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CONSUMER PROTECTION IN THE AGE OF E-COMMERCE- Khushi Jain¹**ABSTRACT**

In an Era of digitalization, everyone has an increasing access to e-commerce sites through which consumers enter into e-contracts. With an increasing access, e-consumers are becoming more vulnerable to unfair and unethical trade practices. The main theme of article is to focus on recent issues and challenges regarding the consumer protection in age of e-commerce in India. It discusses about problems that arise in e-contracts such as defective and faulty products, security and privacy issues, payment and refund poor quality services etc. and effective solutions to it. Analysis of the new act and comparison with previous consumer protection laws has been done in brief with reference to e-consumer so as to evaluate additions to the new act. Thus, this article is pen down to make comparative study of position of e-consumer in order to provide suggestions regarding the law so that it can be reformed to meet the challenges as well as to provide speed redressals to e-consumers.

Key Words: e-commerce, e-consumer, e-commerce entities, Consumer Protection Act, 2019

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INTRODUCTION

World is full of modernization, a click of your mouse can bring anything you want on your screen. This shows how e-commerce has made consumers life easy. E-commerce has been growing rapidly and has become a fundamental part of our life. Presently, e-commerce has become a necessity rather than a privilege. Through the use of internet, it has reached all over world extending its benefits to both consumers and businesses as it provides an efficient way of transaction. Consumer can visit unlimited no. of shops any time because they all are close to them in cyber world and can buy anything at competitive price. But at the same time it has made the life of human being more complex as consumer in e- contracts are not able to check the genuineness of the product as well as the person to whom they are dealing with. As a result, they are at the greater risk of their money being swindled by fraudsters. Also, the consumers are being placed at unfair terms in form of exceptions that exclude the liability of trader in case of defective product, no return policy, misuse of personal information of consumer. The principle of 'Caveat Emptor' which states that 'let the buyer be aware' can't be applied because products are pre- packed. In light of various negative aspects of e-commerce as well as taking into consideration the rapid growth of the industry and its importance in economic development. Government of India introduced Consumer Protection Act 2019 which sought to prevent unfair trade practices and provide remedies to consumer.

Who is an e-consumer entity according to Consumer Protection Act, 2019?

"E-commerce" under section 2(16) is the business of buying or selling of goods or services including digital products over digital or electronic networks.

An "E-commerce entity" means who owns, operates or manages digital or electronic facility or platform for electronic commerce where buying or selling of goods or services including digital products takes place over digital or electronic networks.

Basically e-commerce is of 3 types:

Business to business [B2B]

Business to consumer (B2C)

Consumer to consumer (C2C)

ANALYSIS

E-Commerce has bloomed in recent years as it caters to the need of speedy trade among consumers and sellers. It has been adopted globally almost and India is no exception to it. It provides opportunity to consumer to purchase product 24/7 comfortably and provides platform

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for small business to registered themselves without the need of shops. Despite immense growth people are still reluctant to adopt it as they don't have trust in these activities. We all know, Consumer confidence is the most important factor for growth of any business. Without these, consumers won't spend on these sites leading to low revenue hence low economic growth. So there is a strong need for government to become vigilant and made laws for protection of e consumer.

In India, we have Consumer Protection Act 2019 in which e-commerce will also be regulated as of rules of direct selling. Study of this act concludes that a 'Consumer is a person who buys any goods or hires any service by offline or online transactions through electronic means or by teleshopping or direct selling or multi-level marketing'. These goods and services whether bought or hired should be used for his own purpose not for any commercial purpose.

Introduction of e-commerce rules make it compulsory that every e-commerce entity is required to provide information relating to return, refund, exchange, delivery and shipment, modes of payment, warranty and guarantee, grievance redressal mechanism, security of payment, charge-back options, no cancelation charges etc. Including refrainment from misleading advertisements all these elements are necessary for helping the consumer to make an informed decision about the purchase of the product from the platform.

