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E-Commerce Era: Protecting Consumer Rights in The Digital Marketplace

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In a globalized world where e-commerce and digital trade are emerging, blurring out territorial boundaries, a consumer remains the business empire's central pillar. In the present era, we see a significant shift from physical trade or commerce to a more digitalized approach, and it is all the more essential now to protect the rights of the consumer, which stands in a vulnerable position. However, there are several advantages that e-commerce offers, such as easy access to products that are available globally, time-saving, a wide range of options, etc., there are several issues that need to be addressed for the betterment of e-commerce and the protection of the consumer some of them include, infringement of privacy, issue of online transactions, unilateral contracts, electronic contracts, delivery of defective products, and problems with refund policies. An effort has been made in this paper to address the various issues surrounding e-commerce regarding consumer protection while analyzing domestic laws in India and comparing them to domestic laws of other jurisdictions. The international stand concerning the same is also being analyzed to provide a holistic view of the article.

Keywords: *e-commerce, consumer protection, cyberspace, consumer, market entities.*

INTRODUCTION

The industry must adhere to certain consumer protection norms if the Internet is to remain an open platform for innovation¹.

- Micheal K Powell

There exists no doubt that in the present world, the emergence of information technology has led to numerous developments in the digital sector, making way for e-commerce. The Internet has an implication for every aspect of human life, including trade or buying and selling of goods, and this has recently become even more convenient as services such as electronic money transfer, coordinating logistics and supplier networks, digital advertising and online promotional strategies, EDI (Electronic Data Interchange), automated stock control systems, and mechanized information gathering technologies have all become more advanced.

Buying and selling of goods and services over the Internet² is known as e-commerce³. It encompasses a wide range of online business activities for products and services, which include retail sales, wholesale transactions, mobile commerce, online auctions, payment gateways, etc. These e-commerce platforms provide various advantages for the consumer in a hustling world and lifestyle where giving time to activities such as visiting physical retail shops has become a far-fetched notion. Due to these factors, we see a drastic rise in people becoming a part of the e-commerce world, may it be producers or consumers, regardless of territorial borders and time constraints which can be inferred from the statistic that 16 million internet users in December 1995 to 2280 million internet users in March 2012⁴.

Despite the above-mentioned developments and advancements, a consumer remains a major actor in the business system. Consumers can be said to be in the most jeopardized position of all

¹ 'Michael K. Powell Quotes' (*Brainy Quote*) <https://www.brainyquote.com/quotes/michael_k_powell_485457> accessed 10 July 2024

² Vladimir Zwass, 'Structure and Macro-Level Impacts of Electronic Commerce: From Technological Infrastructure to Electronic Marketplaces' in Kenneth E. Kendall (ed), *Emerging Information Technologies: Improving Decisions, Cooperation, and Infrastructure* (Sage Publications 1999)

³ Aishwarya Pandey, 'Consumer Protection in the Era of E-Commerce: Issues and Challenges' (2022) 1(4) *International Journal of Legal Science and Innovation* <<https://ijlsi.com/paper/consumer-protection-in-the-era-of-e-commerce-issues-and-challenges/>> accessed 10 July 2024

⁴ *Ibid*

when spoken with regard to e-commerce, as consumer protection is still lacking compared to consumer rights in physical commercial activities. The rising activity in e-commerce platforms not only indicates the development of technology but, more importantly, indicates the need for consumers to be protected, including their interests and rights. In India, we see a growing trend in the number of online websites, and people of India are more attracted to online shopping and trade, which calls for stronger legislation to uphold the rights of consumers⁵.

Even if there are many obstacles in e-commerce transactions, consumer protection is essential. The free exchange of accurate information in the market and fair competition may suffer if consumer protection concerns are not sufficiently handled. This oversight may result in deceit and fraud, which would hurt customers who engage in online shopping. Consequently, it is crucial to investigate and evaluate the connection between e-commerce and consumer protection from a legal standpoint⁶.

WHAT IS CONSUMER PROTECTION?

