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Consumer Rights Protection in the Digital world: Relevant Laws and Organisation for Economic Co-Operation and Development Recommendations for E-Commerce

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This research paper discusses the protection of customers is comprised of legislations or regulations and organizations created to defend the interests of customers and the unrestricted flow of reliable data in the competitive marketplace. Commercial enterprises are more organized, knowledgeable, and in a stronger position to dominate customers while performing business. Due to their superior location, they may simply take advantage of the customers. This research paper also deals with the information related to the recommendations emphasizes the necessity for coordination among organizations, governments, and customers, and mirrors the legislative protections already in place for customers in more conventional forms of trade. They also promote private sector efforts that involve customer representatives. Although the signatory countries are obligated to guarantee that the recommendations of the OECD are carried out and followed, the OECD Recommendations are not legally obligatory on businesses. The recommendations issued by the OECD also provide a global network of government-backed grievance procedures to assist in resolving conflicts between businesses protected by the recommendations of the OECD and people or organizations damaged by inappropriate corporate conduct.

Keywords: *e-commerce, consumer protection, online transaction, laws, digital.*

INTRODUCTION

E-commerce is a procedure that allows individuals to buy and sell items, circulate money, and use facilities virtually while interacting with buyers and sellers across the world. The theoretical examination of the commercial agreement between online buyers and sellers is known as 'Cyber-Consumer Behavior'. In 1996, the UN Commission on International Trade and Law first endorsed a Model Law on Electronic Commerce, which was eventually endorsed by the UN General Assembly. The main goal of this model law was to create a global common law governing electronic commerce and bring electronic transactions on par with paper-based transactions by establishing the parties' legal rights and obligations like paper-based transactions.

India, a party to the aforementioned model Law, passed the IT Act 2000¹. India as a result approved the IT (Amendment) Act 2008² to provide e-signature legal standing as per the UNCITRAL law. The Organization for Economic Corporation and Development proposal lays out the essential elements for E-Commerce's smooth operation and the safety of consumers shopping online. Additionally, it adds two additional clauses related to financial protection, product protection, and challenges to confidentiality and safety.

CONSUMER PROTECTION IN E-COMMERCE

Several Consumer Protection (E-commerce) Rules in 2020 were adopted by the Ministry of Consumer Affairs, Food, and Public Distribution for the expansion of the e-commerce industry and the defense of consumer rights. The Consumer Protection Act 2019³ which becomes effective on 20 July 2020 is founded on two principles: accountability and openness.⁴ To encompass the e-commerce industry, the concept of the 'Consumer' has been expanded and certain obligations

¹ Information Technology Act 2000

² Information Technology (Amendment) Act 2008

³ Consumer Protection Act 2019

⁴ Smita Paliwal and Richa K. Gaurav, 'Impact Of Consumer Protection Act, 2019 On E-Commerce – The Law, The Rules And The Road Ahead - Dodd-Frank, Consumer Protection Act - India' (*Mondaq*, 06 August 2020) <<https://www.mondaq.com/india/dodd-frank-consumer-protection-act/973516/impact-of-consumer-protection-act-2019-on-e-commerce--the-law-the-rules-and-the-road-ahead>> accessed 02 August 2023

and responsibilities have been placed on e-commerce companies. The Consumer Protection (E-commerce) Rules 2020⁵ merge the force of the Consumer Protection Act 2019, the IT Act 2000, and Indian exchange control laws to institute agencies for the prompt and efficient governance and resolution of consumer complaints, New regulations seek to protect consumers' rights to promote equal opportunity in technological, industrial and data-driven electronic commerce.⁶

If the Internet network and electronic network are used to purchase and sell products and services, the Consumer Protection (E-commerce) Rules 2020 will apply. These rules will also apply to every kind of online retail sector; covering multiple channels sole brand retailers and sole brand retailers in one or many formats, numerous marketplace and inventory-based electronic commerce designs or models, all sorts of illegal trade practices within every type of electronic commerce models but There is an exception that indicates that these restrictions do not apply to anything an individual performs that is not a regular or structured component of their professional or business Endeavour.⁷ Whatever is mentioned in these rules, these requirements will apply to any electronic commerce firm that is not based in India but routinely sells products or services to Indian consumers.

