

## **“Enhancing Consumer Protection in E-commerce: A Comprehensive Legal Analysis of the Indian Regulatory Framework”**

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### **Abstract:**

India's e-commerce growth has transformed the nature of commercial agreements, providing unmatched convenience to all parties involved while also shedding light on the importance of strong consumer protection mechanisms. Therefore, the purpose of this paper is to examine and analyze Indian legal frameworks, namely the “*Consumer Protection Act of 2019*”<sup>1</sup> and the “*Consumer Protection Rules for E-commerce of 2020*”<sup>2</sup>, to determine their efficacy in protecting consumer rights in the digital market. This paper critically examines the identified topics to reveal their strengths, weaknesses, and areas for enhancement. Through comparing Indian and international standards, with a focus on European practice, this paper will derive best practices and recommendations due to the similarities of the legal market. Thus, this paper will be beneficial to the e-commerce industry.

**Keywords:** e-commerce, consumer protection, “*Consumer Protection Act 2019*”<sup>3</sup>, “*Consumer Protection (E-commerce) Rules 2020*”<sup>4</sup>, legal framework, India.

### **Introduction:**

E-commerce in India has advanced rapidly and revolutionized the commercial market to provide consumers with diverse, affordable, and convenient access to products and goods. However, the development of the digital trend has brought new challenges related to the active exposure of consumers through online channels. The Indian government recognized the threats and

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<sup>1</sup> Consumer Protection Act, 2019, Act No. 35 of 2019 (India)

<sup>2</sup> Consumer Protection (E-commerce) Rules, 2020

<sup>3</sup> Consumer Protection Act, 2019, Act No. 35 of 2019 (India)

<sup>4</sup> Consumer Protection (E-commerce) Rules, 2020

vulnerabilities of digital consumers and, in this regard, established the “*Consumer Protection Act, 2019*”, and the “*Consumer Protection Rules, 2020*”. The purpose of these legal instruments is to oversee and regulate e-commerce in India and offer a high level of trust to Indian consumers.

The same concern will be taken into the consumer protection world of e-commerce in an Indian context, attempting to analyze the efficacy of existing legal frameworks in assuring consumer rights in the digital marketplace. The paper seeks to identify the strengths and weaknesses of the present regulatory framework in force by scanning through the provisions of the “*Consumer Protection Act, 2019*”<sup>5</sup>, and “*the Consumer Protection (E-commerce) Rules, 2020*”<sup>6</sup>, and detect scopes for their further improvement. The research is important to determine how the practical effect of implementation has been in helping the consumers with their grievances and also making an electronic marketplace fair and safe. Also, the Indian legal framework is compared to the international standards, most notably the European Union, because this study tries to find the best practices and the areas that need improvement in order to further the end of the protection of the Indian e-commerce consumer.

The paper also stresses weaknesses that consumers face and gaps within the laws which might have the potential to drive a change in the law toward consumer, policy makers, and e-commerce entities, good. The research intends to answer these critical questions and wants to be a major contribution to this running dialogue in view of making this better for consumerism in the changing dynamics of e-commerce in India. A need for consumer protection arises due to the peculiar challenges online transactions present: while the one hand shows that online shopping can be easy, the other puts consumers at risk from fraudulent sellers, counterfeit products, and inadequate dispute redress mechanisms. The establishment of consumer rights—particularly the right to information, the right to return of goods, and the right to seek redress for unfair trade practices—is a big leap in this direction.

Elaboration of the same is extended in the larger framework constituted by the Act, which imposes more obligations on the e-commerce platforms toward transparency, accountability, and consumer satisfaction. The rules state there shall be clear information about the products and

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<sup>5</sup> Consumer Protection Act, 2019, Act No. 35 of 2019 (India)

<sup>6</sup> Consumer Protection (E-commerce) Rules, 2020

sellers from the e-commerce entity, and a complete record of transactions shall be maintained. A complaint of the consumer must be addressed without any delay, and there should be stringent norms for the protection of data and privacy. However, with all this legislation, there are a number of problems still prevailing in the area of consumer protection in e-commerce in India. Enforcement of such laws and regulations is found to be far less effective, among other reasons due to resource constraints, lack of jurisdictional competence, and the rapidly evolving nature of online commerce. In addition, the lack of awareness about rights and mechanisms for recourse among consumers further deprives them of the use of legal avenues, both nationally and internationally, in case of grievance. More significantly, the prevalence of cross-border electronic commerce further complicates the regulatory landscape, as it takes place between a consumer and a seller located in different jurisdictions, each governed by distinct legal frameworks. There is hence a strong need for international cooperation and the harmonization of laws on consumer protection to address the challenges of global e-commerce.