In general, consumer protection refers to defending customers against several unfair business practices⁷. As stated in the case of *Raghubir Singh v Thakurain Sukhraj Kaur*⁸, the goal of consumer protection is to stop illicit and unethical company conduct and avoid exploitation by companies⁹. Due to their greater information, resources, and market dominance, commercial organisations frequently take advantage of their customers¹⁰. Therefore, it is essential to implement strong consumer protection laws to shield consumers, especially the most vulnerable, from this kind of abuse¹¹.

⁵ K A, Dhanya, 'Consumer Protection in the E-Commerce Era' (2015) 3(4) International Journal of Legal Research <<https://ssrn.com/abstract=3489753>> accessed 10 July 2024

⁶ Rajiv Khare and Gargi Rajvanshi, 'E-Commerce and Consumer Protection: A Critical Analysis of Legal Regulations' (2013) 1(1) International Journal on Consumer Law and Practice <<https://repository.nls.ac.in/cgi/viewcontent.cgi?article=1019&context=ijclp>> accessed 10 July 2024

⁷ Jan Rafat, *Consumerism And Legal Protection Of Consumers* (Deep & Deep Publications 2007)

⁸ *Raghubir Singh v Thakurain Sukhraj Kuar* (1939) ILR 14 LUCK 393

⁹ Arvind Ashta, 'Legal Risk in the Financial Markets' (2010) 77(3) Journal of Risk & Insurance <<http://dx.doi.org/10.1111/j.1539-6975.2010.01372.x>> accessed 10 July 2024

¹⁰ George Ritzer, *The Blackwell Encyclopedia of Sociology* (Blackwell Publishing 2010)

¹¹ *Indian Oil Corporation v Consumer Protection Council* (1993) 1 SCC 397

After former US President John F. Kennedy introduced the 'Bill of Consumer Rights'¹² in 1962, the idea of consumer rights saw a major increase in popularity. Four essential rights for consumers were highlighted in this bill:

- Ensuring that products are safe and do not endanger the health or lives of customers is known as the **Right to Safety**.
- The **Right to Information** is the ability to shield consumers from deceptive labelling and advertising by giving them access to correct and adequate information to make judgements.
- The **Right to Choice** is the assurance of a wide range of alternatives in the market, giving customers the ability to choose from a selection of goods and services at reasonable costs¹³.
- Ensuring that consumer concerns are represented in the creation of government policies and in the design of goods and services is known as the **Right to be Heard**.

It can be said that consumer rights are the cornerstones of the idea of consumer protection. There are recognizable entities all around the globe that acknowledge and promote consumer protection. These entities are inclusive of government organizations, for example, the Federal Trade Commission in the United States and also NGOs that are passionate about the protection of consumer rights, which, from time to time, argue and raise issues with the relevancy of the existing legislation. This leads to an addition to the rights available to the consumer in general.

Under the direction of groups like Consumers International, consumer rights have been significantly extended in recent years. Four new rights are included in this expansion¹⁴:

¹² Consumer Bill of Rights 1962

¹³ Carl Fridh Kleberg, 'The death of source protection? Protecting journalists' source in a post-Snowden age' (*LSE Research Online*, 16 May 2024)

<https://eprints.lse.ac.uk/63140/1/_lse.ac.uk_storage_LIBRARY_Secondary_libfile_shared_repository_Content_POLIS_Death%20of%20source%20protection_Kleberg_Death%20of%20source%20protection_2015.pdf>

accessed 10 July 2024

¹⁴ Zwass (n 2)

1. The 'right to the satisfaction of basic needs' refers to having access to needs like enough food, clothing, shelter, healthcare, education, public utilities, clean water, and sanitary surroundings.
2. The ability to seek just compensation and the 'right to redress' for claims of deceit, subpar goods, or insufficient services.
3. Providing consumers with the knowledge and skills necessary to understand their rights and responsibilities and make informed decisions is referred to as the 'right to consumer education'¹⁵.
4. The assurance that people live and work in a setting that is safe and promotes the health of present and future generations is known as the 'right to a healthy environment'.

