

E-COMMERCE AND CONSUMER PROTECTION

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“The consumer is always a right. It takes months to find a consumer ... but seconds to lose them.”

Harry Gordon Selfridge & Vince Lombardi

ABSTRACT

The emergence of "Information and Communication Technology" seems to have an imprint on practically every aspect of human existence, along with the acquiring and sale of goods and services. Information technology has spawned a slew of new products. E-commerce elevates a multitude of problems, notably data security threats, untrustworthy advertisement, and so forth. The electronic era continues to raise a slew of impediments pertaining to customer protection. Law, at times, requires modifications in order for individuals to withstand contemporary complications. This paper attempts to analyse whether the Indian Consumer Protection Act has adequate provisions to protect the consumers from numerous challenges arising out of E-commerce.

OVERVIEW OF CONSUMER PROTECTION ACT, 1986

The ideology of "customer is king" was being universally acknowledged and embraced with the advent of the capitalistic society. The innovation of consumerism in the twentieth century was characterized by consistent trade wars and conflicts amongst market shareholders, as well as a persistent urge to be successful in the market. This resulted in fierce rivalry, with dealers engaging in unethical business practices, deceiving clients, and reaping the benefits of the consumers' insufficient information. Subsequently, there was a need to clamp

down on everything, and that progressive transformation was flagged by the growing significance of the concept "caveat venditor," which means "Let the buyers beware," rather than the pre-existing "caveat emptor," which indicates "Let the sellers beware." Caveat Venditor was introduced to hold the seller accountable for any defective items supplied or any unfair rendering of services. Consumer protection, on the other hand, was unearthed to be not confined to a single piece of legislation, but to numerous statutes, including the Sale of Goods Act of 1930, the Essential Commodities Act of 1955, and the Competition Act of 2002, that endorsed the concept of 'Consumerism.' Consumer protection is constrained not only towards safeguarding of rights, as well as to the advancement of consumer interests and the development of legislation that recognizes people's welfare and fosters their varied perspectives. Consumer Councils were established at the national, state, and district levels under the Consumer Protection Act of 1986 (COPRA), with appellate, territorial and pecuniary jurisdiction.

PROBLEMS FACED BY CONSUMERS BECAUSE OF ONLINE TRADING

Product Quality

Consumers' most problematic issue after internet shopping is there will be no assurance of a product's quality. More unscrupulous vendors are enrolling on these platforms and marketing low-quality or counterfeit products in the guise of real and branded products. These vendors offer sub-par commodities with the intention to mislead consumers, hence exacerbating the problems with online shopping. Sellers will often refuse to repair a defective product or refund a customer's money, trapping the latter with a defective product and money being wasted. Occasionally, the products on show are not delivered, and often the vendor vanishes from the website after selling faulty items and receiving payment before delivery.

Delivery issues

Another concern with internet shopping is shipping issues. While in transportation, products are increasingly damaged or stolen, and delivery tracking systems have been unable to precisely find the product. Currently, the same-day option is preferred. Either one or two-day delivery is expected the most, for which they will pay additional cost. Unfortunately, such products are frequently not supplied within the specified time frame, and consumers must await days without acquiring their order. Whenever it pertains to returning a product, consumers encounter similar struggles.

Payment issues

Nowadays, there are a slew of issues with online shopping. Many consumers are vulnerable to cyber payment problems. Despite the availability of a variety of payment options such as Net Banking, Credit or Debit Card payments, and even Cash-on-Delivery, transaction failures sometimes occur as the result of webpage server errors, payment gateway errors, or issues with One Time Passwords (OTP). Payments are frequently deducted from the buyer's account or card due to technical problems, but the website doesn't always get the money. After the consumer has completed the transaction, e-commerce marketplaces frequently impose hidden fees. Taxes, additional processing fees and other expenses are concealed from customers until the deal is completed. Websites also provide consumers with the opportunity of purchasing things worth a certain amount to avoid paying delivery fees; nevertheless, vendors levy extra charges, including for orders worth almost as much as the predetermined amount.

