

# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary  
Peer Reviewed

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# **REGULATORY PARADOX: AN INTEGRATED ANALYSIS OF THE EFFICACY OF INDIA'S DIGITAL TAX POLICIES AND THEIR REPERCUSSIONS ON CONSUMER PROTECTION AND WELFARE.**

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## **Abstract**

*The rapid expansion of the digital economy has prompted India to implement parallel, yet distinct, regulatory frameworks for taxation and consumer protection, exemplified by measures such as the Equalisation Levy and the Consumer Protection (E-commerce) Rules. While these policies aim for the laudable goals of fiscal justice and consumer safety respectively, their combined, real-world impact remains critically under-examined. This paper investigates the 'regulatory paradox', the potential for digital taxation policies, designed to tax non-resident corporations, to inadvertently generate negative externalities that undermine consumer welfare and subvert the objectives of consumer protection laws.*

*Employing a doctrinal and policy analysis methodology, this research scrutinizes the legal architecture and practical implications of these dual frameworks. The study first assesses the individual efficacy of India's tax and consumer protection measures in achieving their stated goals. It then analyses the causal links between digital tax imposition and its downstream consequences, including direct economic impacts on consumers through price increases for digital services and indirect effects on consumer rights stemming from shifts in corporate data monetization and compliance strategies. Furthermore, the research identifies points of regulatory friction and incoherence that create disproportionate compliance burdens, particularly for Small and Medium Enterprises (SMEs). By illuminating the unintended consequences of a fragmented regulatory approach, this research aims to provide a robust analytical foundation for policymakers. The findings will contribute to the discourse on developing a more integrated and coherent national strategy that holistically balances sovereign revenue interests with the imperative of robust consumer protection in India's evolving digital ecosystem.*

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**Keywords:** *Digital Economy, Taxation, Consumer Protection, Equalisation Levy, Regulatory Paradox, Policy Coherence, Consumer Welfare, India.*

## **CHAPTER 1: INTRODUCTION**

### **1.1. Introduction:**

India's digital economy has undergone a transformation of unprecedented scale and velocity over the past decade. Propelled by a surge in internet users, which grew from 251 million in 2014 to 969 million in 2024<sup>3</sup>, and the widespread adoption of mobile technology, the sector has become a primary engine of national economic growth. In 2022-23, the digital economy accounted for 11.74% of India's Gross Domestic Product (GDP), a contribution valued at approximately \$402 billion.<sup>2</sup> Projections indicate that this share will expand to nearly one-fifth of the national GDP by 2030, with the digital economy growing at a rate almost double that of the overall economy.<sup>4</sup> This rapid expansion, which is expected to cross the \$1 trillion valuation mark by 2030<sup>5</sup>, has created both immense opportunities and significant governance challenges, compelling the Indian government to establish a robust regulatory framework.

The Government's response to this digital boom has been characterized by a dual-pronged strategy, pursued through two distinct and powerful policy streams. The first stream, driven by a mandate for fiscal justice, sought to ensure that non-resident digital corporations, which derive substantial revenue from the Indian market, contribute their fair share to the national exchequer. This was a direct response to the global challenge of Base Erosion and Profit Shifting (BEPS), where multinational enterprises exploit gaps in international tax rules to shift profits to low-tax jurisdictions.<sup>5</sup> The inadequacy of traditional taxation principles, which are predicated on physical presence or a "permanent establishment," rendered them ineffective in the context of the borderless digital economy.<sup>6</sup> To address this, India pioneered unilateral measures such as the Equalisation Levy (EL) and the concept of a Significant Economic Presence (SEP), asserting its sovereign right to tax economic activity occurring within its digital borders.<sup>7</sup>

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<sup>3</sup> *Future Ready: India's Digital Economy to Contribute One-Fifth of National Income by 2029-30*, <https://www.pib.gov.in/www.pib.gov.in/Pressreleaseshare.aspx?PRID=2097125> (last visited Oct. 5, 2025).

<sup>4</sup> *ibid*

<sup>5</sup> *Equalisation Levy: A Case of Juridical Double Taxation and Treaty Override*, <https://www.ibanet.org/article/DF407BCF-8336-4D8F-986E-BCC1BB1064EF> (last visited Oct. 5, 2025).

<sup>6</sup> *Significant Economic Presence for Taxing Business Income Is Operationalised by CBDT*, <https://www.wolterskluwer.com/en-in/expert-insights/significant-economic-presence> (last visited Oct. 5, 2025).

<sup>7</sup> PARLIAMENT OF INDIA, The Consumer Protection (E-Commerce) Rules, 2020.

The Second policy stream was animated by the imperative of Consumer Protection. The proliferation of e-commerce platforms brought with it new vulnerabilities for citizens, including exposure to unfair trade practices, counterfeit products, misleading advertisements, and inadequate mechanisms for grievance redressal. To safeguard consumer rights in this new marketplace, the government enacted the comprehensive Consumer Protection Act, 2019, which was supplemented by the sector-specific Consumer Protection (E-commerce) Rules, 2020.<sup>8</sup> These rules were designed to instil transparency, fairness, and accountability in online transactions, thereby building consumer trust and fostering a safe digital ecosystem.