SIGNIFICANCE OF CONSUMER RIGHTS

For customers to be treated fairly and have the information necessary to make educated decisions, consumer protection is crucial. From the perspective of the customer, consumer protection is crucial because of widespread exploitation, haphazard consumer efforts, and consumer ignorance. Many clients are not aware of their legal rights or how to report unfair treatment. Their ignorance makes them vulnerable to being used by shady businesses. Effective consumer protection laws provide consumers with information about their rights and channels for redress, empowering them to make better decisions about what to buy and avoid unethical companies.

Additionally, because they are usually scattered and don't have a unified voice, it is difficult for consumers to advocate for their rights on an individual basis. Without these protections, consumers are vulnerable to a variety of dishonest practices, including adulteration, false advertising, and the use of phoney weights, all of which have the potential to seriously impair their mental and financial well-being.

¹⁵ Mary C. VanderWal, 'Examination of Therapeutic Alliance and Dependent-Care Agency in the Context of Complementary and Alternative Therapy Utilization by Mothers for Their Children with Asthma' (Theses, Grand Valley State University 2002)

From a business perspective, preserving a good reputation and promoting long-term success depends heavily on consumer protection. Companies that put a high priority on customer satisfaction have a greater chance of developing a devoted clientele because happy customers are more inclined to spread the word about their experience, which fosters customer development. Businesses also depend on societal resources; thus, they have to make sure that their operations don't erode customer trust. Businesses may continue to enjoy the community's trust and support by conducting their operations in a way that serves ethical norms and the public interest. Additionally, companies have a moral duty to refrain from taking unfair advantage of customers by selling subpar goods or making deceptive advertising.

Consumers gain from ethical business practices, which also improve the company's profitability and reputation. Businesses can avoid strict government rules and intrusions by proactively implementing consumer-friendly practices, which improves the working environment. In the end, consumer protection fosters a more ethical, sustainable, and healthy marketplace that benefits both customers and companies.

THE TENSION BETWEEN CONSUMER RIGHTS AND E-COMMERCE

The idea that differences or boundaries exist between small towns and big cities has existed in the past. Today, India is seeing vast development in the internet sector. With the emergence of 4g and internet facilities on mobile, people from small villages are also attracted to online shopping¹⁶. Not only are they attracted, but they also have products and essentials such as branded clothing and electronics that are considered to belong to the cities and are accessible to them. Due to this, India is seeing a boom in the number of consumers of products online rather than physically purchasing things offline.

Consumer protection in e-commerce is a highly discussed topic in the present day; this is due to increased globalization and cross-border trade through electronic means¹⁷. This has caused a lot of confusion as to how the consumer's rights will be protected due to the overlapping of

¹⁶ Pandey (n 3)

¹⁷ Andreas B. Eisingerich and Tobias Kretschmer, 'In e-commerce, more is more' (2006) 86(3) Harvard Business Review <<https://hbr.org/2008/03/in-e-commerce-more-is-more>> accessed 10 July 2024

territorial jurisdictions and other various factors. E-commerce is defined as online commercial operations that include ordering, invoicing, and payment processes as well as communications, such as marketing and advertising, following the Organisation for Economic Cooperation and Development's (1999) principles¹⁸ (OECD, 2000). Among other things, the OECD-1999 recommendations acknowledged three crucial aspects of online consumer protection. E-commerce must be accessible to all customers. Secondly, in order to increase customer confidence and trust in e-commerce, it is necessary to keep developing clear and strong consumer protection laws that will stop unfair, deceptive, and fraudulent actions online. Thirdly, 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 recommendations are mostly for international transactions (OECD, 2000¹⁹).

As mentioned above in the OECD 2000 reports, two important factors that are the basis for consumer confidence are that the consumer will get what he desires and also that a redressal is available when any wrong occurs to him. The existence of e-commerce poses a threat to consumer trust and consumer confidence, for which a strong consumer protection mechanism is required. This challenge was acknowledged by the legislation that led to the Consumer Protection Act²⁰, which was passed in 1986. This was done as an answer to the protection of consumer rights in accordance with the United Nations Guideline on Consumer Protection²¹.

