electronic governance systems and potentially affecting the country's standing for ease of doing business. However, the government updated the previous Consumer Protection Act, 1986, with the new Act-2019, and the E-

¹¹ Consumer International is a champion in the sustainable consumer movement for the last 60 years. Its vision for the future of 2030 is to address three issues-sustainability, digitalization and inclusion. See for more details <https://www.consumersinternational.org/who-wear>

¹² econsumer.gov came into being in April 2001, addresses international scams and guides its members to combat fraud worldwide; see for details <https://econsumer.gov/#crnt>

Commerce Rule-2020 is currently in effect in order to prevent fraud and guarantee consumer protection in e-commerce.

2. Existing legal regime:

India currently has a complicated legal framework for consumer protection in e-commerce, with several applicable laws and regulations. Nonetheless, the Consumer Protection Act, 1986 (CPA) is the main piece of law overseeing consumer protection in India. All consumer transactions, including those made online, are subject to the CPA.

Other laws and rules that are pertinent to consumer protection in e-commerce, in addition to the CPA, include the following:

1. Information Technology Act, 2000 (IT Act): The IT Act addresses consumer protection among other internet commerce-related problems. For instance, the IT Act mandates that e-commerce websites give customers specific details about their goods and services, such the cost, the quantity, and the terms of delivery.
2. Sale of commodities Act, 1930: This legislation outlines the responsibilities and entitlements of both purchasers and vendors of commodities. It may be utilized by customers to seek compensation if they get damaged or non-conforming products, and it also applies to online purchases.
3. The Indian Contract Act of 1872 lays down the fundamental rules of Indian contract law. It covers every kind of contract, even ones created online.

A variety of generic consumer protection principles also apply to e-commerce, in addition to these particular regulations. E-commerce companies, for instance, have to abide by the values of honest dealing and fair trading. They must also refrain from unfair or dishonest business practices, such as misrepresenting the calibre of their goods or services to customers.

Online shopping rights for consumers

Regarding e-commerce transactions, Indian law grants customers many rights. Among these rights are the following:

- Information: Customers are entitled to precise and lucid details about the goods and services they are buying online. This contains details on the cost, standard, amount, and conditions of delivery.
- Fair dealing: Customers have a right to honest and equitable treatment from online retailers. This includes having the right to be shielded against unfair or dishonest business methods.
- Choice: Customers are entitled to select from a range of goods and services provided by various online retailers.
- remedy: If customers are unhappy with the goods or services they have ordered online, they are entitled to pursue remedy.

Mechanisms for protecting consumers in online trade

If e-commerce companies have wronged customers, they have several options at their disposal. Among these mechanisms are:

- Settlement: Through the voluntary process of mediation, a third person that is impartial assists the customer and the company in coming to a mutually accepted agreement.
- Arbitration: In this more formal process, an impartial third party renders a legally-binding judgement about the disagreement.

- Litigation: Customers may potentially bring a legal action in court against the company.

Consumer protection in e-commerce has challenges

Consumer protection in the e-commerce industry still faces several obstacles, even in the face of numerous laws and regulations. These difficulties consist of:

- Jurisdiction: Determining which court has jurisdiction over an e-commerce issue can be challenging. Customers may find it challenging to pursue compensation as a result, particularly if they are interacting with an international e-commerce company.
- Enforcement: Applying consumer protection rules to e-commerce companies can also be challenging. This is a result of the large number of foreign-based e-commerce companies.
- Awareness: A large number of customers are unaware of their legal rights when it comes to online purchases. This may make it challenging for them to pursue justice if they feel wronged.

3. Persistent issues with pre-, purchase-, and post-purchase consumer protection in e-commerce:

Consumer protection risks in e-commerce may be identified at three stages of the consumer-business relationship: pre-buy, purchase, and post-purchase.

A. Pre-purchase: Information asymmetry is especially noticeable in e-commerce due to the nature of the Internet and the intricacy of terms and conditions, which clients might not always have timely access to. As a result, customers are more susceptible to dishonest and deceitful behaviour online. Customers require accurate and pertinent information on products and services, as well as the vendors that provide them, in order to make well-informed judgments when making purchases online.

Information requirements: Access to sufficient information to empower customers to make decisions based on their unique requirements and preferences is a reasonable necessity.¹³ Additionally, an initiative has been created to support¹⁴ In order to make it easier for customers to contact businesses and for regulatory and law enforcement agencies to identify and locate those businesses, two national policies encourage the provision of accurate and timely information, such as the legal name, business identity, primary physical address, website, email address, and phone number. Additionally, such information needs to be quickly and clearly provided about the products or services as well as the terms and conditions of the pertinent transaction¹⁵.