While these two policy streams pursued laudable and seemingly distinct goals revenue generation and consumer safety, respectively their parallel and uncoordinated development and implementation created a critical "regulatory paradox." The financial pressures imposed by the digital taxation framework generated corporate behaviours and market dynamics that directly conflicted with and undermined the core objectives of the consumer protection agenda. This research paper argues that the pursuit of fiscal justice, as executed through India's unilateral tax measures, inadvertently penalized the very consumers the government was simultaneously seeking to protect. The conflict between these regulatory regimes is not merely an unforeseen outcome but a structural consequence of siloed governance. The tax agenda, driven by the Ministry of Finance, was formulated based on fiscal imperatives and international tax norms, with a clear objective of creating a "level playing field" and taxing the income of foreign e-commerce companies. Concurrently, the Ministry of Consumer Affairs developed the E-commerce Rules with a singular focus on transactional fairness and consumer rights.<sup>9</sup> The absence of an integrated digital governance framework or a cross-ministerial mechanism to assess the combined impact of these powerful instruments allowed them to operate independently. This fragmentation led to the creation of policies with conflicting incentive structures, where the financial pressures of one policy (taxation) directly incentivized corporate behaviours (price increases, intensified data monetization) that subverted the behavioural norms and protections mandated by the other (consumer protection), ultimately leading to a net negative impact on consumer welfare.

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<sup>8</sup> *A Summary of Consumer Protection (E-Commerce) Rules, 2020*, (Oct. 22, 2024), <https://www.indialaw.in/blog/civil/consumer-protection-e-commerce-rules/>.

<sup>9</sup> *ibid*

## **1.2. Aim of the Study**

The Principal aim of this research is to conduct an integrated analysis of India's digital tax and consumer protection regimes. It seeks to move beyond a siloed evaluation of these policies to uncover the **unintended negative externalities** that digital taxation may impose on consumer rights and welfare, thereby challenging the coherence of the nation's overall digital governance strategy.

## **1.3. Objectives of the Study**

1. To independently assess the **efficacy** of India's key digital tax measures (like the Equalisation Levy) in achieving their revenue goals and the effectiveness of the Consumer Protection (E-commerce) Rules in safeguarding consumers.
2. To investigate the **causal link** between the imposition of digital taxes on corporations and the subsequent changes in the pricing of digital goods and services for end-consumers.

## **1.4. Scope of the Study**

- The Study is exclusively centered on the **Indian jurisdiction**. While international principles and comparative approaches may be referenced for context, the core analysis is confined to India's legal and economic environment.
- The Research will primarily scrutinize specific Indian legal instruments. For taxation, this includes the **Equalisation Levy** and the provisions for **Significant Economic Presence (SEP)**. For consumer protection, the focus is on the **Consumer Protection (E-commerce) Rules**.

## **1.5. Research Problem**

The Indian government has proactively sought to regulate its burgeoning digital economy through a dual-pronged strategy: ensuring fiscal justice via unilateral taxation measures like the Equalisation Levy and Significant Economic Presence (SEP), while simultaneously safeguarding citizens through the Consumer Protection (E-commerce) Rules. While these two policy streams aim for laudable, distinct goals revenue generation and consumer safety, respectively they have been developed and implemented in parallel, with insufficient analysis of their integrated, real-world impact.

This research addresses a critical policy paradox: the potential for the government's digital

taxation framework to create unintended negative consequences that directly undermine its consumer protection agenda. There is a significant gap in understanding whether the financial pressures imposed by digital taxes are being passed on to consumers (through higher prices) or offset by corporate practices (like intensified data monetization) that introduce new consumer vulnerabilities. This study aims to investigate the coherence, efficacy, and combined impact of India's digital tax and consumer protection regimes to determine if they function as a synergistic whole or as contradictory forces, ultimately shaping the fairness and safety of India's digital ecosystem.

### **1.6. Research Questions**

1. To what extent have India's unilateral digital tax measures (Equalisation Levy, SEP) been effective in achieving their primary revenue objectives, and how effectively do the Consumer Protection (E-commerce) Rules address new-age consumer vulnerabilities?
2. What is the demonstrable causal relationship between the imposition of digital taxes and the pricing of digital services and goods for end consumers in India?
3. How do corporate compliance strategies for digital taxes influence business models, terms of service, and data collection practices, and what new risks do these changes pose to consumer rights and data privacy?
4. Where do India's taxation and consumer protection frameworks create conflicting incentives or overlapping compliance burdens for businesses (especially SMEs), and how does this friction impact market competition and innovation?

### **1.7. HYPOTHESIS**

The central hypothesis of this study is that India's unilateral digital taxation framework, particularly the Equalisation Levy, creates a regulatory paradox where the pursuit of fiscal revenue generates significant, unintended negative externalities that directly undermine the stated objectives of its consumer protection laws.