E-commerce has developed so far that it has gone from buying clothes to browsing for houses to live in, and hence, these customers are prone to more security issues as they deal with sellers and producers who are not known to them. Common e-commerce issues include data privacy and security, product quality, unpredictable delivery, lack of or restricted scope of replacement, jurisdiction for filing complaints, and unclear terms and conditions²². In 2016, when India

¹⁸ Neelam Chawla and Basanta Kumar, 'E-Commerce and Consumer Protection in India: The Emerging Trend' (2022) 180(2) Journal of Business Ethics <<https://doi.org/10.1007/s10551-021-04884-3>> accessed 11 July 2024

¹⁹ Richard Woodward, 'The Organisation for Economic Cooperation and Development (OECD)' (2004) 9(1) New Political Economy <<http://dx.doi.org/10.1080/1356346042000190411>> accessed 11 July 2024

²⁰ Consumer Protection Act 1986

²¹ United Nations Guidelines on Consumer Protection 1985

²² Pandey (n 3)

focused on digitalizing payments, the need for online transaction safety²³ and consumer safety increased significantly; due to the same, the Consumer Protection Act of 2019²⁴ came into effect, which tried to cover all the loopholes in the previous Consumer Protection Act of 1986²⁵.

On July 7, 2020, the Consumer Protection (E-commerce) Rules of 2020²⁶ were implemented in order to tackle the issues related to e-commerce. However, It was clear that in order to draw in more investment and connect to the global market, India, as a developing nation, needed to build e-consumer confidence.

INDIAN LEGAL STANDPOINT ON CONSUMER PROTECTION AND E-COMMERCE

In India, the main legislations that deal with consumer protection and provide a means of redressal are the Consumer Protection Act 2019²⁷, the Information Technology Act 2000²⁸, the Consumer Protection (E-commerce) Rules of 2020²⁹, the Indian Copyright Act 1957³⁰, the Indian Contract Act³¹ and also under article 38 of the Indian Constitution³². In this research, an effort has been made to analyse the most important and relevant of those for the topic chosen, which are believed to be the Consumer Protection Act 2019³³ and the Consumer Protection (E-commerce) Rules of 2020³⁴

CONSUMER PROTECTION ACT 2019

With the passage of the Consumer Protection Act of 2019³⁵, which superseded the Consumer Protection Act of 1986³⁶, India took a major step towards tackling the complexity and issues of

²³ Kanika Satyan, 'E-Commerce and Consumer Rights: Applicability of Consumer Protection Laws in Online Transactions in India' (2015) SSRN <<https://dx.doi.org/10.2139/ssrn.2626027>> accessed 11 July 2024

²⁴ Consumer Protection Act 2019

²⁵ Consumer Protection Act 1986

²⁶ Consumer Protection (E-commerce) Rules 2020

²⁷ Consumer Protection Act 2019

²⁸ Information Technology Act 2000

²⁹ Consumer Protection (E-commerce) Rules of 2020

³⁰ Indian Copyright Act 1957

³¹ Indian Contract Act 1872

³² Constitution of India 1950, art 38

³³ Consumer Protection Act 2019

³⁴ Consumer Protection (E-commerce) Rules 2020

³⁵ *Ibid*

³⁶ Consumer Protection Act 1986

the digital domain, which has grown to unprecedented heights. The Act of 2019³⁷ is said to be an advanced version of the 1986³⁸ act as it acknowledges the booming industry of buying and selling goods or products through electronic networks, encompassing digital products and also including online marketplaces and online auction sites. Due to all of these aspects that are very much necessary in today's era, the scope of consumer protection in India has broadened, and the rights of consumers in the expanding domain of e-commerce and in the digital realm are also being safeguarded to an extent that was lacking previously.

Under section 2 (16)³⁹ of the Act, it is provided that the Consumer Protection Act of 2019 applies to buying or selling goods or services over the digital or electronic network, including digital products and to a person who provides technologies enabling a product seller to engage in advertising/selling goods/services to a consumer⁴⁰. Under section 2 (17)⁴¹, it is provided that it is also applicable to online marketplaces or online auction sites⁴².

