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DEFINING THE ROLE OF CONSUMER AND THEIR PROTECTION WITH LEGAL STUDY TO THE E-COMMERCE – A STUDY

AUTHORED BY - BRIJENDRA NAGPAL¹

& Dr. VIR VIKRAM BAHADUR SINGH²

ABSTRACT

In India, the consumer movement is as old as trade and commerce. Now as a result of integration between the domestic and international market there is a change in the landscape of consumer behavior in term of products, services, taste and preferences and this has been further be strengthened by FDI in retail sector. Consumer has always remained as a game changer for economic activities and therefore treated as the king in changing business scenario. But in reality, he is the victim of unscrupulous and exploitative practices such as misleading advertisements, defective goods, deficient services, hidden costs of the products, food adulteration and many more. Therefore, the consumer needs awareness and this can only be ensured by effective implementation of the existing legislation and enactment of new legislation if required. Further evaluation of current issues and identification of future challenges is also necessary. So that there can be a planned and strategic approach. Examining the online commerce environment, it is clear that online shoppers also have a variety of behaviors, as E-commerce is an important asset. Due to fragmented online sales, since transactions are processed through the Internet, there is sparse inspection of products, quality verification cannot be verified. Various cases have been discovered where consumers have received different products, quality and quantity of products from what they actually ordered. It's not limited to this; consumers are annoyed by other types of UTP; (i.e. unfair trade practices). The growing landscape of online shopping is confusing, increasing the vulnerability of consumers. The lack of a robust system to protect and create a defense mechanism for online consumers in e-commerce transactions, especially in the online retail space, has created a number of problems for customers.

¹ LL.M. (corporate law), Faculty Of Juridical Science Rama University, Kanpur.

² Associate Professor, Faculty of Juridical Sciences, Rama University. Kanpur

KEY WORDS: E Commerce, Consumer Etc.

INTRODUCTION

E-commerce is beyond buying, purchasing or trading. It includes every activity that is related and ancillary to commercial activity whether it is online ads, online promotion, or online marketing in order to sell and a buyer can buy¹. Online buying is becoming more popular, which has increased clients as it has initiated new modes of channelization. E-commerce has emerged as a result of IT transformation and is now used in the marketplace to sell goods and services. Online shopping's support for convenience, timelessness, perceived risk, product characteristics, and attributes have a greater influence on purchasing intent. For marketers to understand the different factors that affect consumer intention, a thorough understanding of consumer behavior is a necessity. As consumers incorporate technology into their lives, their expectations may shift. Therefore, innovations in E-commerce and its business model may be to blame for changes in consumer's purchasing habits.³

In India, the consumer movement is as old as trade and commerce. Now as a result of integration between the domestic and international market there is a change in the landscape of consumer behavior in term of products, services, taste and preferences and this has been further be strengthened by FDI in retail sector. Consumer has always remained as a game changer for economic activities and therefore treated as the king in changing business scenario. But in reality, he is the victim of unscrupulous and exploitative practices such as misleading advertisements, defective goods, deficient services, hidden costs of the products, food adulteration and many more. Therefore, the consumer needs awareness and this can only be ensured by effective implementation of the existing legislation and enactment of new legislation if required. Further evaluation of current issues and identification of future challenges is also necessary. So that there can be a planned and strategic approach. In light of changing needs, the behavior of consumers and parallelly the advancement of social and economic arenas, there has always been an urge for harmonized law. Owing to the blossoming of technology, information technology and the dependency of businesses on technology, an interconnection is generated among businesses, consumers and Law. Advancement has gradually shifted consumers to online portals and the majority has shifted to online or hybrid

³ K. T. Basheer, "An Analytical Study of E-commerce in India" International Journal of Creative Research Thoughts (IJCRT) Pg. 4733 available at: <https://Ijcrt.Org/Papers/Ijcrt2007513.Pdf>. (last Visited on May 05, 2024)

modes. Even the customers look out for switching needs and are ready to accept the change. Customers, in today's world, keep their eyes to fetch maximum benefits from online sellers. The uprise of electronic commercial transactions is the outcome of the magnification of electronic sales that is certainly attributed to internet benefits which include the transformation of large, quick and inexpensive communication and easy accessibility. Studies reveal that there is uninterrupted growth in the arena of E-commerce and reciprocally consumers' growing interest in buying or shopping over the internet portals has tremendously changed the landscape of the global market.