### **1.8. REVIEW OF LITERATURE**

**Evaluating The Effectiveness of the Indian Tax Regime in Regulating the E-Commerce Sector by Miss Vanita Laxmandas Lalwani, Aejaz Shaikh (2024).**

The paper evaluates the effectiveness of India's digital tax policies in regulating the e-commerce sector, finding that while progress has been made, issues remain around compliance,

clarity, and international coordination. Transparency has improved through GST registration and TCS facilitation, but cross-border transactions are hindered by lack of clarity and complexity. The Equalisation Levy faces criticisms for unilateralism and potential conflict with international tax norms. E-commerce is increasingly contributing to GST collections, but small sellers struggle with low digital literacy and regulatory awareness.<sup>10</sup>

### **GST And Digital Economy: Taxation Challenges of E-Commerce and Online Services by Dhananjay Kumar Singh, Binod Pratap Singh (2024)**

The paper analyses the challenges of taxing the digital economy under India's GST, including compliance costs, cross-border service taxation, and policy gaps that could exclude micro-entrepreneurs and hurt competition. The GST's relationship with digital sectors remains unresolved, posing regulatory challenges. Compliance costs, cross-border service taxation, and policy gaps are significant issues in e-commerce and online services taxation under GST. Without reforms, GST may exclude micro-entrepreneurs and hurt competition in the Indian digital economy.<sup>11</sup>

### **Understanding The Effectiveness of India's Tax Policy Framework by Kiran Kumar M, Sandhya N, P. Rakshitha, Dakshatha G (2025).**

This paper examines the effectiveness of India's tax policy framework, including the impact of GST, on revenue generation, compliance, economic efficiency, and equity, but does not specifically address the regulatory paradox or consumer protection and welfare. The study found that GST has been effective in increasing government revenue and formalizing the informal sectors. GST has played a transformative role in streamlining India's indirect tax system and fostering a unified national market. Despite its successes, GST has caused short-term disruptions for businesses.<sup>12</sup>

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<sup>10</sup> Miss Vanita Laxmandas Lalwani & Aejaaz Shaikh, *EVALUATING THE EFFECTIVENESS OF THE INDIAN TAX REGIME IN REGULATING THE E-COMMERCE SECTOR*, 5 ShodhKosh J. Vis. Per. Arts (2024), <https://www.granthaalayahpublication.org/Arts-Journal/ShodhKosh/article/view/6191>.

<sup>11</sup> Dhananjay Kumar Singh & Binod Pratap Singh, *GST AND DIGITAL ECONOMY: TAXATION CHALLENGES OF E-COMMERCE AND ONLINE SERVICES*, 5 ShodhKosh J. Vis. Per. Arts (2024), <https://www.granthaalayahpublication.org/Arts-Journal/ShodhKosh/article/view/6318>.

<sup>12</sup> Assistant Professor-Finance, Faculty of Management Studies, CMS Business School, Jain (Deemed to-be University), Bengaluru, India et al., *Understanding The Effectiveness of India's Tax Policy Framework*, 08 IJMRSET (2025), [https://ijmrset.com/upload/153\\_Understanding%20The.pdf](https://ijmrset.com/upload/153_Understanding%20The.pdf).

**Digital Economy and Taxation: A New Era of Fiscal Governance by D. R, Sneha Mondal, Kiran Kumar (2025).**

Higher income and education correlate with greater tax literacy, but knowledge gaps remain among lower-income groups in India's digital taxation. Higher income and education levels correlate with greater tax literacy in India. Knowledge gaps in digital taxation remain among lower-income groups despite reforms. There is a need for inclusive tax education and alignment with global digital tax frameworks.<sup>13</sup>

**Should digital taxation be in sync with the OECD-G20 Two-Pillar Framework? An Analysis of the Equalization Levy in India and Its Aftermath. By Arun Paul, N. Ramalingam (2023).**

The paper analyses India's equalization levy and its impact on digital taxation, trade, and the OECD-G20 Two-Pillar framework, but does not directly address consumer protection and welfare. The study assesses the OECD-G20 initiatives on digital economy taxation and their implications. It evaluates the limitations of India's Income Tax Act 1961 and the adoption of the equalization levy. The economic impact of the equalization levy is assessed using the digital trade restrictiveness index.<sup>14</sup>

**Digital Economy and Indian Taxation Law - An Analysis by Adrija Ghose, Muskaan Dalal (2025)**

The paper analyses India's efforts to tax digital economy companies and the challenges and solutions involved. The paper analyses the challenges faced by tax authorities in overseeing digital economy companies due to their lack of physical presence. It examines the global and Indian contexts of taxing these companies, including benefits, challenges, and solutions. The study concludes with recommendations for India's future approach to taxing digital economy companies in line with international trends.<sup>15</sup>

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<sup>13</sup> Deepti R, Sneha Mondal & Kiran Kumar, *Digital Economy and Taxation: A New Era of Fiscal Governance*, 7 IJFMR 41520 (2025), <https://www.ijfmr.com/research-paper.php?id=41520>.