The Act also provides a comprehensive definition of a consumer, which is considered the central element of the Act. Under section 2 (7) ⁴³ of the said Act, a consumer is defined to include: If a person buys any goods and hires or avails any service online through electronic means, the person would be a consumer of Act⁴⁴. This inclusion is crucial as it is essential to recognize how a modern consumer interacts with the market in cyberspace to ensure that even those consumers who interact through electronic mode are protected. The Act's contemporary approach is further highlighted by the inclusion of electronic service providers as product sellers, as they are subject to the same obligations and liabilities as conventional product sellers. In the context of the digital economy, this clause promotes improved corporate practices and guarantees accountability; this is provided under section 2 (37)⁴⁵.

³⁷ Consumer Protection Act 2019

³⁸ Consumer Protection Act 1986

³⁹ Consumer Protection Act 2019, s 2(16)

⁴⁰ Chawla (n 18)

⁴¹ Consumer Protection Act 2019, s 2(17)

⁴² Chawla (n 18)

⁴³ Consumer Protection Act 2019, s 2(7)

⁴⁴ *Ibid*

⁴⁵ Consumer Protection Act 2019, s 2(37)

It is well known that data privacy is a major concern in the present day, and it is equally important to the privacy of the consumer, as when the interaction takes place online or through electronic means, there is a high possibility for the data privacy of the consumer to be jeopardized. The Act seems to acknowledge the same as under section 2 (47) (ix)⁴⁶, referring to the disclosure of any personal information to any third person by the service providers that is given in confidence by the consumer⁴⁷. This section is of utmost importance as it includes the business liability explicitly for maintaining the confidentiality of the consumer, which empowers the consumers to seek redress regarding the same.

Another landmark improvement of the Act was the establishment of a separate redressal authority, the Central Consumer Protection Authority (CCPA). It is established under sections 10⁴⁸ and 18⁴⁹ of the Act to offer services for adjudication, regulation, or investigation in order to defend the rights of customers. The CCPA has the authority to regulate, inquire into, and investigate unfair commercial practices, abuses of consumer rights, and so on, either on its own initiative that is *suo moto*, in response to a complaint from a disgruntled customer, or in response to a government mandate. CCPA, under the Act, has the power to enforce major infractions with hefty penalties and maybe imprison the wrongdoers, highlighting the government's dedication to strict consumer protection.

It can specifically take the following actions:

- File lawsuits and conduct investigations into rights violations by customers.
- Order for the recall of goods and services that are risky, harmful, or unsafe.
- Direct the cessation of deceptive advertisements and unethical business practices.
- Penalties should be applied to vendors, sponsors, and publishers of deceptive advertising⁵⁰.

⁴⁶ Consumer Protection Act 2019, s 2(47)(ix)

⁴⁷ *Ibid*

⁴⁸ Consumer Protection Act 2019, s 10

⁴⁹ Consumer Protection Act 2019, s 18

⁵⁰ Chawla (n 18)

Additionally, the customer's access to an effective redress process has been enhanced by the restructuring of the consumer dispute redressal system. The District Consumer Dispute Redressal Commission has replaced the District Consumer Dispute Redressal Forum, and it has also brought improvements to the pecuniary jurisdiction. These redressal mechanisms are dealt with from section 28⁵¹ to section 73⁵² of the Act, which very extensively provides for the redress system available to consumers.

Under section 37⁵³ of the Act, a dispute settlement mechanism is provided by way of mediation; that is, when there is a compromise between the parties, then the matter can be settled between the said parties⁵⁴. However, it is crucial that this is mutual consent and not any other illegal means or means not acceptable by the law. There lies no appeal if an order is passed through mediation as it is done with the consent of the parties, and this is also to speed up the trial process and not encourage dual litigation, this is provided under section 81 (1)⁵⁵.