1.1 DEFINITION OF CONSUMER

As the name suggests, a consumer is a person someone who consumes. In accordance with the definition, any person acquires goods or services for consideration. Any person who buys and utilizes any product or service that concludes the production chain is the consumer, it is how the definition of the consumer has wide ambit meaning. The buyer should receive the actual quantity and real quality for the price he pays. Consumers continue to be the center of all commercial and industrial activities in any civilization. He requires defense against the maker, maker, supplier, distributor, and retailer. The consumer is defined u/s 2(7) of the Act.

According to the interpretation clauses stated in the new enactment, Consumer can be interpreted as follows:

A Consumer is a person, who;

- (i) Buys goods or Avails or Engages in the hiring any service.
- (ii) For any price (in form of consideration).
- (iii) The Price is either already paid (past consideration) or promised (future consideration) partially paid and partially promised (partially paid).
- (iv) Any other person who uses products with the approval of the buyer or hire purchaser.
- (v) Any beneficiary of service with the permission of the person who has paid consideration for services.

The following person does not include in the definition of "Consumer"

- a) One who buys with the purpose of "Resale".
- b) Any person that acquires the Goods or Resorts to services completely for "Commercial Purpose."

- c) The person gets any kind of product or service “without consideration”, “free of cost”, or “as a gift”.

In the context of consumer protection in India, the term "consumer" is defined under the Consumer Protection Act, 2019. A consumer is broadly described as any person who buys goods or services for personal use or for use by any other person, and not for resale or commercial purposes. The legal definition of a consumer is essential to understand the scope of rights and protections available under the law. The Consumer Protection Act aims to safeguard the interests of consumers, ensure fair trade practices, and address grievances related to the purchase of goods and services.

1.2 LEGAL DEFINITION OF A CONSUMER

As per Section 2(7) of the Consumer Protection Act, 2019, the term "consumer" refers to⁴:

- a. A person who buys goods or services for a consideration, which has been paid or promised, or partly paid and partly promised, or under any system of deferred payment.
- b. Any person who uses goods or services with the approval of the buyer.
- c. A person who gets goods or services for personal use, and not for resale or commercial purposes.

The definition excludes certain categories such as those purchasing goods for resale or for the manufacture of goods. Also, a person who buys goods or services to satisfy any other business-related purpose does not qualify as a consumer under this law. This distinction is critical for understanding who can avail themselves of the protections and remedies offered by the law.

1.3 CONSUMER IN THE CONTEXT OF E-COMMERCE

The rise of e-commerce has posed unique challenges for the interpretation and application of the definition of "consumer". Online shopping has blurred the lines between the buyer and seller in a traditional sense. However, under the Consumer Protection (E-Commerce) Rules, 2020, the term "consumer" still applies to individuals purchasing goods or services from e-commerce platforms. E-commerce consumers have the same rights as consumers buying goods or services from physical stores. A significant concern in the digital marketplace is the anonymity of both sellers and consumers, making it difficult to resolve disputes efficiently. Consumers may face challenges such as misleading advertisements, deceptive practices, poor-quality goods, and non-fulfillment of warranties, all of which are commonly encountered in the

⁴ The Consumer Protection Act, 2019 (Act No. 68 of 2019).

ecommerce space. To address these issues, the new rules and guidelines are designed to protect consumers in the digital marketplace, ensuring that sellers are transparent, fair, and accountable.

