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E-Commerce in India

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At a Glance

- The Indian E-Commerce market is expected to grow to Rs 14,59,6.2 crores by 2026 from Rs 28,10 Crores as of 2017.
- The draft National E-Commerce policy was placed in public domain on 23 February 2019 seeks to create a facilitative regulatory environment for growth of E-Commerce sector.
- The new rules will be applicable to all electronic retailers (e-retailers) registered in India or abroad but offering goods and services to Indian consumers.
- The Competition Commission of India (CCI) released a Report titled '*Market Study on E-Commerce in India*'. The Study suggested certain areas for self-regulation by the E-Commerce marketplace platforms with a view to reduce information asymmetry and promote competition on the merits.

Introduction

E-Commerce or Electronic Commerce refers to a commercial transaction taking place over the internet. It means buying and selling of goods ,products or services over the internet. Transaction of money ,funds and data are also considered as E-commerce. These business transactions can be done in four ways : Business to Business(B2B), Business to Customer (B2C), Customer to Customer (C2C),Customer to Business (C2B). E-Commerce industry has witnessed remarkable growth in the recent times. Much of the growth for this industry has been triggered by increasing internet access and smartphone penetration. According to information by India Brand Equity Foundation (IBEF). The Indian E-Commerce market is expected to grow to Rs 14,596.2 crores by 2026 from Rs 2,810 Crores in 2017. As of August 2020, the number of internet connections in India significantly increased to nearly 76 crores, driven by the 'Digital India' programme.¹ While Covid pandemic had badly impacted the Indian economy, the E-Commerce sector witnessed a steady growth particularly since April 2020. As per a report by U.S.-based firm Payoneer, Indian E-Commerce sector is placed at 9th position globally in cross border growth. The E-Commerce sector also saw huge investments from global players such as Facebook and Google in recent years.²

Draft legislation for E-Commerce: Increasing E-commerce activities necessitated a national policy to ensure that the interests of the consumers are protected

¹<https://www.ibef.org/industry/ecommerce.aspx#:~:text=The%20Indian%20E%2Dcommerce%20market,38.5%20billion%20as%20of%202017.&text=As%20of%20August%202020%2C%20the,the%20'Digital%20India'%20programme.>

² <https://economictimes.indiatimes.com/industry/services/retail/indias-E-Commerce-sector-is-now-9th-globally-in-cross-border-growth/articleshow/79262975.cms?from=mdr>

and a level playing field is created in this segment so as to dissuade a monopolistic control of any single player. Accordingly, the draft National E-Commerce policy was placed in public domain on 23 February 2019 seeks to create a facilitative regulatory environment for growth of E-Commerce sector. It has been formulated with a vision to provide a level-playing field to all stakeholders, including the individual consumers, MSMEs and start-ups and promote exports, which will help small manufacturers.

The Draft Policy, the first exclusive E-Commerce policy for India is all-encompassing, covering the various dimensions of E-Commerce, including data, consumer protection, intellectual property and competition. The draft, inter alia introduced norms for consumer protection, recognised the importance of data, its protection and storage. It has granted infrastructure status to data centres and server farms, integrated different systems to track imports and introduced anti-counterfeiting and anti-piracy measures. It is also in sync with the recently updated industrial policies. 100% FDI is allowed under automatic route in Business-to-business (B2B) E-Commerce and in marketplace model of E-Commerce besides allowing the same for Food Retail Companies with certain conditions.³

Laws Governing E-Commerce in India: E-Commerce companies are subject to various extant rules and regulations. Owing to the cross cutting nature of E-Commerce, different laws and regulations across sectors govern the present E-Commerce activities, some of which are⁴:

- Income Tax Act, 1961
- Consumer Protection Act, 1986
- Information Technology Act, 2000
- Foreign Exchange Management Act, 2000
- Payment and Settlement Systems Act 2007
- Companies Act, 2013
- Laws related to Goods and Services Tax.

Consumer Protection (E-Commerce) Rules, 2020: The Consumer Protection (E-commerce) Rules, 2020 (“**Rules**”) were notified in July 2020. The Rules are intended to complement the Consumer Protection Act, 2020 (“**Act**”) by regulating all e-commerce activities and transactions.⁵ Government notified new rules for E-Commerce companies, including mandatory display of ‘country of origin’ on their products, any non-compliance will attract penal action. The new rules will be applicable to all electronic retailers (e-retailers) registered in India or abroad but offering goods and services to Indian consumers. The violation of the rules will attract penal action under the Consumer Protection Act, 2019. The E-Commerce players will have to display the total price of

³ E-Commerce Industry in India | Companies & Investment Opportun... (investindia.gov.in)

⁴ E-Commerce Business Model, <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1595850>