As far as remedy is concerned it is necessary for the e-commerce entities to acknowledge the receipt of consumer complaint within 48 hours and its redressal by them in a month. If the rules are not complied there is provision for strict punishment of about 6 months or fine up to 20 lakh or both. Undoubtedly, this act is transparent, based on principle of fair and equitable treatment. If this act is applied efficiently, it will have suitable results.

Analysis and comparison of Consumer Protection Act, 2019 with 1986 one-

Before this 2019 act we have consumer protection act 1986 in India which deals with law related to consumers. In this, discussion will be done about how the new act has been broadened and has provided jurisdiction power to courts in respect of e-commerce cases.

a) Inclusion of e- consumer -

Under 1986 act the liability arises only when there is a "deficiency of services" or "defects of goods." There is no provision for protection of e-consumers there. If any fraud happens online, then consumer protection act will not apply. Courts are facing countless cases in the recent years when e-commerce case was filed before the forum but due to lack of jurisdiction, most of the cases can't be solved and no reliefs are given to the consumers benefiting these platforms to

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escape the liability. But 2019 act had countered this difficulty by inclusion of e-commerce and by making separate provision for e-commerce rules.

b) Unfair Trade practice -

The 2019 Act has also widened the definition of Unfair Trade Practices as compared to the 1986 Act. It now includes offences related to misleading advertisement, disclosing personal information of consumers, return of defective goods and money. It also held that no counterfeit products are sold on these sites. If found, they will be penalized. This move is important in case of e-commerce where fake products are sold rampantly as a survey showed that 38% respondents out of 6293 got counterfeit products from these sites in one year. This act will help the government to keep check on unfair e-contracts used by e-commerce sites to force the consumer to agree on certain terms and conditions before purchasing goods or hiring any service.

c) Product liability -

The 2019 act defines as the responsibility of product manufacturer or seller to compensate for the harm suffered by the consumer. As per the new act producer seller includes these e-commerce platforms as well. Therefore, the defence taken by these platforms that they are merely aggregators is now not applicable in the court.

d) E- complaints -

This act allows consumer to file complaint online from anywhere. This is a good move considering the rise in e-commerce because sellers are located anywhere and consumer can file complaint where they are.

e) Mediation –

Introduction of Mediation is very helpful for both e-commerce entities and e-consumers as it will help them to solve dispute in least time and even outside the court in a simplified manner. Consequently, the Consumer Protection act, 2019 proved to be a boon for greater protection for consumers especially in the age of e-commerce.

ISSUES-

- a) Whether e-commerce is really beneficial for India especially for consumers?

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- b) Whether consumer protection act 2019 is suitable for e-commerce and is it serving the purpose?
- c) Whether interest of consumer is safeguarded in case he receives faulty product and party from he purchased is not legitimate one?
- d) Whether India has sufficient law in dealing with cross boarder e commerce transactions.

CHALLENGES-

India is rapidly promoting e-commerce activities which means promotion of e- consumer activities. There is no problem in promotion of e- consumer activities but problem arises when most people are unaware about the choice of reliable portals, privacy and dissemination of personal sensitive information, nature and modes of complain redressal etc. leading them to fall in a fraudulent trap. Education of these consumers poses a big challenge as we have to make them aware about their rights, duties and remedies available and also about the usage of these e-commerce platform's.

Another basic challenge is that despite various provisions under this act, there is deficiency of information about refund, return, origin of site, warranty, expiry etc. on a significant proportion of sites. Only few websites provide quality information. Also there is provision for consumer grievance cell which solve their problem but there is still no proper implementation to it. The dispute is that how to reduce these deficiencies and to implement government laws properly.

How to identify party on the other side is also a big challenge as the Internet has been flooded with fake accounts. These fake people imitate others identity, create web shops within hours use them and remove them as per their desires. They often collect person's banking information and use that to transfer money to their bank account. Law also lags on this matter because how it will provide relief, if the party is unknown.

There are some lacunas in law which are to dealt with like:

- Would the consent given under click wrap agreement is sufficient under E- commerce rules?
- Whether consent of the consumer is required only at the time of registration or every time whenever consumer makes a transaction?
- It is stated in the rule that e- commerce sites should not discrimination between consumers of same class but it is not clearly mention what constitute the same class?