In the result, the “*Consumer Protection Act, 2019*”<sup>7</sup> and “*Consumer Protection (E-commerce) Rules, 2020*”<sup>8</sup> are significant steps towards the protection of consumers in electronic commerce in India, although more remains to be done. The study helps push forward the discussion by critically analyzing existing legal frameworks, areas of improvement, and insights from the best international practices that help in setting up a strong and effective system of consumer protection in the digital marketplace, which will ensure that the regime will provide for fair, transparent, and secure online transactions in India.

### **Research Question:**

1. How effective are the current legal frameworks in addressing consumer complaints and grievances in e-commerce transactions in India?
2. What are the challenges faced by consumers in e-commerce transactions in India, and how can these challenges be addressed through the legal framework?

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<sup>7</sup> Consumer Protection Act, 2019, Act No. 35 of 2019 (India)

<sup>8</sup> Consumer Protection (E-commerce) Rules, 2020

**Statement of Problem:**

The present research will like to investigate whether the prevailing legal frameworks are effective enough to settle the challenges and complaints of consumers related to the e-commerce business in India. This research finds out whether the new “*Consumer Protection Act, 2019*<sup>9</sup>”, and “*Consumer Protection (E-commerce) Rules, 2020*<sup>10</sup>”, will legally better protect the rights of consumers and be fair in the conduct of e-business, which presently is seen as a challenge. The research shall investigate whether these laws, in one way or another, have been successful in addressing consumer problems and have prevented fraudulent activities in the e-commerce business.

**Research Methodology:**

The paper basically concerns a doctrinal research methodology. A doctrinal research methodology looks into existing legal frameworks, laws, regulations, and principles in addressing the research questions formed. A doctrinal approach basically looks into and interprets legal issues and concepts derived from the main findings of the theoretical analysis, legal doctrines, statutes, and case laws. This entails a look at and scrutiny of legal literature, statutes, regulations, and judicial decisions that will form the grounds under which insight and conclusions will be obtained in response to the research questions.

**The key provisions of the “*Consumer Protection (E-Commerce) Rules, 2020*<sup>11</sup>” in India are:**

1. **Transparency Requirements:** E-commerce entities must disclose detailed information about sellers, return policies, terms of service, and payment methods to empower consumers to make informed decisions.
2. **Prohibition on Unfair Trade Practices:** The rules prohibit e-commerce platforms from engaging in unfair trade practices, such as the sale of counterfeit products, fake reviews, and misleading advertising.

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<sup>9</sup>Consumer Protection Act, 2019, Act No. 35 of 2019 (India)

<sup>10</sup> Consumer Protection (E-commerce) Rules, 2020

<sup>11</sup> Consumer Protection (E-commerce) Rules, 2020

3. **Grievance Redressal Mechanism:** The rules mandate the establishment of a grievance redressal mechanism to address consumer complaints and ensure accountability.
4. **Data Privacy and Protection:** The rules aim to safeguard consumer data privacy and prevent unauthorized use or disclosure of personal information.
5. **Applicability to Foreign Entities:** The rules apply to e-commerce entities not established in India but systematically offering goods or services to Indian consumers, requiring them to have a registered entity in India.
6. **Consent for Purchase:** E-commerce entities are required to record the explicit and affirmative consent of consumers for any purchase, and cannot use pre-ticked checkboxes to obtain consent automatically.
7. **Liability of Marketplace Entities:** The rules outline the liabilities and responsibilities of marketplace e-commerce entities, which act as intermediaries between buyers and sellers.

The “*Consumer Protection (E-Commerce) Rules, 2020*<sup>12</sup>” in India focus on enhancing transparency, preventing unfair trade practices, ensuring data protection, and establishing accountability mechanisms to safeguard consumer interests in the rapidly growing e-commerce landscape.