According to paragraph 28 of the OECD Recommendation, companies that engage in e-commerce must give customers enough information about them to enable them to identify and locate the company, communicate with them quickly, easily, and effectively, resolve any disputes that may arise, and serve legal process in both domestic and international disputes. The categories of information that companies ought to provide to customers are described in full in paragraphs 29 and 30. Like guideline 5(e), paragraph 31 mandates that companies give customers enough details about the products or services they offer so they may make well-informed judgments about a transaction. The kinds of information that must be revealed are described in paragraph 32, and information regarding the transaction is discussed in paragraphs 33–35.

Unfair commercial practices: E-commerce's impersonality erodes the rapport between suppliers and customers, making customers more vulnerable. The online platform provides an ideal setting for deceptive

¹³ Guideline 5 (e)

¹⁴ Guideline 14 (b)

¹⁵ Guideline 14 (c)

business practises. Thus, one of the primary obstacles to the growth of e-commerce is customer trust in digital marketplaces. Consumer transaction decisions are influenced by unfair commercial practises, which also hinder consumers from making well-informed decisions. These practises include misleading consumers about the nature of the product, employing aggressive marketing strategies, confusing consumers with competitor trade names or trademarks, and pretending to be customers in order to post reviews online, for example on online travel booking platforms.¹⁶

The right to information is defined as "the right to be informed about the quality, quantity, potency, purity, standard, and price of goods or services, as the case may be so as to protect the consumer against unfair trade practices" in India under the customer Protection Act of 1986.¹⁷

B.Purchase: Once a customer has made the decision to purchase a certain goods online, they encounter a variety of obstacles. Unfair contract terms, online payment security, data protection and privacy, even in non-monetary transactions, are the most frequent issues at this point.

Unfair contract terms: The OECD Recommendation encourages businesses not to misrepresent or hide terms and conditions that are likely to affect the decisions of consumers regarding a transaction and not to use unfair contract terms¹⁸. The rights and obligations of the parties to a contract are outlined in its terms. "Clear, concise, and easy to understand contract terms that are not unfair" are encouraged by the guidelines. Additional guidance on the publication of truthful information about contract terms and conditions for ethical business practices is provided by the guidelines.¹⁹ In order to help customers make educated decisions, guidelines encourage firms to give "complete, accurate, and not misleading information regarding the goods and services, terms, conditions, applicable fees, and final costs." It also exhorts companies, utilizing whatever technology they choose, to make sure that this information is easily accessible, particularly the important terms and conditions.²⁰

Online payment security: Payments made with credit cards, debit cards, payment service providers, or existing personal accounts—usually bank accounts—can be done online or through mobile devices. Computers, mobile devices, and the Internet may all be used for them as well. Customers' use of mobile devices for online payments has been increasing in lockstep with technological developments. The UNCTAD consumer protection recommendations predict that by 2017, mobile devices would be used for 3 percent of e-commerce payments.²¹

Regardless of the payment method chosen, the OECD Recommendation urges governments and other relevant parties to create basic standards of consumer protection for e-commerce payments. While acknowledging the advantages of cutting-edge payment technologies for customers, the OECD consumer policy guidelines on online and mobile payments seek to influence industry practices and consumer protection in this field.²²

Data protection and privacy: Because it helps with individual customer profiling and adds to market intelligence, personal data is vital for online firms. Among the difficulties related to privacy and data protection include lack of knowledge about how data is used online, responsibility for data breaches,

¹⁶ (Law No. 2016-1321 of 7 October 2016)

¹⁷ see http://ncdr.nic.in/bare_acts/Consumer%20Protection%20Act-1986.html

¹⁸ paragraphs 5 and 6

¹⁹ Guideline 14 (d)

²⁰ Guideline 11 (c)

²¹ see <http://unctad.org/en/PublicationsLibrary/webditcelp2016d1.pdf>

²² See [Consumer Policy Guidance on Mobile and Online Payments | OECD Digital Economy Papers | OECD iLibrary \(oecd-ilibrary.org\)](#)

sharing of data with third parties, and adherence to relevant laws and countries. Privacy concerns are universal, regardless of age, gender, nation, or personality.²³

The OECD Recommendation urges companies to respect customer privacy by making sure that their procedures for gathering and using customer data are legal, open, and equitable, that they give customers a say and a choice in the matter, and that they offer appropriate security measures.²⁴ Customers are receiving more and more free goods and services in return for their personal information. Such non-monetary transactions are covered under the OECD Recommendation, which asks governments and other stakeholders to think about how to help consumers who have issues with these kinds of transactions.²⁵

According to research, the e-commerce of the future will be handled by digital agents who use algorithms to select items and complete transactions. These computerized agents are referred to as algorithmic consumers in one research.²⁶ Giving customers the option to access and use their own information is one way for policymakers to address data protection issues. This is known as data portability.²⁷ The OECD encourages data portability in order to lower information asymmetries, lower switching costs for customers, and lower obstacles to entry, so empowering consumers and fostering greater competition amongst digital product providers.