<sup>14</sup> Arun Paul & N Ramalingam, *Should Digital Taxation Be in Sync with the OECD-G20 Two-Pillar Framework? An Analysis of the Equalization Levy in India and Its Aftermath.*, 18 gmj 7 (2023), <https://journals.acspublisher.com/index.php/gmj/article/view/10009>.

<sup>15</sup> Deepti R, Sneha Mondal & Kiran Kumar, *Digital Economy and Taxation: A New Era of Fiscal Governance*, 7 IJFMR 41520 (2025), <https://www.ijfmr.com/research-paper.php?id=41520>.

## **E-Commerce and Consumer Protection in India: The Emerging Trend by Neelam Chawla, B. Kumar (2022)**

The paper analyses the current Indian legal framework that protects online consumers. The study identified security, privacy, warranty, customer service, and website information as significant factors influencing consumer trust in e-commerce. Younger generations are more prone to online shopping, aligning with previous research findings. The new Consumer Protection Act and E-commerce Rules aim to enhance consumer protection and trust, with a strengthened grievance redress mechanism.<sup>16</sup>

## **Chapter 2**

### **The Fiscal Imperative – Anatomy of India's Unilateral Digital Tax Measures**

To comprehend the origins of the regulatory paradox, it is essential to first conduct a disaggregated analysis of the two policy pillars, beginning with the digital taxation framework. India's approach was characterized by a proactive, unilateral stance, designed to capture tax revenue from the digital economy well in advance of a global consensus. This strategy was primarily executed through two key instruments: the Equalisation Levy (EL) and the Significant Economic Presence (SEP) nexus rule.

#### **2.1 The Equalisation Levy: A Post-Mortem (2016-2025)**

The Equalisation Levy was India's flagship unilateral measure, introduced to directly tax the revenue of non-resident companies that lacked a physical Permanent Establishment (PE) in India but had significant economic engagement with the Indian market.<sup>17</sup> The stated rationale was to ensure "tax neutrality" and create a "level playing field" between foreign digital companies and their domestic counterparts, who were already subject to Indian corporate income tax.<sup>18</sup> The levy was implemented in two distinct phases, each with different mechanics and scope.

The first iteration, introduced in 2016 and often dubbed the "Google Tax," was a 6% levy on gross payments for online advertising and related services.<sup>19</sup> The compliance obligation for this

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<sup>16</sup> Neelam Chawla & Basanta Kumar, *E-Commerce and Consumer Protection in India: The Emerging Trend*, 180 *J Bus Ethics* 581 (2022), <https://link.springer.com/10.1007/s10551-021-04884-3>.

<sup>17</sup> *Equalisation Levy: A Case of Juridical Double Taxation and Treaty Override*, <https://www.ibanet.org/article/DF407BCF-8336-4D8F-986E-BCC1BB1064EF> (last visited Oct. 5, 2025).

<sup>18</sup> *Significant Economic Presence for Taxing Business Income Is Operationalised by CBDT*, <https://www.wolterskluwer.com/en-in/expert-insights/significant-economic-presence> (last visited Oct. 5, 2025).

<sup>19</sup> *Equalisation Levy: A Case of Juridical Double Taxation and Treaty Override*,

levy rested with the Indian resident or business making the payment, who was required to withhold the tax before remitting the funds to the non-resident service provider.<sup>17</sup> This B2B-focused measure was a direct attempt to tax the burgeoning digital advertising revenues of global tech giants.

In 2020, the government significantly expanded the EL's ambit through the Finance Act, 2020. This second phase introduced a 2% levy on the consideration received by a non-resident e-commerce operator for "e-commerce supply or services".<sup>20</sup> This new levy had a much broader scope, covering online sales of goods and services, as well as the facilitation of such transactions.<sup>21</sup> Crucially, the compliance burden was shifted from the Indian payer to the non-resident e-commerce operator, who was now directly responsible for remitting the tax to the Indian government.<sup>22</sup>

Despite its clear revenue objectives, the EL regime was beset by implementation challenges and conceptual ambiguities from its inception. The definition of "e-commerce supply or service" was widely worded, creating uncertainty over whether it applied only to digitalized products or also to traditional goods and services ordered online.<sup>23</sup> Furthermore, the levy's application to transactions involving an Indian Internet Protocol (IP) address posed significant technological challenges for tracking and compliance, especially with the widespread use of VPNs.<sup>24</sup> As the EL was enacted as a separate law outside the Income Tax Act, it fell outside the scope of India's Double Taxation Avoidance Agreements (DTAAs). This meant that foreign companies could not claim a tax credit for the EL in their home jurisdictions, creating a risk of double taxation and making it a sunk cost for businesses.<sup>25</sup>

While the levy did generate increasing revenue for the Indian exchequer, with collections reportedly rising from ₹1,136 crores in 2019-20 to ₹4,000 crores in 2022-23<sup>26</sup>, its primary

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<https://www.ibanet.org/article/DF407BCF-8336-4D8F-986E-BCC1BB1064EF> (last visited Oct. 5, 2025).