Conclusively, the Act of Consumer Protection of 2019⁵⁶ is more relevant than the previous one of 1986⁵⁷ as it includes various aspects, as discussed above, which provide comprehensive and forward-looking legislation. The Act guarantees that contemporary business activities are adequately controlled by extending the definition of customers and product sellers to encompass individuals functioning in the digital sphere. The CCPA's extensive powers and firm opposition to unfair commercial practices show a strong commitment to protecting consumer interests. The improved dispute resolution processes, which include mediation, show a practical approach to effectively addressing customer complaints. All things considered; this Act is a significant advancement in bringing consumer protection up to date with the demands of the modern digital space of e-commerce.

⁵¹ Consumer Protection Act 2019, s 28

⁵² Consumer Protection Act 2019, s 73

⁵³ Consumer Protection Act 2019, s 37

⁵⁴ *Ibid*

⁵⁵ Consumer Protection Act 2019, s 81(1)

⁵⁶ Consumer Protection Act 2019

⁵⁷ Consumer Protection Act 1986

CONSUMER PROTECTION (E-COMMERCE) RULES, 2020

The Consumer Protection (e-commerce) Rules 2020⁵⁸ were passed in compliance with the Consumer Protection Act of 2019⁵⁹. The agenda for passing the said rules was to regulate the digital market space and to curb the unfair trade practices that occur in cyberspace with the goal of protecting the rights of the consumers.

Rule 2⁶⁰ emphasizes the applicability of the rules. It applies to products as well as services that are bought or sold through digital means, that is, electronic; it includes all the e-commerce models of retail, including inventory-based and marketplace models. This, in addition to the Consumer Protection Act of 2019⁶¹, provides for an even wider ambit for the applicability of both the rules and the sections of the Act of 2019⁶². The interest of consumers is protected irrespective of whether the consumer is indulging in physical or online commerce. The territorial jurisdiction is expressly established by mentioning that if the e-commerce entity is established outside India but is supplying goods to India, then the rules will be applicable to those entities as well⁶³; this is to ensure the origin of the product or service is held liable no matter where they are established.

Rule 4⁶⁴ provides the general duties that the e-commerce entities have to follow, and it can be stated as it is a requirement that the e-commerce entity has to be a company with regards to the Companies Act and also the company must have a person who will be a point of contact and his duty is to ensure the rules and sections of the Act are compiled and followed accordingly. For the purpose of addressing the issues and problems of the customers, a grievance officer should be hired, and his contact should be available on their platform. It is also mandatory for him to

⁵⁸ The Consumer Protection (E-Commerce) Rules 2020

⁵⁹ Consumer Protection Act 2019

⁶⁰ Consumer Protection (E-Commerce) rules 2020, s 2

⁶¹ Consumer Protection Act 2019

⁶² *Ibid*

⁶³ Mrinali Mudoi, 'Proposed Amendments To The Consumer Protection Act, 1986' (*Mondaq*, 26 January 2015) <<https://www.mondaq.com/india/product-liability--safety/368946/proposed-amendments-to-the-consumer-protection-act-1986#authors>> accessed 11 July 2024

⁶⁴ Consumer Protection (E-Commerce) Rules 2020, s 4

address the grievances within 48 working hours and to come up with a solution within one month of the complaint.

The entities are barred from making unreasonable profits either through pressing unjustified costs or by showcasing wrongful prices. They are also prohibited from discriminating against customers. They are obligated to comply with all the refund policies and cancellation policies without any cancellation charges until and unless they are minimal if they were agreed upon previously.

Rule 5⁶⁵ provides for the liabilities of marketplace e-commerce entities; this is essential as the e-commerce marketplace acts as a middleman between the sellers of the products and services and consumers of the said products and services. They have the liability to show that the sellers are providing any false information about the products on their platform and should ensure that the information provided is accurate in terms of the quality as well as appearance of the goods. To facilitate dispute resolution, e-commerce platforms must prominently show vendor details such as geographic address and website information. They must give a unique complaint number for tracking, as well as information on returns, refunds, exchanges, warranties, shipment, payment options, and any related costs, in order to provide transparency and effective grievance resolution for users.