C. Post-Purchase: During the post-purchase phase, concerns include responsibility, return policies, and refund policies in the event that items are delivered insufficiently, not at all, or significantly different from what was intended. Customers can experience trouble getting in touch with suppliers or figuring out how to get in touch with companies during this time. Limiting consumer responsibility in the digital marketplace and offering a cooling-off time for online purchases are two potential precautions to safeguard online shoppers during this era. This section discusses further problems faced at this point.

Dispute resolution: The application of applicable legislation and jurisdiction presents some challenges for conventional dispute resolution processes, especially when it comes to e-commerce conflicts. Due to these difficulties, alternate dispute resolution procedures have emerged, providing quicker, cheaper, and simpler out-of-court resolutions for conflicts arising between buyers and sellers. These characteristics lead to "conventional dispute resolution via State courts being largely ineffective and, in practice, often wholly inaccessible to the Internet consumer," per one study.²⁸ The OECD Recommendation states that consumers should have meaningful access to rapid, inexpensive, transparent, and efficient processes for resolving domestic and international e-commerce disputes and seeking remedies when needed, all without excessive expenditure or hardship.²⁹ It alludes to extrajudicial processes like internal complaints processing and alternative conflict settlement.

Redress: Only 53% of the 60 nations that participated in the Consumers International poll in 2012 had compensation orders obtained. While alternative dispute resolution processes are prioritized in the European Union, class actions are a potent instrument in Chile and the US for obtaining redress for

²³ Contribution from Consumers International.

²⁴ paragraph 48

²⁵ Paragraph 49

²⁶ MS Gal and N Elkin-Koren, 2017, Algorithmic consumers, Harvard Journal of Law and Technology, 30(2).

²⁷ OECD, 2017, Key issues for digital transformation in the G20 [Group of 20], available at <https://www.bmwi.de/Redaktion/EN/Pressemitteilungen/2017/20170112-bundeswirtschaftsministerium-und-oecd-geben-startschuss.html>

²⁸ L Edwards and C Wilson, 2007, Redress and alternative dispute resolution in cross-border ecommerce transactions. European Parliament

²⁹ paragraph 43

consumers.³⁰ Payment channel methods appear to be a useful tool for consumer redress in e-commerce. Payment card users' ability to chargeback purchases was first granted to them legally in the US and is now used as a contractual right in the EU, making it an efficient means of redress for consumers in both Union of European States and Regions.

According to the OECD Recommendation, businesses should reimburse clients for losses brought on by poor goods or services that malfunction, damage property, don't live up to expectations, or have delivery problems. As per the OECD Recommendation and the criteria for consumer protection, governments are encouraged to ensure that consumer protection enforcement bodies and other relevant institutions have the authority to take action and secure or help in redress for consumers.

Cross-border e-commerce: Cross-border transactions require the trust of consumers. Governments should "consider the role of applicable law and jurisdiction in enhancing consumer trust in e-commerce," according to the OECD Recommendation. Customers in the European Union are more certain when making domestic internet purchases (61%) than when making purchases from overseas member states (38%).³¹ In a 2011 poll on cross-border commerce in the European Union, 44% of respondents stated that they were put off making purchases from another member state because they were unsure of their legal rights.³²

In order to counteract fraudulent and misleading cross-border commercial practises, Guideline 82 encourages collaboration between member states. According to Guideline 88, member states should give their consumer protection enforcement agencies the power to look into, pursue, gather, and, when necessary, share pertinent information and evidence, especially when it comes to issues involving cross-border deceptive and fraudulent commercial practises. Cooperation with foreign consumer protection enforcement agencies and other relevant overseas equivalents should be included in that power. The goal of Guideline 90 is to advance global norms and guidelines for safeguarding customers from dishonest and misleading cross-border business practises.