1.4 IMPORTANCE OF THE CONSUMER DEFINITION FOR PROTECTION LAWS

The definition of a consumer plays a pivotal role in determining the scope and applicability of consumer protection laws. Under Indian law, a "consumer" has certain rights, such as the right to be informed about the quality, quantity, potency, and price of the goods or services being offered. They are also entitled to the right to seek redressal in case of any unfair trade practices or defective goods. Consumers can approach consumer courts or forums for disputes regarding defective products, poor services, or unfair business practices. In addition, consumer laws have evolved to address new challenges, particularly with the rise of e-commerce. The Consumer Protection (E-Commerce) Rules, 2020 specifically address the complexities in online transactions, such as false advertising, lack of product transparency, and delayed delivery of goods. They also empower consumers with tools such as the right to cancel orders and demand refunds within a specific period. The introduction of the National Consumer Helpline (NCH) and consumer complaint portals has further streamlined the process of seeking justice⁵.

1.5 RIGHTS AND PROTECTIONS AVAILABLE TO CONSUMERS

Consumers are provided with several rights under the Consumer Protection Act, 2019:

- (i) **Right to be informed:** Consumers have the right to be informed about the goods and services they purchase, including details about the quality, quantity, and price.
- (ii) **Right to safety:** Consumers have the right to be protected from hazardous goods and services that could harm their health or safety.
- (iii) **Right to choose:** Consumers have the right to choose from a variety of goods and services at competitive prices.
- (iv) **Right to seek redressal:** Consumers can file complaints against unfair trade practices, defective goods, or deficient services and seek appropriate remedies such as compensation or replacement.
- (v) **Right to consumer education:** Consumers should be made aware of their rights

⁵ Abhilash Sethi, Kumar, Rachana Dongre. "The Indian E-commerce Industry: Changing Dynamics.", Indian Institute of Management Bangalore (2012)

and responsibilities to ensure that they can make informed decisions.

1.6 THE ROLE OF TECHNOLOGY IN CONSUMER PROTECTION

In the digital age, technology plays a key role in enhancing consumer protection. E-commerce platforms have enabled consumers to shop from anywhere at any time, but it also requires enhanced protection mechanisms. For instance, online retailers must disclose clear information about product specifications, pricing, and shipping terms. The Consumer Protection Act has provisions that help consumers protect their digital transactions. It mandates e-commerce platforms to adopt transparent business practices, provide grievance redressal mechanisms, and ensure secure payment methods. Consumers can now file complaints electronically, which has made the process of seeking redressal more accessible. The definition of a "consumer" under Indian law is pivotal in determining the scope of legal protections available. With the advent of e-commerce, the definition has been expanded to encompass online transactions, ensuring that consumers in digital spaces also enjoy the same protections as those buying from physical stores. The evolving nature of commerce requires that consumer protection laws remain dynamic, adapting to new challenges posed by online platforms, new technologies, and shifting business models. Ultimately, the definition of consumer ensures that individuals, whether they engage in traditional or digital marketplaces, are protected from unfair trade practices, defective goods, and substandard services⁶.

THE BENEFICIARY OF GOODS AND SERVICES

As per the Apex court, the term "Consumer" is very wide. The honourable Supreme Court lay down that the consumer is much more than a buyer of goods, a hirer of services or one who avails the services. The scope of the definition is expanded in its ambit as the beneficiaries who are not direct buyers or hirers or those who have availed the services are also encapsulated under the parameter of Consumer.²⁶ According to this law, a beneficiary is a person who uses the product or is able to avail of the service with the approval of the real buyer or subscriber. It can be said that the beneficiary is an ostensible person as he has authority to use or avail." "The above-mentioned definition of "customer" from Sec. 2(7) is split into two Sections. Any user of the products other than the purchaser, with the purchaser's consent, is included in the definition of "anyone who buys any goods" in clause I of Sec. 2(7). That's why, even in the