It is not only the marketplace of e-commerce that has duties, but also the sellers on the marketplace have certain duties that they need to comply with. They have an obligation to adhere to several duties mandated under rule 6⁶⁶, which include the following: The seller should not indulge in any unfair trade practices and also cannot misrepresent their goods or services, which include the features of the product and the effectiveness of the product. The information given about the product should not be deceiving. They are obligated to accept the return or refund of goods when there is a reasonable cause, that is, if there is any defect in the product.

The sellers also must enter into a contract with the e-commerce entities and should disclose the legal name and give the original address of the seller to the marketplace. Another important

⁶⁵ Consumer Protection (E-Commerce) Rules 2020, s 5

⁶⁶ Consumer Protection (E-Commerce) Rules 2020, s 6

duty of the seller is not to make any false advertisement on any platform. The advertisement made to promote the product should be true to its nature and characteristics.

As the Act of 2019⁶⁷ and the Rule of 2020 are at their nascent stages, it is difficult to reflect further on the nature of the said things in a recent judgement given in the case of *M/s Pyaridevi Chabiraj Steels Pvt. Ltd v National Insurance Company Ltd*⁶⁸, it was emphasized that the consumer would be regarded as the most important in the arena of e-commerce. The maxim buyer beware has to be treated as seller beware when discussing cyberspace trade and digitalized commerce. It can be said that this is due to the vulnerable position consumers are in when they indulge in digital trade compared to physical trade. The customer or the consumer will be the real king⁶⁹.

CONSUMER PROTECTION AND E-COMMERCE: AN INTERNATIONAL PERSPECTIVE

There is no doubt that due to e-commerce, trade has opened the way for citizens of one country to purchase or sell products sitting right where they are to citizens of other countries. E-commerce and technology have blurred out the borders of nations when it comes to trade and commerce, which brings a wide range of goods into availability for people across the globe. However, with its perks, there are challenges that exist in this domain, which require a comprehensive regulation that mandates that the consumer's rights will be protected from the wrongs that the digital world has to offer.

Consumer protection has long been recognized internationally by many intergovernmental organizations and the UN. The OECD (Organization for Economic Cooperation and Development)⁷⁰ and UNCTAD (United Nations Conference on Trade and Development) are two such entities that primarily regulate consumer protection globally and ensure healthy competition with regard to trade. UN has also launched the United Nations guidelines on consumer protection to better address consumer issues in the present day.

⁶⁷ Consumer Protection Act 2019

⁶⁸ *M/s Pyaridevi Chabiraj Steels Pvt. Ltd v National Insurance Company Ltd* (2020) SCC OnLine NCDRC 845

⁶⁹ Chawla (n 18)

⁷⁰ 'The Organization for Economic Cooperation and Development (OECD)' (US Department of State)

<<https://www.state.gov/the-organization-for-economic-co-operation-and-development-oecd/#>> accessed 11 July 2024

Consumer International was founded in the year 1960, and it is a platform for about 250 consumer entities around 100 nations whose primary goal is to ensure the protection of consumer rights in the vast arena of the marketplace that exists globally⁷¹. The International Consumer Protection and Enforcement Networks (ICPEN) plays a significant role in implementing consumer rights all over the world as its main aim is to maintain peace and stability between countries in matters of consumer rights, as buying and selling of goods from country to country, that is in a cross-border approach has significantly increased.

Another important entity that ensures consumer protection is the FTC, which is the Federal Trade Commission in the United States, which works closely with the ICPEN to promote consumer protection⁷². The FTC has a Bureau of Consumer Protection whose main role is to control any unfair acts which can be deceiving in nature. It has the authority to carry out investigations and also the authority to enforce certain mandates that are given under the FTC.

The FTC, in collaboration with the ICPEN, recognizes challenges in e-commerce and the protection of consumers in the digital space. It provides redress to online fraud that occurs to deceive consumers. Some of the wrongs it recognizes are as follows: spam in telemarketing, wrongful advertisement, imposter scams, any scams related to winning prize money, etc., any fraud that occurs during online shopping, any act that is deceiving regarding a job or making money misrepresented products.