CONSUMER PROTECTION BILL, 2015

The Indian cabinet recently ratified the Consumer Protection Bill 2015, which would replace the 29-year-old Consumer Protection Act 1986. Consumers are becoming more vulnerable to numerous forms of unfair trade practices because e-commerce evolves. The new definition of consumer includes a person who buys any goods or avails services in any mode including electronic mode, teleshopping or direct marketing or multilevel marketing. The drafted

Consumer Protection Bill establishes the Central Consumer Protection Authority (CCPA), an autonomous institution tasked with protecting consumers' rights. The bill also enables for class action suits against companies. The "product liability" principle is another significant element included in the Consumer Protection Bill 2015. This law suggests that if a product or service causes physical injury, death, or property damage, the authorities are empowered to take action against the producers or service providers who fail to follow the law. The provision will safeguard online shoppers who negotiate with online shop sellers to acquire products without providing the opportunity to sample or test the products and services they are buying. The manufacturer and the seller could both be held accountable if the product causes damage, personal injury, or death to a consumer. If a personal injury has occurred, damages for mental anguish might be claimed. The bill also allows the concerned forum to annul unfair contract terms and conditions in order to safeguard consumers from traders and service providers exploiting them, and this provision can be extended to electronic contracts. The legislation attempts to address a problem that consumers confront while shopping online. The new Bill covers a number of factors of e-commerce. This Bill addresses issues like as deceptive advertisements to customers, online pyramid marketing, and direct selling pricing with the intent of abusing consumers. The Bill 2015 aims to offer consumers the right to "cool off" in consumer contracts. If this phrase is incorporated in the contract, the consumer has the right to revert the items purchased well within the stated time frame and receive a refund if the goods are not in compliance.

POINTS TO BE CONSIDERED

Despite the fact that the proposed Bill attempts to defend e-consumer interests, there is a desire for a separate law to govern e-commerce and related issues. Because the e-commerce sector is open to people from all over the world, there is always a question of jurisdiction when a dispute develops. If we apply the traditional jurisdictional concept to consumer disputes in general, a suit can be filed in the courts in the local limits of jurisdiction where the defendant voluntarily resides, carries on business, or personally works for gain, or where the cause of action has arisen wholly or in part. The question whether these principles apply to internet transactions remains unanswered. The complaint might be filed at the location where the cause of action

arose, or in the location where the company's headquarters or branch offices are located. However, because e-commerce websites can be browsed from anywhere, there will be some practical difficulties. Some sellers might get the money for the orders placed and run away by closing the websites. The majority of complaints will also be about delivery delays, incorrect product deliveries, cancellations, discounts, and replacements, amongst other things. The issue of jurisdiction will arise in these situations. Even if the complaint is submitted with the appropriate commission in whose local jurisdiction the complainant resides, the further proceedings and enforcement of the order will be challenging when the transaction is complex.

CONCLUSION

Individuals can reach customers all around the country and the world through e-commerce. E-commerce allows business owners to reach out to customers from the comfort of their own homes. Customers can make purchases at any time and from any location, and an increasing number of people are becoming accustomed to shopping on their mobile devices. With the advent of ecommerce websites, starting and running an online market with a low overhead has become quite economical and simple. Regardless of the benefits, consumers bear the danger of credit card fraud and other related risks every time they enter their personal information into a website. Despite the fact that the e-commerce industry is not comparable to the real retail market, the number of people who participate in it is growing, not shrinking. Consumers are also facing numerous issues as a result of the lack of an appropriate redress mechanism for the e-commerce business, particularly in the online retail industry. For better protection, e-market users should be more cautious and apply the maxim caveat emptor while entering the e-commerce market. They must use greater caution when making online purchases and doing online financial transactions. To avoid fraud, it is usually advisable to use cash on delivery as a payment method. Although the Indian legislature has taken steps to protect the consumers, other issues such as jurisdiction must be brought to light and proper steps has to be taken by the government to enhance the protection of the consumers.