

RSTV Perspective - Protecting e-Commerce Consumers

Context:

- Every year, **24th of December is observed as National Consumer Day.**
- On this day, the **Consumer Protection Act, 1986 had received the assent of the president.**
- The National Consumer Day presents an opportunity to highlight the importance of the consumer movement, the need to make people aware of their rights as consumers, and to ensure consumers with effective safeguards against different types of exploitation such as defective goods, deficiency in services and unfair trade practices.
- This year's **theme of National Consumer Day is "Tackling Plastic Pollution".**
- **World Consumer Rights Day is celebrated annually on March 15.**

Who is a consumer: A consumer is anyone who purchases goods or services, and pays for it in return.

Consumer Rights in India: Consumer Protection Act guarantees **six basic rights to consumers:**

1. right to choose the product;
2. right to be protected from all kinds of hazardous goods;
3. right to be informed about the performance and quality of all products;
4. right to be heard in all decision-making processes related to consumer interests;
5. right to seek redressal, whenever consumer rights have been infringed;
6. right to complete consumer education.

Consumer Protection Act 1986:

- **Major Objectives:**
 - To promote and protect the rights of Consumer such as Right to be protected against the marketing of goods and services which are hazardous to life and property.
 - Be informed about the quality, quantity, potency, purity, standard and price of goods or services, as the case may be so as to protect the consumer against unfair trade practices.
 - Be assured, wherever possible, access to a variety of goods and services at competitive prices.
 - Be heard and to be assured that consumer's interest will receive due consideration at appropriate forums.
 - Seek redressal against unfair trade practices or restrictive trade practices or unscrupulous exploitation of consumers.
 - To consumer education.
 - To provide speedy and simple redressal to consumer, a quasi - judicial machinery is sought to be set up at the district, State & Central level.

Consumer Protection Act 2019:

- The Consumer Protection Act 2019 is in to force from 20th July 2020.
- The Act will **empower consumers and help them in protecting their rights through its various notified Rules and provisions like Consumer Protection Councils, Consumer Disputes Redressal Commissions, Mediation, Product Liability and punishment for manufacture or sale of products containing adulterant / spurious goods.**

- The Act includes establishment of the **Central Consumer Protection Authority (CCPA)** to promote, protect and enforce the rights of consumers.
- The CCPA will be empowered to conduct investigations into violations of consumer rights and institute complaints / prosecution, order recall, discontinuance of unfair trade practices, impose penalties.
- Under this act **every e-commerce entity is required to provide information which are necessary for enabling the consumer to make an informed decision at the pre-purchase stage on its platform.**
- Also, the **e-commerce platforms have to acknowledge the receipt of any consumer complaint within forty-eight hours and redress the complaint within one month from the date of receipt** under this Act.
- The Act introduces the concept of product liability and brings within its scope, the **product manufacturer, product service provider and product seller, for any claim for compensation.**
- The Act provides for **simplifying the consumer dispute adjudication process** in the consumer commissions.
- An **Alternate Dispute Resolution mechanism of Mediation has been provided in the new Act.** This will simplify the adjudication process.
- **Mediation will be held in the Mediation Cells** to be established under the aegis of the Consumer Commissions. There will be no appeal against settlement through mediation.
- As per the Consumer Disputes Redressal Commission Rules, there will be **no fee for filing cases up to Rs. 5 lakh.**
- The CCPA may impose a penalty on a manufacturer or an endorser of up to Rs 10 lakh and imprisonment for up to two years for a false or misleading advertisement.
- In case of a subsequent offence, the fine may extend to Rs 50 lakh and imprisonment of up to five years.