According to the statistics, online fraud and lodging of complaints regarding online fraud are the highest in the USA, and India is ranked as the 3rd country next to France, where a number of complaints are filed against businesses and marketplaces in cyberspace⁷³. The loss that occurs through such online fraud is immense and is almost more than half. The establishment of ICPEN and FTC contributes heavily to curbing cross-border commerce that takes place digitally, which is increasing day by day.

⁷¹ Chawla (n 18)

⁷² James A. Fayne, 'The Federal Trade Commission: The Development of the Law which led to its Establishment' (1995) 9(1) American Political Science Review <https://ideas.repec.org/a/cup/apsrev/v9y1915i01p57-67_00.html> accessed 11 July 2024

⁷³ Tableau Public, *E-Consumer.gov International Report* (2024)

There are certain established principles that are internationally recognized for the implementation of consumer protection in e-commerce⁷⁴. These can be summarised as, for the purpose of protecting information privacy, the contract between the buyer and the seller should be fully disclosed to the buyer or the consumer to protect the privacy of the consumer, to be able to have a safe and protected money transaction, availability of a reasonable redressal mechanism, to explicitly mention the liabilities of the entities, to refrain from sending any emails or notifications to the consumer without his consent and to provide all the necessary information to the consumer so that the consumer is well aware of what he is getting himself into.

These international forums are crucial in today's world to develop a harmonized and unified approach that provides a peaceful way of carrying forward cross-border e-commerce and safeguarding the rights of the consumers on the global platform from the issues they face. Such steps build consumer trust and confidence in the institution of the digital marketplace and ensure its development and sustainability.

CONCLUSION

In an era where the Internet is taking over the world and has become a huge part of a person's daily life, it has made its way into the trade and commerce arena as well. People who are involving themselves in the e - e-commerce are increasing rapidly with the development of the said technology, may it be sellers, cyberspace market entities or consumers. There are various newly developed distribution strategies that have occurred due to the development and widespread usage of e-commerce. Although in the beginning, a consumer was sceptical about buying products online due to a lack of trust in their products, recently, because of the vast options that are present in the digital marketplace, consumers are attracted to participate in the online mode of purchasing.

This calls for a comprehensive legislature to protect the rights of the consumer internationally as well as nationally. As discussed above, international forums provide a platform for the redressal of consumers when trade takes place across borders. The aforementioned legislations

⁷⁴ 'Working group on consumer protection in e-commerce' (UNCTAD) <<https://unctad.org/Topic/Competition-and-Consumer-Protection/working-group-on-consumer-protection-in-e-commerce>> accessed 11 July 2024

in India, namely the Consumer Protection Act of 2019⁷⁵ and the Consumer Protection (e-commerce) Rules of 2020⁷⁶ are signs that the country is moving towards a strong redressal mechanism and is very determinant in protecting the rights of consumers. In no time will we be able to see a rise in consumer rights cases as consumers gain knowledge about the rights they have legally vested in them through these acts.

It is well known that there is no stopping the advancement of technology. Internet and technology are things that are going to be developed. With their development, we will face new issues and new problems in the e-commerce world as well, which will pose more difficulties for the protection of the consumers that are involved in the digital marketplace. There is a requirement for constant changes and development within the statute itself to make the legislation more relevant in terms of the ongoing issue. There will be new tests that will pose themselves to question the efficiency of the Act of 2019 as well as the rule of 2020. But what is of main importance is the legally actionable rights that exist in the Act of 2019 do not specifically talk about consumer rights in e-commerce, because of which the citizens of India do not see adequate and strong legal protection to protect their rights when they are consumers in e-commerce.

To address these rights, it is essential to protect consumers from unfair trade practices. In other words, a specific and clear legal framework should be established for consumer protection in e-commerce, which will enhance consumer trust and confidence in the digital marketplace⁷⁷. Furthermore, it will contribute to the development of consumer trust, which will, in turn, affect the further growth of the e-commerce world⁷⁸.

⁷⁵ Consumer Protection Act, 2019

⁷⁶ Consumer Protection (E-Commerce) Rules 2020

⁷⁷ Khare (n 6)

⁷⁸ *Ibid*