

**OVERVIEW OF LEGAL IMPLICATIONS OF E-COMMERCE
TRANSACTIONS IN INDIA**- Vishal Agrawal¹**ABSTRACT**

E-commerce basically means conducting business online through use of Internet. Though E-commerce is an online platform to conduct business it can't escape through the legality of it. Law is above all, the online businesses or organization has to take care of the legal issues involved in it. Through this article the aim is to emphasis on the legal framework for E-commerce in India, Intellectual Property Right in E-commerce, the data privacy and security in E-commerce as well as the legal issues involved in the E-commerce business. E-commerce platform has increased and is being increasing day by day by the advance use of internet, mobile phones and other electronic devices, the new laws has been enforced in the sector and more bills are being passed for the regulation of the same.

INTRODUCTION

With the Advanced use of Internet, E-commerce has gained immense popularity in India during recent days, Online businesses as well as online transactions are emerging day by day, with the increasing use of smartphones and internet it is very convenient for the users to commence e-commerce and purchase products from e commerce, as it is very easy for the users to search and select product online, order it online and get it delivered to your door steps. Moreover, they users get the additional benefit to exchange or return product according to product in case of any defect or fault which they don't get easily in offline stores, rest they provide all warranty and accessories as the users get in the offline store.

According to report approximately every 7 in 20 companies are operating its business online by way of E-commerce.

¹ Student at New law College, Bharti Vidyapeeth Deemed to be University

For general queries or to submit your research for publication, kindly email us at editorial@ijlr.in

LEGAL FRAMEWORK FOR E-COMMERCE IN INDIA

Though, E-commerce has emerged and gained very popularity it can't escape the legal matters. E-commerce basically means production, distribution, marketing, sale or delivery by electronic means.

E-commerce is governed by various laws, specifically Information Technology Act 2000 and Consumer Protection Act 2019. Additionally, there are more laws such as Data Privacy Security, Intellectual Property right etc.

The Information Technology (IT) Act governs all the rules and regulations relating to E-commerce, E-transactions and all the electronic means.

IT Act defines e-commerce as "buying and selling of goods and services including digital products over digital and electronic networks".

Consumer Protection Act 2019, expands the scope of consumer protection laws in India by including the E-commerce platform as "Service Providers", the act includes or added provisions related to the E-commerce with respect of consumer protection, added provisions for regulating E-commerce transactions in India. Under the act E-commerce platforms have to disclose the crucial information's such as, return policy or replace policy, warranty period and description of the product in a manner which can be read by the buyers. These are to be done to protect the consumers from any malpractices or any wrongdoings in E-commerce transactions.

INTELLECTUAL PROPERTY RIGHT IN E-COMMERCE

Intellectual Property Rights are one of the crucial aspect of E-commerce transactions in India. IPR are protected in India under various laws such as Copy Right Act 1957 Trademark Act 1999, and the Patent Act 1970, E-commerce should keep in mind that they should not infringe IPR of third party.

Copyright

A legal right given to an Intellectual Property Owner is Copyright. It helps protect the creator of the original material and provides exclusive right to the owner that only he can use as per his wish to use or distribute copyright protects only the original expression of ideas, artistry,

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

literary work and not the underlying ideas themselves, usually it is for a limited time after that it becomes public.

Patent

Patent is an exclusive right granted by the Government to the inventor to exclude others to use, make and sell an invention in a specified period of time. A patent is also available for improvement in their previous Inventions. Patents in E-Commerce are important because of the amount of licensing, contracting, outsourcing, and strategic relationships involved in E-Commerce.

Trademark

Trademark is a branch of intellectual property rights which includes a name, word or sign that differentiates one's goods from the goods of other enterprise, It is a special design, size or expression which identifies ones products r services form other source. Trademark which are used to identify services are called service marks. The Trademark owner can be individual, business organization or a legal entity.

E-commerce should ensure that they have the proper authority and license of the Trademark, Copyright and Patent. E-commerce should also ensure that third party vendors selling on their product should not infringe the IPRs of others. They should also setup a system or platform to help lodging of complains and a support system to resolve the disputes.

DATA PRIVACY AND SECURITY IN E-COMMERCE TRANSACTIONS

In day to day huge amount of E-commerce transaction takes place, some of which requires the consumer data of which E-commerce have access. Some people don't really want to give access to their private data for some good reasons. Which are too often misused to perform unlawful act such as advertising, even selling the data to third party, etc.