According to the Consumer Protection (E-commerce) Rules 2020, no seller shall deny to accept returns, remove or cease services bought or accepted to be bought, or deny to issue refunds if the products or services offered by the seller are flawed or do not align with the characteristics or elements stated by the provider on the website, as well as if they are deficient and also no provider shall deceptively represent itself as a customer and share bogus feedback about the products and services, or about the characteristics or qualities of those products and services.⁸ The Information Technology Act of 2000 was also passed to encourage the processing of electronic commerce and tackle and overcome any obstacles that may stand in the way of such business transactions. However, the laws of the IT Act 2000 do not mainly deal with difficulties relating to safeguarding consumers in the context of e-commerce. It has a few sections that

⁵ Consumer Protection (E-Commerce) Rules 2020

⁶ *Ibid*

⁷ *Ibid*

⁸ Paliwal (n 4)

indicate the customer-based policy of defending the interests of customers in electronic commerce. Sections 72⁹ and 72(A)¹⁰ address the punishment in cases of privacy and security breaches, however, its applicability is restricted since it requires the demonstration of unlawful damage or wrongful profit. Sections 10,¹¹ 73¹² and 74¹³ are all covered under the Contract Act 1872. The crimes of adulterating food and drink aimed for sale and selling toxic food and drink, respectively, are covered by Sections 272¹⁴ and 273 and are both liable by a maximum of 6 months in jail or a monetary fine of up to 1000 rupees or both.¹⁵

OECD (ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT)

SAFEGUARDS FOR ONLINE BUSINESS TRANSACTIONS: -

The OECD Council issued the Standards for Safeguarding Consumers in the Context of Electronic Commerce, to ensure that customers' rights are not compromised whether they shop through the internet or place an order from a printed brochure. The Standards were created to assist in removing some of the uncertainty that customers as well as companies confront when purchasing or selling digitally by outlining the fundamental elements of efficient safeguards for customers for digital transactions between businesses and customers. These standards apply to business-to-consumer digital commerce only.

Efficient & Transparent Safety: Security for customers, who engage in Internet commerce is transparent, strong, and on the same level as that offered in different forms of business. To attain this level of security as well as determine what adjustments may be required to meet the unique conditions, especially for minors and vulnerable or disadvantaged customers associated with

⁹ Information Technology (Amendment) Act 2008, s 72

¹⁰ Information Technology (Amendment) Act 2008, s 72(A)

¹¹ Indian Contract Act 1872, s 10

¹² Indian Contract Act 1872, s 73

¹³ Indian Contract Act 1872, s 74

¹⁴ Indian Penal Code 1860, s 272

¹⁵ Rajiv Khare and Gargi Rajvanshi, 'E-Commerce and Consumer Protection : A Critical Analysis of Legal Regulations' (2013) 1(6) International Journal on Consumer Law and Practice

digital commerce. Governments, firms, customers, and those who represent them should collaborate to attain this level of security.¹⁶

Fair Company, Marketing and Advertising Approaches: Entities involved in electronic commerce should consider customer interests and behave in line with ethical business, branding and advertising practices as well as the fundamental principle of good conduct. ‘Businesses shall refrain from any statements, omissions or actions that are considered to be false, misleading, bogus or unjust. Businesses shouldn’t falsify or omit details that might influence a customer’s choice to make a purchase. Businesses shouldn’t employ unethical contract clauses. Businesses shouldn’t falsify or omit details that might influence a customer’s choice to make a purchase. Businesses shouldn’t employ unethical contract clauses. Organizations should refrain from false advertising concerning the gathering and utilization of customer’s private information and should take measures to avoid such behaviour. Businesses need to abide by whatever promises they make, whether explicit or implicit, regarding their commitment to industry self-governing codes, programs, confidentiality notices or other rules or procedures of their interactions with customers. Businesses shouldn’t make an effort to limit a customer’s capacity to leave adverse feedback, contest costs, seek advice or register grievances with regulatory organizations and other grievance bodies.’¹⁷