<sup>20</sup> *ibid*

<sup>21</sup> *Equalisation Levy: The Challenges Ahead for India's DST*, ITR (Jul. 22, 2020), <https://www.internationaltaxreview.com/article/2a6a66eh04saxacspperk/equalisation-levy-the-challenges-ahead-for-indias-dst>.

<sup>22</sup> *ibid*

<sup>23</sup> *Equalisation Levy: Prevailing Issues*, Grant Thornton Bharat, <https://www.granthornton.in/en/insights/blogs/equalisation-levy-prevailing-issues/> (last visited Oct. 5, 2025).

<sup>24</sup> *ibid*

<sup>25</sup> *Significant Economic Presence for Taxing Business Income Is Operationalised by CBDT*, <https://www.wolterskluwer.com/en-in/expert-insights/significant-economic-presence> (last visited Oct. 5, 2025).

<sup>26</sup> *Life Journey of India's Equalisation Levy – Did It Serve Its Purpose?*, [https://database.taxsutra.com/articles/64779f23cab7be7fbae0ede47909d3/expert\\_article](https://database.taxsutra.com/articles/64779f23cab7be7fbae0ede47909d3/expert_article) (last visited Oct. 5,

function appears to have been more strategic than purely fiscal. The unilateral imposition of the EL served as a powerful instrument of economic statecraft, designed to exert pressure on the Organisation for Economic Co-operation and Development (OECD) and developed nations to accelerate a global consensus on digital taxation that would be more favourable to market jurisdictions like India. This is evidenced by the intense international reaction, particularly from the United States, which initiated a Section 301 investigation, deemed the tax discriminatory, and threatened retaliatory tariffs.<sup>18</sup> India's steadfastness in maintaining the levy, despite this pressure, positioned it as a key player in the global negotiations. The eventual agreement to link the EL's continuation to the implementation of the OECD's Pillar One solution, and its subsequent phased abolition, confirms its role as a temporary bargaining chip.<sup>30</sup> The 2% levy was abolished effective August 1, 2024, and the 6% levy was abolished effective April 1, 2025, marking a strategic concession in favor of the emerging multilateral framework.<sup>31</sup>

## **2.2 The Significant Economic Presence (SEP) Nexus**

In parallel with the EL, India amended its domestic tax law in 2018 to introduce the concept of a Significant Economic Presence (SEP). This measure expanded the traditional definition of a "business connection" to create a taxable nexus in India even in the absence of a physical presence.<sup>27</sup> The SEP framework is triggered if a non-resident enterprise meets either of two low thresholds:

- 1. Revenue Threshold:** Aggregate payments from transactions in India exceeding ₹20 million (approximately \$240,000) in a financial year.
- 2. User Threshold:** Systematic and continuous engagement with 300,000 or more users in India.<sup>28</sup>

The scope of the SEP is exceptionally broad, applying to transactions in goods, services, or property, whether conducted online or offline.<sup>29</sup> This means that even a traditional business engaged in the physical import of goods could theoretically establish a SEP if the revenue threshold is breached. This expansive definition created a potential overlap with the EL, although provisions were included to clarify that a transaction subject to the EL would not be

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2025).

<sup>27</sup> *Equalisation Levy: Applicability, Due Date, Payment And Returns*, cleartax, <https://cleartax.in/s/equalisation-levy> (last visited Oct. 5, 2025).

<sup>28</sup> *ibid*

<sup>29</sup> *ibid*

further taxed under SEP provisions.<sup>30</sup>

The practical impact of the SEP is, however, moderated by India's network of tax treaties. For non-resident companies from countries with a DTAA with India, the treaty provisions, which typically require a physical PE to establish a taxing right, will override the domestic SEP law. Consequently, the SEP primarily affects businesses from non-treaty jurisdictions. Nevertheless, its existence imposes additional compliance and documentation burdens on all non-resident companies, which may be required to prove their eligibility for treaty benefits to avoid being taxed under the SEP rules.<sup>31</sup> It remains a latent but powerful tool in India's tax arsenal, reflecting a continued commitment to a nexus rule based on economic engagement rather than physical presence.

**Table 1: Comparative Overview of India's Unilateral Digital Tax Instruments**

Instrument	Rate	Tax Base	Revenue/User Threshold	Payer/Compliance Obligation	Status
<b>Equalisation Levy (EL) - Advertising</b>	6%	Gross consideration for online advertisement and related services.	Annual payment to one provider exceeds ₹1 lakh (approx. \$1,200).	Indian resident payer (withholding tax).	Abolished effective April 1, 2025.
<b>Equalisation Levy (EL) - E-commerce</b>	2%	Gross consideration for e-commerce supply or services.	Annual turnover from India exceeds ₹2 crore (approx. \$240,000).	Non-resident e-commerce operator (direct tax).	Abolished effective August 1, 2024.

<sup>30</sup> *Significant Economic Presence in Indian Tax Law: How Significant Will It Be?*, ITR (Jun. 29, 2021), <https://www.internationaltaxreview.com/article/2a68rfy5bw2ycq1ybgfru/significant-economic-presence-in-indian-tax-law-how-significant-will-it-be>.