### **Effectiveness of the Legal Frameworks:**

The “*Consumer Protection (E-Commerce) Rules, 2020*<sup>13</sup>”, notified by the Government of India, have been devised to protect the interests of consumers in electronic commerce transactions. These rules mandate that information about the seller should be provided in a clear and concise manner, which includes return, refund, and exchange policy; delivery and dispatch of the order;

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<sup>12</sup> Consumer Protection (E-commerce) Rules, 2020

<sup>13</sup> Consumer Protection (E-commerce) Rules, 2020

grievance redressal mechanism; and so on. The rules also make e-commerce entities responsible in the event that a seller on their site does not meet their duties to the buyer.

However, the same is not true of other big e-commerce players who do not have an effective grievance redressal mechanism, evidenced by the fact that the National Consumer Helpline received up to 90,000 complaints in November 2022, with 48% of the total complaints relating to e-commerce transactions. Hence, it shows that many of these big e-commerce companies' grievance redressal systems do not function up to the mark.

In addition, the “*Consumer Protection Act of 2019*<sup>14</sup>” is in place for protecting the interests of consumers within such transactions of e-commerce. However, a paper examining the effectiveness of the “*Consumer Protection Act of 2019*<sup>15</sup>” toward the needs of the consumers in e-commerce transactions within India indicates that there are gaps in the current framework under the 2019 Act that require filling. The paper recommends other measures in regulation that could be taken on board to assure that there are effective regulations on e-commerce transactions and to provide consumer grievance redressal measures.

Therefore, even though the legal frameworks are put in place to protect the consumers in e-commerce transactions, still many challenges are felt and to be addressed. The grievance redressal mechanism in many of these e-commerce players is not up to the mark, and the present framework under the 2019 Act is left with the gaps that need to be covered. There is a need to put in place legal frameworks so that it can work with effect with the cases related to consumer complaints and grievances stemming out of the e-commerce transactions in India.

### **Challenges Faced by Consumers:**

The problems with e-commerce transactions by consumers in Indian are proverbially many-sided and they compound the difficulty of the task. The threat considered to be quite serious as the development of e-commerce in India is highly dynamic and relatively high and so is the number of consumer complaints and their grievances concerns. A legal basis to review and fight them is being demanded. This opportunity “*the Consumer Protection Act, 2019*<sup>16</sup>” propounds.

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<sup>14</sup> Consumer Protection Act, 2019, Act No. 35 of 2019 (India)

<sup>15</sup> Consumer Protection Act, 2019, Act No. 35 of 2019 (India)

<sup>16</sup> Consumer Protection Act, 2019, Act No. 35 of 2019 (India)

Another critical challenge faced by consumers in e-commerce transactions is unawareness. Many e-commerce consumers do not know their rights and legal remedies available to them in case of abuse. The “*Consumer Protection Act, 2019*<sup>17</sup>”, and the “*Consumer Protection Act (E-commerce) Rules, 2020*<sup>18</sup>” have tried to bridge this gap by introducing provisions for consumer education and awareness creation. However, these efforts are still insufficient to protect the consumer due to the emerging transactional modes and platforms. Additionally, another challenge consumers face in e-commerce transactions is non-transparency. Nontransparency refers to all forms and means of abuse that obscure the true picture and intention of parties to the e-commerce transaction. Some examples of non-transparency include misleading advertisements, non-disclosure of material information, terms of transactional agreement.

The “*Consumer Protection (E-commerce) Rules, 2020*<sup>19</sup>” attempt to address these limitations by mandating that e-commerce entities furnish transparent and clear information on their products and services. But even these require further efforts to ensure that consumers have access to accurate and reliable information regarding e-commerce transactions.

The other leading challenge clients face in e-commerce transactions is that of data protection. The use of personal data in e-commerce transactions has created several concerns over data privacy and security. The “*Consumer Protection (E-commerce) Rules, 2020*<sup>20</sup>”, have come into effect to reduce the situation by making e-commerce entities provide clear and transparent information on their data protection practices. However, much more effort is needed to give consumers assurance of the protection of personal data in e-commerce transactions.