⁶ E. Turban, J. Lee, D. King, H.M. Chung, "Electronic Commerce: A Managerial Perspective" available at: <https://www.researchgate.net/publication/239832011>, (Visited On May 13, 2024)

first Sec., "consumer" encompasses not just the buyer but also everyone who puts the items to use with the buyer's permission. Concerning the hiring or using of services, it is believed the definition of the "consumer" to be much broader. Consumer; used in this sub-Sec. refers not only to the individual who has paid themselves for the goods and services, but also the recipient of those products and services.²⁷ After obtaining the buyer's permission, the purchased items may be utilized by the recipient's immediate and extended families, friends, and acquaintances. The Act's goal is to ensure that people who utilize products or services but did not purchase them are afforded the same protections as those who do make purchases. For this reason, the law considers product end-users to be customers even if they do not make a direct purchase. In the definition, the phrase "with the approval of the buyer" indicates that whoever is using the goods must be a legitimate end-user and not someone who obtained the product dishonestly⁷.

1.7 PERSONS WHO ARE NOT CONSUMERS

(a) Without Consideration

The contract law suggests that for every contract, there needs to be a consideration to make every contract valid, it is nudum pactum if there is no consideration. Likewise in the consumer protection law also, consideration is a requirement for buying, hiring or availing. Without paying consideration, a person shall not be considered as a consumer and in case of any dispute, his complaint shall not be entertained in the consumer forum. A conducive reading of section 2 (7) and section 2 (42) provides so.

(b) Examinee-Not a "Consumer"

The Apex court of India, in its verdict, clearly stated "board" of any school cannot be a "service provider," and a student who appears for any examination conducted by the board cannot be categorized as a "consumer" under the context of definition in consumer law.³³ In accordance with the Court, the Board's statutory power role was to conduct school examinations. This multi-stage, legally-mandated process was not for profit. A student's participation in the general exam is not considered to be an availing of the service, as no consideration is being paid to get availed of the services. Institutions that offer coaching are under the purview of "service providers".

⁷ Timmers, Paul, J. Van Der Veer, "Electronic Commerce: A Challenge for Europe." European Commission—Information Society Directorate-General, 12 July 1999 (1999)

(c) Student of Coaching Center

As, in another matter of FIIT JEE Ltd. v. Vikram Seth SCDRC, Chandigarh, affirmed District Forum's Judgment and awarded the aggrieved student a partial refund of their tuition and other costs incurred but not used. The Forum ruled that if a student pays for an institution's services but does not use them, the institution must return the money. Contradictory business practices and subpar service result from not following the same procedures.

Deficiencies in services by coaching institutes are subject to be raised as complaints in redressal commissions in consumer forums.

1.8 REASONS FOR THE GROWTH OF E-CONSUMERS IN INDIA

The rise of e-commerce in India has been one of the most significant trends in the country's economic and technological development in recent years. The number of e-consumers has increased rapidly due to a variety of factors, driven by technological advancements, changes in consumer behaviour, and the increasing accessibility of online platforms. In this section, we will explore the key reasons contributing to the growth of e-consumers in India.⁸

(1) Increased Internet Penetration and Smartphone Usage

One of the major factors driving the growth of e-consumers in India is the widespread availability and affordability of internet access and smartphones. According to the Telecom Regulatory Authority of India (TRAI), India has over 700 million internet users, and the country is one of the largest smartphone markets in the world. The drop in data prices, coupled with the launch of affordable smartphones, has made online shopping accessible to a larger section of society, including people in rural and semi-urban areas. This increase in internet users has expanded the reach of e-commerce platforms beyond metropolitan cities, contributing to a surge in e-consumers.

(2) Convenience of Online Shopping

The ease of shopping online has been a significant attraction for consumers in India. Unlike traditional shopping, e-commerce allows consumers to shop from the comfort of their homes, 24/7, without the need to visit physical stores. Online platforms provide easy navigation, detailed product information, customer reviews, and multiple payment options, which enhance

⁸ Anita Rosen., The E-commerce Question and Answer Book: A Survival Guide for BusinessManagers. Amacom Books, 2002

the overall shopping experience. Consumers no longer need to wait in long queues, deal with crowded markets, or travel long distances to buy goods. This convenience has greatly contributed to the growing number of econsumers.