<sup>31</sup> *Understanding Significant Economic Presence in Indian Taxation - India Guide | Doing Business in India*, <https://www.india-briefing.com/doing-business-guide/india/taxation-and-accounting/understanding-significant-economic-presence-in-indian-taxation> (last visited Oct. 5, 2025).

<b>Significant Economic Presence (SEP)</b>	Standard corporate tax rates (e.g., 40% for foreign companies on attributable profits).	Income attributable to the "business connection" in India.	Annual revenue from India > ₹2 crore OR > 300,000 users in India.	Non-resident entity (income tax).	Active, but overridden by DTAA provisions for treaty-eligible entities.
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### Chapter 3

#### The Consumer Mandate – The Efficacy of the E-commerce Protection Framework

The second pillar of India's digital governance strategy is its consumer protection regime, specifically the Consumer Protection (E-commerce) Rules, 2020. Notified under the broader Consumer Protection Act, 2019, these rules were formulated to address the unique vulnerabilities faced by consumers in the rapidly expanding digital marketplace and to establish a framework that promotes transparency, fairness, and accountability.<sup>32</sup>

#### 3.1 Core Tenets of the Consumer Protection (E-commerce) Rules, 2020

The primary objective of the E-commerce Rules is to safeguard consumers from unfair trade practices and to ensure their rights and interests are protected during online transactions.<sup>13</sup> The rules apply broadly to all models of e-commerce, including both inventory-based entities that own the goods they sell and marketplace entities that provide a platform for third-party sellers. They also extend to foreign-based e-commerce entities that systematically offer goods or services to consumers in India.<sup>33</sup> The key mandates of the rules can be categorized as follows: The rules place a strong emphasis on transparency. E-commerce entities are required to prominently display essential information, including their legal name, address, and customer support contact details.<sup>15</sup> For products listed on their platforms, they must provide comprehensive details about the seller, the country of origin of the goods, and clear terms and conditions regarding returns, refunds, exchanges, and warranties.<sup>34</sup> This is intended to

<sup>32</sup> Dr. Gargi Rajvanshi, , *Consumer Protection (E-Commerce) Rules, 2020: An Overview*, STUDENT COMPANY SECRETARY |.

<sup>33</sup> *ibid*

<sup>34</sup> *ibid*

empower consumers to make informed purchasing decisions. A cornerstone of the rules is the establishment of a robust and time-bound grievance redressal system. Every e-commerce entity must appoint a grievance officer and display their contact details. The rules mandate a strict timeline for handling complaints: an acknowledgment must be sent within 48 hours of receipt, and the complaint must be redressed within one month. This provision aims to provide consumers with an accessible and efficient first-level mechanism for dispute resolution.<sup>35</sup> The rules explicitly prohibit a range of practices deemed unfair to consumers. These include manipulating the price of goods or services to gain unreasonable profit, imposing unilateral cancellation charges on consumers without bearing similar charges themselves, and using pre-ticked checkboxes to obtain consent for purchases, which must instead be an explicit and affirmative action. Furthermore, sellers are forbidden from falsely representing themselves as consumers to post fake reviews, a measure aimed at preserving the integrity of user feedback systems.<sup>36</sup> For marketplace e-commerce entities, the rules introduced the concept of "fallback liability" in draft amendments.<sup>37</sup> This holds the platform accountable in cases where a seller on its platform fails to deliver goods or services as promised, ensuring that the consumer has a recourse even if the direct seller defaults.

### **3.2 Assessing Effectiveness and Implementation Gaps**

The E-commerce Rules represent a significant and necessary step in regulating India's digital marketplace. They have been widely acknowledged for establishing a clear framework of responsibilities for online platforms and for empowering consumers with formal, time-bound redressal mechanisms. The mandatory disclosure requirements and prohibitions on deceptive practices have contributed to a more transparent and trustworthy online shopping environment. However, the effectiveness of the rules is constrained by several implementation challenges and inherent design limitations. Academic analysis and reports have highlighted issues of uneven enforcement across the vast number of e-commerce platforms operating in India, coupled with limited consumer awareness of their specific rights under this new legal framework. Furthermore, proposed amendments to the rules, such as the ban on certain types of flash sales and the regulation of associated enterprises, have raised concerns within the

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<sup>35</sup> *ibid*

<sup>36</sup> *A Summary of Consumer Protection (E-Commerce) Rules, 2020*, (Oct. 22, 2024), <https://www.indialaw.in/blog/civil/consumer-protection-e-commerce-rules/>.