The other serious challenge to the consumer is jurisdictional disputes in such transactions. The characteristics of border lessness in e-commerce transactions have been raising questions about the jurisdiction of the e-commerce disputes, and that is what the “*Consumer Protection (E-commerce) Rules, 2020*<sup>21</sup>” is trying to address through the requirements that e-commerce entities should make known their jurisdictional practices. More of such programs are still needed to

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<sup>17</sup> Consumer Protection Act, 2019, Act No. 35 of 2019 (India)

<sup>18</sup> Consumer Protection (E-commerce) Rules, 2020

<sup>19</sup> Consumer Protection (E-commerce) Rules, 2020

<sup>20</sup> Consumer Protection (E-commerce) Rules, 2020

<sup>21</sup> Consumer Protection (E-commerce) Rules, 2020

afford consumers mechanisms with which to effectively and efficiently address any disputes arising through electronic commerce.

In conclusion, “*the Consumer Protection Act, 2019*<sup>22</sup>”, and its “*Consumer Protection (E-Commerce) Rules, 2020*<sup>23</sup>”, are very welcome steps but still fall short of tackling the predicaments faced by the customers using e-commerce transactions. The issues of the consumer in e-commerce are: lack of awareness of the rights of consumers, inadequate transparency in the transaction of e-commerce, protection of data, jurisdictional issues, and a need for more and still more efforts from the authorities to ensure the mechanisms of dispute resolution are effective and efficient. All the aforesaid challenges will only be addressed by the government, e-commerce entities, and the consumers together.

### **Addressing the Challenges:**

The challenges of e-commerce user empowerment in India are unimaginable as they are numerous and complicated. The Indian e-commerce industry is currently expanding, but there are many difficulties with enabling consumers to reach their full potential with online shopping. The primary problem is the extremely underdeveloped infrastructure of internet access. For example, India’s internet penetration rate, according to the Internet and Mobile Association of India, is only 34.8%, unlike other nations. Consumers in the country struggle to use e-commerce platforms due to rural areas’ poor internet access.

The next challenge is the untrustworthy of online transactions. In the case of India, most consumers make payments through cash on delivery, where they pay in cash anytime service or product they have purchased is delivered to them. Again, this is due to low credit card diffusion and low trust in online transaction. The manual cash collection process is precarious, expensive, and labor-intensive. Lastly, incorrect postal addresses are the greatest challenge associated with e-commerce in India. Customers who bought products and services online may receive calls from claims asking for their exact location. The given address may not be enough due to the lack of postal address standardization. This always results in delivery problems.

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<sup>22</sup> Consumer Protection Act, 2019, Act No. 35 of 2019 (India)

<sup>23</sup> Consumer Protection (E-commerce) Rules, 2020



Another major challenge is the absence of cyber laws for the e-commerce market in India. The Information Technology Bill passed by the Indian Parliament in 2000 hopes to skeletonally regulate the burgeoning areas in e-commerce, banning the commercial and criminal sectors of the law. Certainly, commercial law governs trading and commercial transactions; the information technology substituted the evidence and regulated the files to be kept. However, the cyber service was not significantly enforced, and the establishment took care of it, leaving a lot of issues, including consumer protection and data privacy and security, unattended. There are also other aspects like logistics and the supply chain and payment rules and market development. It is difficult for Indian e-commerce companies to tackle the challenge posed by the business dealing in multiple currencies and different payment rules. The main problem is the fluctuations in currency and varied payments across the border make the business formulate robust financial strategies.

At a broader level, India needs to view e-commerce regulations, data protection laws, and trade policies in close interaction to develop rigorous policy measures to meet the above challenges. Stakeholder consultation – businesses, consumers, and industry associations – should be pursued continually to ensure openness and balance in creating e-commerce regulations that are not lopsided. The above move will help to take multiple viewpoints into action, thereby addressing the often-diverse problems faced by e-commerce. Regulatory capacity, legal affairs, and businesses should understand the formulation of rules and how they are influenced by that power. Educational courses, workshops, and training programs can be organized.

In sum, the Indian e-commerce market is expanding rapidly; however, several concerns need to be mitigated for consumers to maximize the benefits of online shopping. Mitigating the corresponding challenges is a shared responsibility among government, e-commerce businesses and consumers in ensuring a safe online environment. India's willingness to engage all parties for policy making would help the country create a suitable environment for e-commerce growth while also maintaining consumer safety and privacy.