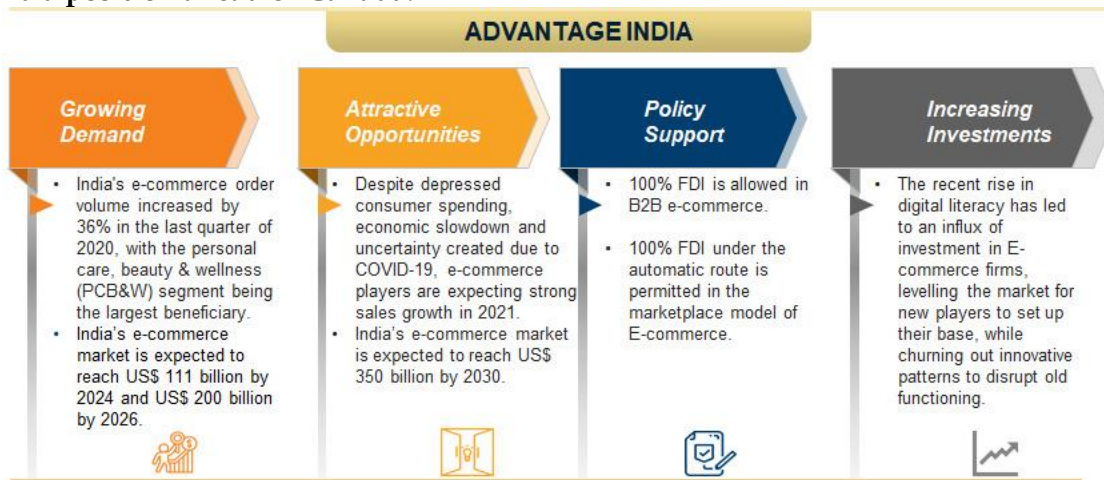
Government initiatives:

- Since 2014, the Government of India has announced various initiatives, namely **Digital India, Make in India, Start-up India, Skill India and Innovation Fund.**
- As of October, 2021, the **Government e-Marketplace (GeM) portal** served 7.78 million orders worth US\$ 19.29 billion.
- DPIIT is reportedly planning to utilise the **Open Network for Digital Commerce (ONDC)** to set protocols for cataloguing, vendor discovery and price discovery.
- **National Retail Policy:** The government had identified five areas in its proposed national retail policy – ease of doing business, rationalisation of the licence process, digitisation of retail, focus on reforms and an open network for digital commerce – stating that offline retail and e-commerce need to be administered in an integral manner.
- The **Consumer Protection (e-commerce) Rules 2020** notified by the Consumer Affairs Ministry.
- Government e-Marketplace (GeM) signed a **Memorandum of Understanding (MoU) with Union Bank of India** to facilitate a cashless, paperless and transparent payment system for an array of services in October 2019.
- Government launched various initiatives like **Umang, Start-up India Portal, Bharat Interface for Money (BHIM)** etc. to boost digitisation.
- **Amending the equalisation levy rules of 2016**, the government mandated foreign companies operating e-commerce platforms in India to have permanent account numbers (PAN).
- It imposed a 2% tax in the FY21 budget on the sale of goods or delivery of services through a non-resident ecommerce operator.
- In order to increase the participation of foreign players in E-commerce, Indian Government hiked the limit of **FDI in E-commerce marketplace model to up to 100% (in B2B models).**

- Heavy investment made by the Government in rolling out **fiber network for 5G** will help boost E-commerce in India.

e-Commerce in India:

- The Indian E-commerce market is **expected to grow to US\$ 111.40 billion by 2025 from US\$ 46.2 billion as of 2020. By 2030, it is expected to reach US\$ 350 billion.**
- By 2021, **total e-commerce sales are expected to reach US\$ 67-84 billion.**
- As of July 2021, the number of internet connections in India significantly increased to 784.59 million, driven by the 'Digital India' programme.
- The Indian online grocery market is estimated to reach US\$ 18.2 billion in 2024, expanding at a CAGR of 57%.
- **India's consumer digital economy is expected to become a US\$ 800 billion market by 2030, growing from US\$ 537.5 billion in 2020.**
- With a turnover of \$50 billion in 2020, **India became the eighth-largest market for e-commerce, trailing France and a position ahead of Canada.**



E-Commerce Rules:

- The Consumer Protection (Qualification for appointment, method of recruitment, procedure of appointment, term of office, resignation and removal of the President and members of the State Commission and District Commission) Rules, 2020
- The Consumer Protection (Salary, allowances and conditions of service of President and Members of the State Commission and District Commission) Model Rules, 2020
- The Consumer Protection (Mediation) Rules, 2020
- The Consumer Protection (Consumer Disputes Redressal Commissions) Rules, 2020
- The Consumer Protection (Central Consumer Protection Council) Rules, 2020
- Consumer Protection Act 1986

Consumer Protection (E-Commerce) Rules, 2020:

- The Consumer Protection (E-commerce) Rules, 2020 are **mandatory and are not advisories**.
- **Apply to all e-commerce retailers**, whether registered in India or abroad, offering goods and services to Indian consumers.
- E-commerce entities need to appoint a nodal person, resident in India to ensure compliance with the provisions of the act or rules.
- The sellers through the e-commerce entities will have to display the total price of goods and services offered for sale along with the break-up of other charges. Expiry date of the good needs to be separately displayed.
- All relevant details about the goods and services offered for sale by the Seller need to be provided to enable the consumer to make an informed decision at the pre-purchase stage.
- Marketplaces, as well as sellers, need to appoint a grievance officer.
- No e-commerce entity shall manipulate the price of goods or services to gain unreasonable profit or discriminate between consumers of the same class or make any arbitrary classification of consumers affecting their rights.
- No seller or inventory e-commerce entity shall falsely represent itself as a consumer and post reviews about goods or services or misrepresent the quality or the features of any goods or services.
- No e-commerce entity shall impose cancellation charges on consumers.
- E-commerce entities need to maintain a record of information for the identification of all sellers who have repeatedly offered goods or services that have previously been removed or restricted.
- The violation of the rules will attract penal action under the Consumer Protection Act, 2019.

Key changes proposed to Consumer Protection (E-Commerce) Rules, 2020:

Recently, the Government sought public comments on the proposed amendments to the Consumer Protection (ECommerce) Rules, 2020.

- **Mandatory registration of the e-tailer with DPIIT.**
- **Identify goods based on 'country of origin'** and create a filter mechanism to ensure fair opportunity for domestic goods,
- **Appoint a Chief Compliance Officer (to comply with Act), Nodal Contact Person (for 24X7 coordination with law agencies) and Resident Grievance Officer (for customers complaint).**
- No unfair use of information collected through its platform and nothing to be done by related parties or associated enterprises which the e-commerce entity can't do itself
- **Other key pointers within the rules**
 - No mis-selling of goods and services or display of misleading advertisement.
 - Adequate disclosures if indulges in cross-selling of goods and services.
 - No Flash Sales of goods and services except conventional sales.
 - Ensure equal treatment to sellers by logistics service providers etc.

Concerns:

- The new proposals **increase regulatory compliance and tighten the regulatory framework which will be difficult to comply with by small e-tailers.**
- The **liability of e-commerce entity for sellers error takes away the safe harbour protection** (immunity from legal or regulatory liability).
- Instead of focusing on Consumer interests, the rules goes into business practices and other provisions which are subject matter of Competition Commission of India or IT intermediary guidelines on data etc. which **can lead to confusion and institutional conflict**
- The high sales figure on e-commerce sales day suggests its use by customers for low prices. So, **limiting Flash Sales is against consumer interest of low price.**

Way Forward:

- An **independent regulator over e-commerce** can be of help for the same and also for protecting consumer's interests while dealing with issues over business models, predatory pricing etc. and ensure same standards across platforms.
- **Clear definition of what constitutes unfair practices.**
- **Corrective mechanism to discourage deceptive tactics.**

<https://youtu.be/Uz0dqwrXz5Q>

<https://www.ibef.org/industry/ecommerce.aspx>

<https://prsindia.org/billtrack/the-consumer-protection-bill-2019>

<https://www.hindustantimes.com/india-news/national-consumer-rights-day-2021-day-to-celebrate-consumer-rights-in-india-101640303001835.html>

<https://vikaspedia.in/social-welfare/social-awareness/consumer-education/national-consumer-day>

<https://pib.gov.in/PressReleasePage.aspx?PRID=1729201>