4. Analysis into draft amendments to the 2020 Rules Consumer Protection (E- commerce) and the act of 2019

Consumer interests are safeguarded and consumer tribunals are established for dispute resolution under the 2019 Consumer Protection Act.(i) The Act gives the national government the authority to take action to stop unfair commercial practises and defend the rights and interests of online shoppers. E-commerce, according to the Act, is the purchasing and selling of products or services using an electronic network. The Act's Consumer Protection (E-Commerce) Rules, 2020, which outline the responsibilities and liabilities of e-commerce companies and sellers on their platforms, were notified in July 2020.(ii) The 2020 Rules were the subject of draught revisions issued for public comment by the Department of Consumer Affairs in July 2021.[iii] It mentioned that the e-commerce ecosystem's pervasive dishonesty and unfair commercial practises call for revisions. [iv] These include practices such as preferential treatment to some sellers and reduction in consumer choice due to back-to-back sales.³³

³⁰ Contribution from Consumers International. Also see <http://www.consumersinternational.org/newsand-media/resource-zone/state-of-consu>

³¹ Contribution from Consumers International. Also see European Union, 2015, Consumer conditions scoreboard, available at http://ec.europa.eu/consumers/consumer_evidence/consumer_scoreboards/index_en.htm

³² UNCTAD, 2015.

³³ "Proposed Amendments to the Consumer Protection (E-Commerce) Rules, 2020", Press Information Bureau, Ministry of Consumer Affairs, Food, and Public Distribution, June 21, 2021.

Important Points of the Draft Rules

- The entities Act of 2013 defines related parties of an e-commerce company, and the Draught Rules expand the definition of an e-commerce entity to include entities employed by an e-commerce entity to complete orders.
- In the event that a vendor fails to provide products or services, an online marketplace will have a backup plan. Marketplaces are prohibited from listing affiliated businesses as vendors and from using the data they collect to unfairly benefit these businesses.
- The Draft Rules forbid e-commerce companies from abusing their dominating market position.
- A compliance officer and a nodal person for collaboration with law enforcement authorities are among the staff members that e-commerce businesses are required to hire. When a government agency asks for information that they own or control, e-commerce companies are required to supply it.
- According to the Draught Regulations, in order to guarantee a fair chance for local goods, e-commerce companies must propose alternatives.
- The Draaft Rules control tactics related to misselling, cross-selling, and flash sales.

Protection of consumers in e-commerce

E-commerce, or online-based business, is a rapidly expanding method of buying and selling products and services. The retail industry in India is mostly unorganised. By 2021, e-commerce will only make up around 3% of the retail business; organised retail, or physical stores, will account for 10%.³⁴ It is anticipated that e-commerce would yield the following advantages: Increased consumer choice, lowered barriers to entry for new businesses (facilitating online client acquisition), and increased industry efficiency and competitiveness are the three main benefits.^{35 36}

Nonetheless, there are some new and more difficult problems with consumer protection in e-commerce. The United Nations Conference on Trade and Development (2017) made the following observations about e-commerce: (i) consumers are more susceptible to deceptive and misleading behaviour when shopping online; (ii) information asymmetry is more prevalent due to the complexity of terms and conditions and the nature of the internet, which consumers may not always have timely access to; (iv) consumers may find it difficult to contact providers or find a way to communicate with businesses regarding liability and arrangements for delivery, return, and exchange of goods; and (v) concerns about privacy and data protection are more significant; and (vi) issues with enforceability might arise in the event of cross-border transactions.

In addition to consumers, sellers, and product producers, a legislative framework for consumer protection in e-commerce may also need to address the issue of how liability should be distributed among other players, including online marketplaces and logistical service providers. This contrasts with physical commerce, in which marketplaces and logistics providers often play no major part in a customer's order fulfilment. Online marketplaces, which serve as a middleman between buyers and sellers in transactions, have grown in importance in e-commerce. Multiple buyers and sellers are brought together on a same platform by online marketplaces. They provide shoppers additional alternatives to pick from and give vendors a chance to connect with more people. Depending on how involved they are in maintaining inventory, processing payments, and guaranteeing the delivery, security, or calibre of goods or services,

³⁴ Website of Invest India,

³⁵ “Consumer Protection in Electronic Commerce”, United Nations Conference on Trade and Development,

³⁶ “Proposal for regulation of contestable and fair markets in the digital sector”,

their function in a transaction may change.³⁷ Compared to conventional types of trade, e-commerce may require a different strategy to consumer protection due to the aforementioned problems.

Certain requirements for e-commerce firms are outlined in the 2020 Rules and the proposed modifications; these duties differ from those of comparable entities in traditional retail. These include limitations on connected parties and affiliated businesses, the need to designate certain employees for compliance, and the provision of a grievance redressal system.