<sup>37</sup> *Draft Amendments to the Consumer Protection (E-Commerce) Rules, 2020*, PRS Legislative Research, <https://prsindia.org/billtrack/draft-amendments-to-the-consumer-protection-e-commerce-rules-2020> (last visited Oct. 5, 2025).

industry about potential overregulation. Critics argue that such stringent measures could increase compliance costs and stifle innovation, particularly for startups and smaller platforms that lack the resources of established giants.<sup>38</sup>

More fundamentally, the E-commerce Rules are designed to be a reactive framework, primarily addressing transactional disputes after they have occurred. The core mechanism is grievance-based: a consumer experiences a problem with a specific transaction such as receiving a defective product or being denied a refund and then files a complaint with the grievance officer for resolution. This model is effective for addressing individual, post-facto disputes. However, this design makes the framework ill-equipped to identify or remedy systemic, business-model-level harms. The rules provide no clear mechanism for a consumer to challenge a company's overarching business strategy, such as a shift towards more aggressive data collection or a subtle degradation of service quality across the board. The harm in such cases is diffuse, not tied to a single failed transaction, and therefore falls outside the scope of the individual grievance redressal system. This structural mismatch becomes critically important when considering the systemic pressures created by the digital tax regime, which incentivize precisely these kinds of business model adjustments that the consumer protection framework cannot adequately address.

## **Chapter 4**

### **The Price Pass-Through Effect – The Direct Economic Burden on Consumers**

While the Equalisation Levy was legally imposed on non-resident e-commerce and digital advertising companies, the economic incidence the ultimate burden of the tax did not rest with these entities. Due to their significant market power and the essential nature of their services for Indian businesses, these global tech giants were able to systematically shift the cost forward, first to their Indian business customers and ultimately to the end-consumer.

#### **4.1 The Economic Incidence of the Equalisation Levy**

The design of the EL as a tax on gross revenue, outside the ambit of tax treaties, meant it was a direct and non-creditable cost for foreign companies. Rather than absorbing this cost and reducing their profit margins, these companies leveraged their contractual power to pass the burden onto their Indian clients. Evidence suggests that a common corporate strategy was the

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<sup>38</sup> Kiran R. Mehta, *The Effectiveness of 2020 E-Commerce Rules in Protecting Consumer Rights*, 3 Law and Economy 14 (2024), <https://www.paradigmpress.org/le/article/view/1368>.

use of "tax-protected contracts," which effectively required the Indian company purchasing the digital service to bear the cost of the levy.<sup>39</sup> For the 6% levy on advertising, major tech platforms explicitly passed the tax on to their advertisers in India, a group largely composed of startups and Small and Medium-sized Enterprises (SMEs) that rely on these platforms to reach customers.<sup>40</sup> An analysis from the *International Tax Review* noted that in most cases, it was Indian companies paying the levy, a reality that defeated the stated intention of taxing foreign service providers.<sup>41</sup>

#### **4.2 The Final Burden on the End-Consumer**

This initial pass-through of the tax burden to Indian businesses was only the first step in the chain. Faced with a sudden 2% or 6% increase in the cost of essential digital services such as advertising, cloud computing, or platform access Indian SMEs and startups were confronted with a difficult choice: either absorb the increased cost, thereby eroding their already thin profit margins and limiting their ability to invest and innovate, or pass this cost on to their customers. In a highly price-sensitive market like India, competitive pressures often necessitate the latter. The increased operational cost was inevitably factored into the final price of goods and services sold to the end-consumer.<sup>42</sup>

This mechanism effectively transformed a tax intended for foreign corporations into a de facto regressive consumption tax borne by Indian citizens. The USTR estimated that the aggregate annual tax bill for U.S. companies from the EL could exceed \$30 million<sup>43</sup>, a substantial cost that was largely transferred into the Indian domestic economy and ultimately paid by consumers at the checkout. This outcome stands in direct contradiction to the consumer welfare objectives of the government, particularly the E-commerce Rules' prohibition against unfair price manipulation. The government's fiscal policy (the tax) created the very conditions for the price increases that its consumer policy was designed to prevent. This pass-through effect disproportionately harmed consumers of digital services and those purchasing from SMEs, who

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<sup>39</sup> *Domestic Businesses Take the Hit from India's Equalisation Tax*, ITR (Jan. 29, 2020), <https://www.internationaltaxreview.com/article/2a68rfy5bw2ycq1wn3hee/domestic-businesses-take-the-hit-from-indias-equalisation-tax>.

<sup>40</sup> *HKTDC Research*, <https://research.hktdc.com/en/article/MjAwMjE2OTA3Mw> (last visited Oct. 5, 2025).

<sup>41</sup> *Domestic Businesses Take the Hit from India's Equalisation Tax*, ITR (Jan. 29, 2020), <https://www.internationaltaxreview.com/article/2a68rfy5bw2ycq1wn3hee/domestic-businesses-take-the-hit-from-indias-equalisation-tax>.

<sup>42</sup> CXO TV, *India's Digital Tariff Era: Monetizing Bytes, Not Just Goods*, (Aug. 4, 2025), <https://cxotv.techplusmedia.com/undefined/india-s-digital-tariff-era-monetizing-bytes-not-just-goods>.

<sup>43</sup> Report on India's Digital Services Tax .

are often the least able to absorb price hikes, thereby undermining the principles of both fair competition and consumer protection.