The digital personal data protection bill 2022, is expected to become law soon which will regulate the collection storage and processing of personal data in India. Under the bill E-commerce have to take consent from consumers before collecting personal data. They must also ensure that the data taken is used for that specific purpose for which the consent is taken.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

In addition of complying all the privacy laws E-commerce transaction should also ensure to take steps to secure the data to their consumers. E-commerce platform should also use encryption and other security measure to prevent the uses data from unauthorised use. They should also launch a platform to address data breach.

LEGAL ISSUES E-COMMERCE BUSINESSES FACE

Incorporation problem

If your business is not incorporated and merely runs through a website, you have a crucial problem. Any activity of the business such as purchasing, selling or distributing will not be considered legal and you can't lodge a complaint or claim your right against any fraud or corruption. Without incorporation business has no shelter.

Identity Issue

How can one determine the identification of distant parties?

1. who tries to gain access to a sensitive information database online;
2. who tries to conduct an online account transfer;
3. Who authorised a digital contract?
4. who issued an email or remotely approved a product dispatch.

The availability and dependability of reliable information regarding the identity of the remote party for the purpose of making a trust-based choice grows along with the sensitivity and value of the transaction.

Jurisdiction issue

E-commerce takes place in a world without boundaries. Consequently, raise the question: Whose jurisdiction?

- What should be done?

What legislation and tests are required?

- When a person lives outside the scope of the jurisdiction?
- Which country's laws govern a specific e-Commerce transaction?
- Which nation's courts or authorities should be contacted to enforce rights?

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

A court or authority is more likely to utilise a long-arm statute the more business that is done.

Treaties between the nations govern the exercise of jurisdiction over territory beyond national borders.

A particular piece of legislation must be passed immediately to address questions of jurisdiction for conflicts involving e-commerce.

Taxation Issues

Difficulties in taxing e-commerce transactions:

- Economic activity determination (to prevent double taxes)
- Determining if a permanent establishment exists
- Tracing the beginning and end of a transaction
- A lack of paperwork to determine the type of contract.

Since e-Commerce involves the use of large volume, low value goods, it is necessary for the laws governing indirect taxes to be updated and revised in order to take these new business dynamics into account.

Double taxation agreements are based on OECD or UN model agreements. It is necessary to add or modify these models appropriately in order to account for e-Commerce transactions when determining the location of economic activity.

The Countries may then include these additions or modifications in the various treaties they have signed with other nations.

But the better option is to have uniform guidelines and definitions created by international organisations.

Consumer Protection Issues

E-commerce raises a number of challenges related to consumer protection, such as:

- Unfair business practises
- Unfair contract provisions
- Online transaction security

Cross-border internet transactions; data protection and privacy; dispute resolution and redress

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

Policy initiatives should be taken to increase customer confidence in online shopping, including:

consumer education; ethical business conduct;

Global collaboration

Guidelines for consumer protection in the context of e-commerce have been released by UNCTAD and the OECD.

CONCLUSION

“The bursting of the dotcom bubble” has made the companies and the businessman realize that doing business online is not an easy task (E-commerce). Undoubtedly the rapid Internet growth leads to E-commerce business which is beneficial for the country and worldwide, Increasing the International trade any boosting the economy as whole, as every coin has two sides E-commerce has to face many issues including legal disputes. The companies have to abide and follow all the laws which are made for E-commerce business and work in accordance so that the interest of its users are accomplished by keeping in mind that no other Individual, Organizations or third party gets any issues. E-commerce raises a number of challenges related to consumer protection, such as: India is one of the few nations in the world to have passed an E-Commerce law in the midst of this legal stalemate. For the tangled web to be properly controlled, though, much more is required.

REFERENCES

<https://www.legalserviceindia.com/legal/article-10880-overview-of-legal-implications-of-e-commerce-transactions-in-india.html>

<https://ptes.edu.in/legal-issues-faced-by-e-commerce-businesses/>

<https://www.legalpedia.co.in/articlecontent/intellectual-property-in-e-commerce.html>

For general queries or to submit your research for publication, kindly email us at editorial@ijlr.in

<https://www.ijlr.in/>