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- Guidelines provides that refund should be made within reasonable period of time. But now question arises what is a reasonable period of time? It is a subjective concept as what may be reasonable for one e-commerce entity may not for other.

These loopholes should be corrected as soon as possible otherwise it may lead to exploitation of the e-consumer.

Cross-border e-consumer complaints can't be overlooked as the contract was governed by the laws of the country from where the goods were supplied, rather than where it was bought. This makes the consumer not interested in spending overseas as filing a complaint will be challenging, expensive, time consuming and complicated.

Consumers still afraid to enter into any e-commerce transactions because of absence of particular redress forum for these transactions. Unfair trade practices and virtual nature of e-commerce led to misuse of information, which is a great hindrance to consumer trust and confidence. Winning the trust of the consumer is a big issue because if they don't have confidence they will spend less leading to low economic growth.

E-consumer may not be able to get relief easily as pecuniary jurisdiction for district court has been increase to 1 crore which means most of the cases fall under it leading to increase in burden. All this would have an adverse impact of effective implementation of Consumer Protection Act 2019 and e-commerce rules 2020.

Biggest challenge is the implementation of law. It is evident from India past enactments that poor implementation has make the greatest law ineffective. In practical life there is huge difference between provision of law and their implementation. Solving a case in 3 to 5 month is like a joke in practicality. Undoubtedly, policymakers and lawmakers had make the best laws but these laws are merely left on to the papers due to absence of effective, modern framework, professional people and infrastructure their implementation is not possible as ground reality is very different.

SUGGESTIONS

There should be a transparent & independent law which deals with various issues & challenges posed upon.

1. Government along with some NGO's should introduce campaigns to make these e-consumer well informed about how to intelligently use these sites and put a check on malpractices. Knowledge about the e-commerce platform can be enhanced by the way of media and newspaper publications. Effective measures should be taught to provide adequate and uniform

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2. For solving identity issues people should be made aware about using behavior analysis and verification methods to detect abnormal activity. So that they can be prevented from being cheated.

3. There should be proper compliance in respect of the rules regarding payment, misleading advertisement, complete disclosure about the site as well as the product. So that consumers can make a rational decision. Accessibility of information can be checked by developing quality marking such as Trustmark's etc.

4. Effective implementation of laws will not be possible unless government take an active part. Strong check and balance system, stringent law along with penalties and punishment is required that will act as deterrent against these e-commerce sites who are involved in unscrupulous, unfair trade practices.

5. Law should be more clear and cross border cases should be included as per OECD regulations². In case of any ambiguity in law, proper explanation should be given without wasting time. So that these websites don't get any chance to escape the liability.

6. Government should establish special e-commerce redressal forums, develop adequate infrastructure and provide resources for administration which will help in speedy disposal as well as enhancing consumer trust and confidence. These speedy redressals will encourage more consumers to transact online leading to economic growth.

At last if one wants to get rid of these issues and have existence in the modern world, one should become vigilant and should remain updated with the upcoming technology.

CONCLUSION

The above article highlights the problems and issues in protection of e-consumer along with some suggestions. However, the new act has made the saying meaningful that the Consumer is the King of market by introducing transparency and accountability in the system but they are some grey areas as discussed above which are need to be dealt with. Although New bill has tried to cover many aspects of e-commerce regime but still all the spheres are not brought under one roof. Growth of e-commerce can be achieved to the fullest only when e-consumers

² Guideline 88 of OECD states that member state should provide with their consumer protection enforcement agency particularly relating to cross-border fraudulent and deceptive commercial practices. It should extend to cooperation with other foreign consumer protection enforcement agencies.

Guideline 90 promote International guidelines and standards on protecting consumers from fraudulent and deceptive cross-border commercial practices.

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are offered same level of protection as the offline one. In last, it can be well concluded that there is no perfect solution to these problems. Just like Diamond cut Diamonds, technological innovation will curb technology abuses.

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