5. Boosting e-commerce customer confidence (Recommendations):

Since 2000, developing nations in Africa, Asia, and Latin America have received support from the UNCTAD Programme on E-commerce and Law Reform in their efforts to create legal frameworks that address issues raised by e-commerce, maintain the trustworthiness of online transactions, facilitate domestic and international trade online, and provide legal protection for e-commerce providers and users.³⁸ The following sections explain some of these building blocks that ensures the confidence in customers in e-commerce:

Provide e-commerce consumers with a level of protection equivalent to that of other forms of commerce. d) Ensure effective enforcement of relevant laws. e) Establish a strong legal and institutional framework governing e-commerce and redress processes. b) Adapt existing regulatory systems to the specific requirements of e-commerce. c) Require full disclosure of all necessary information related to businesses, goods and services, and transactions. d) Ensure the reliability and security of online payments regardless of the payment method, and protect consumer privacy and data. (g) Avoid consumer data misuse (i) Ensure that online reviews and ratings are authentic; (j) Give customers access to efficient dispute resolution processes and redress; (k) Promote consumer empowerment and education; (l) Ensure that goods and post-purchase services are delivered; (m) Enhance customer support to fully address post-purchase inquiries; (n) Ensure regional and international cooperation to combat unfair business practises and to get around legal barriers that prevent consumer protection authorities from taking action in the event of cross-border violations of consumer protection law.

6. CONCLUSION:

Consumers' interests must be safeguarded in the electronic age, and the areas of primary significance for the efficient protection of online consumers are informed consumers and easy access to appropriate redressable laws for electronic transactions. Additionally, consumers must be self-sufficient to protect their own interests. For e-consumers, having the right information about the items is crucial since it may assist them understand the advantages and disadvantages of making a specific transaction. If the customer is already aware of this information, they won't be unnecessarily disappointed, which will prevent more problems. Thus the effective enforcement and recognition made by the draft of 2020 becomes of prime importance. The Consumer Protection (E-Commerce) Rules, 2020 are a significant step forward in protecting consumers in the e-commerce sector. The rules impose a number of new obligations on e-commerce platforms and sellers, including: Providing clear and accurate information about products and services, Honoring return and refund policies, Addressing consumer grievances promptly and effectively., Protecting consumer data., The rules also establish a new grievance redressal mechanism for consumers.

³⁷ Angela Bolger vs Amazon.com LLC, Case Number D075738, Court of Appeal, Fourth Appellate District, Division One, State of California

³⁸ See E-commerce and Law Reform | UNCTAD

This mechanism allows consumers to file complaints against e-commerce platforms and sellers, and to seek compensation for any losses they may have incurred. The draft of Consumer Protection in E-Commerce 2020 becomes even more important in light of the following: The growing popularity of e-commerce in India, The increasing number of complaints received by the Consumer Protection Council of India from e-commerce consumers, The need to protect consumers from new and emerging risks in the e-commerce sector, such as data breaches and fake products, The draft rules are also designed to promote fair competition in the e-commerce sector. By imposing a level playing field for all e-commerce businesses, the rules will help to ensure that consumers have access to a wide variety of products and services at competitive prices.

Overall, the Consumer Protection (E-Commerce) Rules, 2020 are a welcome step towards protecting consumers in the e-commerce sector. The rules are comprehensive and well-drafted, and they address many of the key concerns raised by consumers and consumer groups.

7. REFERENCES:

1. Press note No.3 (2020 Series), Department for Promotion of Industry and Internal Trade, Ministry of Commerce & Industry, Government of India
2. Vihtkari (2003) "Customer complaining behaviour in technology-based service encounters", *International Journal of Service Industry Management*, Vol. 14 Iss: 2, pp.217 - 231
3. Blasio,G.,D. (2008), "Urban–Rural Differences in Internet Usage, e-Commerce, and e-Banking: Evidence from Italy", *Growth and Change*, , pp. 341–367
4. UNCTAD. (2019). Measuring E-commerce and the digital economy, <https://unctad.org/topic/ecommerce-and-digital-economy/measuring-ecommerce-digital-economy>.
5. Roman, S., & Cuestas, P. J. (2008). The perception of consumers regarding online retailers' ethics and their relationship with the consumers' general internet expertise and word of mouth: A preliminary analysis. *Journal of Business Ethics*, 83(4), 641–656. <https://doi.org/10.1007/s10551-007-9645-4>.
6. Belwal, R., Al Shibli, R., & Belwal, S. (2020). Consumer protection and electronic commerce in the Sultanate of Oman. *Journal of Information, Communication and Ethics in Society*. <https://doi.org/10.1108/JICES-09-2019-0110>