(3) Wide Product Range and Competitive Prices

E-commerce platforms in India offer an extensive range of products, often exceeding what is available in brick-and-mortar stores. This vast product variety, from electronics to fashion, has attracted a large number of consumers who previously had limited choices in their local markets. Additionally, online stores often offer better pricing through discounts, deals, and sales, making them an attractive option for budgetconscious consumers. The competitive pricing model of e-commerce platforms allows customers to compare prices easily and choose the best deals, further driving the growth of online shopping.

(4) Improved Payment Systems and Digital Literacy

Advancements in payment technology have played a crucial role in the growth of e-consumers. With the introduction of secure payment gateways, mobile wallets, and the rise of cashless transactions, online shopping has become more reliable and convenient. The introduction of digital payment systems like UPI (Unified Payments Interface) has simplified the purchasing process, allowing consumers to make instant payments using their smartphones. The Indian government's push towards a digital economy and efforts to promote digital literacy have helped more consumers gain confidence in online transactions, which has fueled the growth of e-consumers.

(5) Better Logistics and Delivery Systems

In the past, concerns over delivery times, product quality, and after-sales service deterred many consumers from shopping online. However, significant improvements in logistics and delivery networks have mitigated these concerns. E-commerce giants like Amazon, Flipkart, and others have established vast distribution networks and collaborated with logistics companies to ensure quick and reliable delivery across the country. Same-day or next-day delivery options in major cities have raised consumer confidence in the reliability of e-commerce platforms. Additionally, the implementation of reverse logistics (easy return and exchange policies) has also increased consumer trust, as customers are assured that they can return or exchange products if they are unsatisfied.

(6) Impact of COVID-19 Pandemic

The COVID-19 pandemic had a transformative impact on consumer behavior, accelerating the adoption of e-commerce. During lockdowns, traditional retail stores were closed, and consumers increasingly turned to online shopping for essential and non-essential items. This shift in consumer behavior led to the acquisition of new econsumers, many of whom continued to shop online post-pandemic. The pandemic also highlighted the need for contactless shopping, which further drove the demand for ecommerce platforms. The definition is though not clear, since there are various steps that are included in process of shopping by online mode, but the definition specifically talks about selling and buying.

1.9 JURISPRUDENCE, CONSUMERISM & CONSUMER PROTECTION IN E-COMMERCE

Consumer protection legislation is the corpus of law that regulates the marketplace and ensures that the competing interests of sellers and buyers are fairly represented and weighed against one another in a framework that promotes ethical business practices and looks out for shoppers. The increasing globalization of economies has led to a worldwide push to safeguard and advance consumers' legal protections. The history of modern scientific, moral, and other social sciences is reflected in legal theory. The purpose and intent behind studying jurisprudence are to analysis the interrelation between the law and other disciplines. For the purpose of realizing this goal of Jurisprudence, this study analyses the function of law in E-commerce conducted over the Internet from the perspective of consumer protection. Humanity's evolutionary footprints show that numerous technological revolutions have been assimilated by the turn of the millennium. Humanity has undergone two significant revolutions in the recent few centuries, the Industrial Revolution and the Electronic Revolution, as evidenced by the new millennium's trajectory of development. Our society shifted from an agrarian to an industrial base during the Industrial Revolution, and from a mechanical to an electronic one during the Electronic Revolution. Third-millennium society has witnessed the dawn of a new era, one that can be summed up in one word: the Network Revolution. It links many regions of the globe together, facilitating the unhindered transfer of data. E-commerce (E-commerce) is the gas that drives this Internet-driven revolution.⁹

⁹ B.S. Bhatia, Gurcharan Singh, "E-commerce-Striking the Issues", *The Indian Journal of Commerce*, 51. 55, (1& 2), January-June, 2002

1.9.1 Consumerism and E-commerce

To organize consumer pressure on businesses and defend consumer interests in the market, consumerism is a social force. Consumerism is a reaction of shoppers to what they see as unethical commercial tactics.