### Systemic Friction and Market Distortions

The uncoordinated application of India's digital tax and consumer protection frameworks created not only direct harms to consumers but also significant systemic friction within the market. This friction manifested as a cumulative and disproportionate compliance burden on Small and Medium-sized Enterprises (SMEs), which in turn distorted market competition, stifled innovation, and ultimately limited consumer choice.

**Table 2: The Regulatory Paradox – Points of Conflict Between Tax and Consumer Protection Regimes**

Policy Domain	Stated Objective	Key Mechanism	Unintended Negative Consequence
<b>Digital Taxation (EL/SEP)</b>	Tax foreign tech giants and level the playing field for domestic firms.	Unilateral levy on non-resident revenue and expanded nexus rules.	Economic burden was shifted to Indian SMEs and consumers via price pass-through; created incentives for aggressive data monetization, eroding privacy.
<b>Consumer Protection (E-commerce Rules)</b>	Ensure fair pricing, transparency, and protect consumer rights.	Mandates on information disclosure, grievance redressal, and prohibition of unfair practices.	Undermined by tax-driven price hikes that fall outside its scope; unable to address systemic harms from new corporate data strategies.
<b>Market Regulation (Competition)</b>	Foster a competitive and innovative	General competition law and sector-	Undermined by a cumulative compliance burden (EL, GST, E-

	digital marketplace.	specific rules.	commerce Rules) that disproportionately harms SMEs, favoring market incumbents and stifling innovation.
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## Chapter 5

### Conclusion

To avoid repeating the errors of the past and to build a truly coherent digital governance strategy, Indian policymakers must evolve from a siloed approach to an integrated one. The following recommendations are designed to create a legal framework that holistically balances sovereign revenue interests with robust, non-negotiable consumer protection.

#### 5.1 Adopt an Integrated Governance Model

The Root cause of the regulatory paradox was the fragmented, ministry-specific approach to policymaking. To rectify this, it is recommended that a high-level, cross-ministerial **Digital Governance Council** be established. This body should include senior representatives from the Ministry of Finance, the Ministry of Commerce and Industry, the Ministry of Consumer Affairs, and the Ministry of Electronics and Information Technology.

#### 5.2 Mandate Consumer Welfare Impact Assessments

To embed consumer interests at the heart of policymaking, it is recommended that any future digital tax or significant economic regulation be preceded by a mandatory and publicly disclosed "**Consumer Welfare Impact Assessment.**" This assessment must go beyond a simple fiscal analysis to rigorously model potential second-order effects. It should include an evaluation of the likelihood of price pass-through to end-consumers, the potential impact on market competition and SMEs, and an analysis of how the regulation might alter corporate incentives regarding data collection and monetization. This would force a holistic evaluation of a policy's true costs and benefits, ensuring that consumer welfare is a primary consideration, not an afterthought.

#### 5.3 Create a Tiered, Proportional Regulatory System for SMEs

The disproportionate burden on SMEs is a critical market distortion that must be addressed.

Drawing on the recommendations of the Parliamentary Standing Committee on Commerce<sup>44</sup> and other analyses<sup>45</sup>, it is recommended that exempting small online sellers from mandatory GST registration below a reasonable turnover threshold, aligning their treatment with offline sellers. Creating simplified, "light-touch" compliance pathways for the E-commerce Rules and the DPDP Act for recognized startups and SMEs that fall below certain revenue or data-processing thresholds. This would reduce the administrative burden without compromising core consumer protections.

#### **5.4 Align with International Consensus on Digital Taxation**

The era of unilateral digital taxation measures has demonstrated their potential for creating international trade friction and unintended domestic consequences. India's strategic decision to abolish the Equalisation Levy and engage with the OECD/G20's Two-Pillar solution is a positive step.<sup>46</sup> It is recommended that India **fully commit to this multilateral framework** as the primary and stable basis for digital taxation. This approach provides a predictable and globally accepted environment that avoids the risks of retaliatory tariffs and the domestic policy conflicts analysed in this report. Future policy efforts should be directed towards the effective and fair implementation of this global consensus, which is designed to harmonize sovereign revenue interests with the need for a stable, innovative, and ultimately consumer-centric global digital ecosystem.

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<sup>44</sup> Arun Paul & N Ramalingam, *Should Digital Taxation Be in Sync with the OECD-G20 Two-Pillar Framework? An Analysis of the Equalization Levy in India and Its Aftermath.*, 18 gmj 7 (2023), <https://journals.acspublisher.com/index.php/gmj/article/view/10009>.

<sup>45</sup> Amber Sinha, *Trump's Tariffs and the Politics of India's Withdrawal of Digital Service Taxes* | *TechPolicy.Press*, Tech Policy Press (Sep. 2, 2025), <https://techpolicy.press/trumps-tariffs-and-the-politics-of-indias-withdrawal-of-digital-service-taxes>.

<sup>46</sup> Arun Paul & N Ramalingam, *Should Digital Taxation Be in Sync with the OECD-G20 Two-Pillar Framework? An Analysis of the Equalization Levy in India and Its Aftermath.*, 18 gmj 7 (2023), <https://journals.acspublisher.com/index.php/gmj/article/view/10009>.

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