Online Disclosures: Online disclosures should be obvious, precise, easily available and unambiguous so that customers have the knowledge they need to decide whether or not to complete a transaction. These details ought to be disclosed in simple, understandable language, at the appropriate time, and in a way that makes it possible for customers to keep a full, precise and long-lasting record of such data. When multiple languages are accessible to complete a transaction, firms should provide every detail required for customers to make educated choices

¹⁶ ‘OECD Guidelines for Consumer Protection in the Context of Electronic Commerce (1999)’ (OECD) <<https://www.oecd.org/sti/consumer/oecdguidelinesforconsumerprotectioninthecontextofelectroniccommerce1999.htm>> accessed 03 August 2023

¹⁷ OECD Recommendation of the Council on Consumer Protection in E-Commerce (OECD Publishing 2016)

on a transaction accessible in those identical languages. Although it is clear from the context, every detail that indicates expenses should state the appropriate currency.¹⁸

Confirmation Process: Organizations should make certain that the procedures required to finish a transaction, particularly concerning recent payment technologies, are plain and transparent at that stage at which customers are asked to approve a transaction, after which time payment has to be made or otherwise legally committed. Before customers are asked to approve a transaction, enterprises must give them the chance to study brief details on the item or service, in addition to any shipping and price information. They ought to make it possible for customers to see mistakes and fix them, or when necessary, to change their minds or halt the transaction. Businesses shouldn't carry out a transaction unless the customer has given their clear, informed consent.¹⁹

Payment: Organizations should offer customers simple payment methods and put in safety precautions that are proportionate to the vulnerabilities associated with payments, such as those brought on by theft of identity, scams, fraud, and unauthorized access to or utilization of private information. Despite the chosen payment method, stakeholders and government agencies should collaborate to create basic standards of safety for consumers for electronic commerce transactions. Such safeguards should consist of systems for a refund if necessary, as well as legislative or industry-led restrictions on customer responsibility for unauthorized or unlawful transactions.²⁰ Escrow services are one example of a different form of payment that might help boost consumer trust in online shopping.

Dispute Resolution and Redress: This current system faces difficulties as a result of digital trade, Due to the ongoing expansion of digital business, it should be thought about whether or not the current framework for relevant legislation and jurisdiction has to be changed or used in a new way to provide efficient and fair protection for consumers. Legislatures should look to determine if the current system is reasonable to both companies and customers, encourages

¹⁸ *Ibid*

¹⁹ *Ibid*

²⁰ OECD Guide OECD Guidelines for Consumer Protection in the Context of Electronic Commerce (1999) (n 16)

electronic commerce, leads to consumers receiving an extent of security equal to or greater than that provided in other kinds of commerce, and gives customers meaningful access to prompt, equitable, and inexpensive resolution of disputes and redress.²¹

Privacy or Confidentiality: Enterprises should ensure that their policies about the gathering and utilization of customer information are legal, open, and reasonable, allow for customer input and preference, and include sufficient safety measures to preserve customer confidentiality. Organizations should regulate the risk of online safety and put safety precautions in place to lessen or eliminate negative consequences related to customer engagement in electronic commerce.²²

CONCLUSION

Consumer Protection (E-Commerce) Rules, 2020, creating institutions for the prompt and efficient governance and resolution of complaints by customers. The new regulations seek to preserve the rights of customers. All digital merchants, whether they are based in India or overseas and provide products and services to Indian customers, would be subject to these regulations. The new regulations enable the federal government to take action against fraudulent company conduct in direct marketing and online commerce. Producers and merchants are going to abstain from using deceptive and fraudulent methods if tight laws are effectively enforced and accompanied by penalties and punishment. Rapid complaint resolution will boost customer trust in e-commerce businesses and motivate more people to make purchases there, which may lead to industry expansion and higher profitability. OECD recommendations are intended to assist in guaranteeing that customers are just as safeguarded when making purchases digitally as they are when making in-person purchases or placing catalog orders. The recommendations aim to assist in removing a number of the uncertainty that customers as well as companies experience when purchasing or selling items online by outlining

²¹ *Ibid*

²² OECD Recommendation of the Council on Consumer Protection in E-Commerce (n 17)

the fundamental elements of successfully safeguarding customers for digital business-to-consumer interactions.