**The “*Consumer Protection (E-Commerce) Rules, 2020*<sup>24</sup>” in India regulate the marketing of goods and services online in the following key ways:**

**I. Transparency Requirements:**

The rules mandate e-commerce entities to provide clear and detailed information about sellers, return/refund policies, delivery details, payment methods, and grievance redressal mechanisms to enable consumers to make informed decisions.

**II. Prohibition on Unfair Trade Practices:**

The rules prohibit e-commerce platforms from engaging in unfair trade practices, such as posting fake reviews, misleading advertising, and refusing to take back defective goods or withdraw deficient services.

**III. Liabilities of Marketplace E-Commerce Entities:**

The rules outline the responsibilities of marketplace e-commerce entities to ensure the accuracy of product descriptions and maintain contractual undertakings with sellers to protect consumer interests.

**IV. Regulation of Foreign E-Commerce Entities:**

The rules apply to e-commerce entities not established in India but systematically offering goods or services to Indian consumers, requiring them to have a registered entity in India to ensure regulatory compliance and enforcement.

**V. Alignment with International Best Practices:**

The rules aim to align India's e-commerce consumer protection framework with global standards, addressing the cross-border nature of digital commerce.

The “*Consumer Protection (E-Commerce) Rules, 2020*<sup>25</sup>” in India focus on enhancing transparency, preventing unfair marketing practices, establishing accountability, and regulating both domestic and foreign e-commerce entities to safeguard consumer interests in the online marketplace.

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<sup>24</sup>Consumer Protection (E-commerce) Rules, 2020

<sup>25</sup> Consumer Protection (E-commerce) Rules, 2020

**Findings:**

To summarise, the analysis indicates that the “*Consumer Protection E-Commerce Rules, 2020*”<sup>26</sup>, and the “*Consumer Protection Act, 2019*”<sup>27</sup>, have introduced valuable changes to improve consumer protection in the e-commerce sector. However, some considerable gaps remain in the legal regulation of this area, including inadequate enforcement, the lack of liability provisions for e-commerce entities, insufficient data protection guarantees, and poor regulation of foreign trade . Thus, the analysis allows arguing that the scope of appropriate regulatory measures should be expanded to encompass the recommendations proposed here.

**Conclusion:**

To sum up, the “*Consumer Protection Act, 2019*”,<sup>28</sup> and the “*Consumer Protection E-Commerce Rules, 2020*”<sup>29</sup>, represent significant advancements in ensuring consumers’ rights regarding e-commerce transactions in India. However, there are still many issues that consumers face in e-commerce transactions, including the state of not being informed of their rights, the complexity of the system, and the ineffective measures regarding proving their rights. It is required to increase the awareness of consumers, to simplify the legal system, and to strengthen the enforcement mechanisms. The government and e-commerce companies have to collude to empower consumers with enough knowledge on their rights and enable them to access and prove them.

Secondly, the legal frameworks should be updated regularly to keep pace with the fast-changing e-commerce landscape and the emergence of new problems. Furthermore, the government should make sure that the enforcement of the laws and regulations is adequate to deter e-commerce players from engaging in unfair business tactics and to further safeguard the consumer’s rights. In conclusion, while the “*Consumer Protection Act 2019*”<sup>30</sup> and “*Consumer Protection E-commerce Rules, 2020*”<sup>31</sup> create a strong foundation for the protection of the

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<sup>26</sup> Consumer Protection (E-commerce) Rules, 2020

<sup>27</sup> Consumer Protection Act, 2019, Act No. 35 of 2019 (India)

<sup>28</sup> Consumer Protection Act, 2019, Act No. 35 of 2019 (India)

<sup>29</sup> Consumer Protection (E-commerce) Rules, 2020

<sup>30</sup> Consumer Protection Act, 2019, Act No. 35 of 2019 (India)

<sup>31</sup> Consumer Protection (E-commerce) Rules, 2020

consumer's rights when engaging in e-commerce in India, much remains to be done to ensure that these rights are fully respected. By tackling the existing e-commerce consumer challenges through purposing stronger regulations to preserve and extend the consumer's rights, India can create a more consumer-friendly e-commerce environment that fosters trust and confidence among consumers and encourages the growth of e-commerce in the country.