Piracy, counterfeiting, selling non-genuine products, dealing in hazardous commodities, promoting adulteration, designed obsolescence, fake pricing, overrating, price collusion, practicing deceptive packing, disparaging, fictitious advertisements, fallacious warranties, black marketing, delusive measures and weights, are certain practices that are unfair in nature that is required to be eradicated.

There are four core assumptions of marketing that consumer culture undermines:

- (i) One presumption is that consumers are aware of what they require.
- (ii) It is taken for granted that businesses are concerned with and aware of these requirements.
- (iii) companies are presumed to offer relevant information that successfully pairs goods with consumer requirements
- (iv) It is taken for granted that goods and services will actually deliver on the claims made by the company to its customers and on the market.
- (v) Consumerism deals with the following domains of dissatisfaction among the consumers and the efforts toward providing remedies thereby;
- (vi) Reducing or eliminating the displeasure and dissatisfaction that arises as a result of market exchanges between buyers and sellers. Customers' needs must be met through the marketing efforts of businesses, as this is the foundation of the marketing philosophy. As a whole, consumerism aims to change marketing practices and policies.
- (vii) Consumerism seeks to safeguard individuals from any business with whom they engage in an exchange. Thus, interactions between consumers and any type of organization, for profit or not, can lead to consumer dissonance (post-purchase uneasiness and doubt) and subsequent effort to rectify the situation.
- (viii) The environmental concerns of modern consumers are of great importance. The marketplace is where buyer and seller meet face to face. But as time has passed, the situation has shifted. Given the current state of the economy, Many misleading and unethical practices are widely utilized and adopted in the marketplace, with devastating effects for the consumer. The typical consumer is uneducated, unemployable, uneducated, and/or illiterate. But manufacturers, who are better at marketing and organization, are able to move more product. The customer who was instantly dubbed "market king" is now a victim. When it comes to consumer goods, consumers aren't given all the facts they need to make informed decisions.

As far as most customers are concerned, the supposed benefits of modern industrial, economic, and social improvements have turned out to be nothing but hot air¹⁰.

CONCLUSION AND SUGGESTION

E-commerce has become an indispensable part of modern commerce, revolutionizing the way goods and services are bought and sold. The introduction of the Consumer Protection Act, 2019 was a landmark step in addressing some of these challenges. This Act introduced provisions specific to ecommerce, such as liability for unfair trade practices, obligations to disclose seller information, and rules for grievance redressal. Despite these improvements, gaps persist, as the rapid evolution of ecommerce often outpaces the existing legal frameworks. E-commerce platforms often collect vast amounts of consumer data, including personal, financial, and behavioural information. The misuse of such data, unauthorized sharing with third parties, and data breaches are rampant.

The absence of a comprehensive data protection framework in India exacerbates this issue, leaving consumers vulnerable to privacy violations. E-commerce has emerged as a result of IT transformation and is now used in the marketplace to sell goods and services. Online shopping support for convenience, timelessness, perceived risk, product characteristics, and attributes have a greater influence on purchasing intent. For marketers to understand the different factors that affect consumer intention, a thorough understanding of consumer behaviour is a necessity. As consumers incorporate technology into their lives, their expectations may shift. A significant concern in the digital marketplace is the anonymity of both sellers and consumers, making it difficult to resolve disputes efficiently. Consumers may face challenges such as misleading advertisements, deceptive practices, poor-quality goods, and non-fulfilment of warranties, all of which are commonly encountered in the ecommerce space. To address these issues, the new rules and guidelines are designed to protect consumers in the digital marketplace, ensuring that sellers are transparent, fair, and accountable. The evolving nature of e-commerce requires that consumer protection laws remain dynamic, adapting to new challenges posed by online platforms, new technologies, and shifting business models. Ultimately, the definition of consumer ensures that individuals, whether they engage in traditional or digital marketplaces, are protected from unfair trade practices, defective goods,

¹⁰ U.G. Shanmugasundram, "E-commerce In The New Millennium", Vol. 54, No. 4The Indian Journal of Commerce, 193-194 October-December,2001.

and substandard services.

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