⁵ <https://www.indialegallive.com/special/consumer-protection-e-commerce-rules-2020/>

goods and services offered for sale along with a break-up of other charges. They are also required to mention the ‘expiry date’ of goods offered for sale and the ‘country of origin’ of goods and services that are necessary for enabling the consumer to make an informed decision at the pre-purchase stage. E-Commerce players have to display details about return, refund, exchange, warranty and guarantee, delivery and shipment, and any other information that may be required by consumers to make informed decisions. E-Commerce entities should not impose ‘cancellation charges’ on consumers cancelling orders after confirmation unless sellers are ready to pay similar charges in case cancellation of orders are from their side. They are also not allowed to ‘manipulate the price’ of the goods and services offered on their platforms to gain unreasonable profit and discriminate between consumers of the same class or make any arbitrary classification of consumers affecting their rights under the Act.

E-Commerce entities will have to provide information on available payment methods, the security of those payment methods, any fees or charges payable by users, and the contact information, among other details, of the relevant payment service provider. E-Commerce entities are required to display prominently to its users details about the ‘sellers’ offering goods and services, including the name of their business, whether registered or not. They must also display sellers' geographic address, customer care number, and any rating or other aggregated feedback about such seller, among others, as per the new rules. They are required to provide a ticket number for each complaint lodged, through which the consumer can track the status of the complaint. New rules do not permit any inventory E-Commerce entity to ‘falsely represent itself as a consumer and post reviews about goods and services or misrepresent the quality or the features of any goods and services’.⁶

The inventory E-Commerce entities will also have to ensure that the advertisements for marketing of goods and services are consistent with the actual characteristics, access and usage conditions of such goods or services. No inventory E-Commerce entity will be allowed to refuse to take back goods or withdraw or discontinue services purchased or agreed to be purchased, among others, subject to various conditions.⁷

As per the Consumer Protection (E-Commerce) Rules, 2020 notified under Consumer Protection Act, 2019, an E-Commerce entity is defined as any person who owns, operates or manages digital or electronic facility or platform for electronic commerce, but does not include a seller offering his goods or services for sale on a market place E-Commerce entity. Rule 4(1) says, an E-Commerce entity shall be a company incorporated under the Companies Act, 1956 (1 of 1956) or the Companies Act, 2013 (18 of 2013) or a foreign company covered under clause (42) of section 2 of the Companies Act, 2013 (18 of 2013) or an office, branch or agency outside India

⁶ <https://economictimes.indiatimes.com/news/economy/policy/government-notifies-new-rules-for-E-Commerce-entities-heres-what-changed/articleshow/77153077.cms?from=mdr>

⁷ <https://consumeraffairs.nic.in/sites/default/files/E%20commerce%20rules.pdf>

owned or controlled by a person resident in India as provided in sub clause (iii) of clause (v) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999) and appoint a nodal person of contact or an alternate senior designated functionary who is resident in India, to ensure compliance with the provisions of the Act or the rules made there under.⁸

Future of E-Commerce in India: It is expected that E-Commerce industry will grow to become 40,87,69.2 Crores in Rs by 2023 in India and it will become 6.5% of the total retail market. Cash on Delivery and free return option has definitely given a push to online shopping. Social media is helping E-Commerce industry by creating a larger customer base. Mobile apps, improvement in logistics, focus on smaller towns, brand consolidation, and technological innovations can further boost the E-Commerce industry in India. The Indian E-Commerce industry has been on an upward growth trajectory and is expected to surpass the US to become the second largest E-Commerce market in the world by 2034. India E-Commerce sector will reach 72,24,1.7 crores in Rs by 2024 from 21,89,04 Rs in Crores in 2019, expanding at a 27% Compound Annual Growth Rate (CAGR), with grocery and fashion/apparel likely to be the key drivers of incremental growth. Indian E-Commerce is projected to increase from 4% of the total food and grocery, apparel and consumer electronics retail trade in 2020 to 8% by 2025. The Government of India's policies and regulatory frameworks such as 100% Foreign Direct Investment (FDI) in B2B E-Commerce and 100% FDI under automatic route under the marketplace model of B2C E-Commerce are expected to further propel growth in the sector. As per the new FDI policy, online entities through foreign investment cannot offer the products which are sold by retailers in which they hold equity stake.⁹

E-Commerce in India has attracted investors from across the world. Although funding in the E-Commerce sector started in 2009, it gathered momentum in 2014 and maximum investment of around USD 3500 million took place in 2017 in 124 funding rounds. Since 2009, the E-Commerce sector has received around USD 13,338 million in 904 funding rounds. Due to the increase in investments in the E-Commerce sector, new companies started to enter the market since 2009. Maximum numbers of new E-Commerce companies i.e. 1650 were formed in 2015. At present around 4757 E-Commerce startups are active in India¹⁰.

CCI Study on E-Commerce in India: The Competition Commission of India (CCI) released a Report titled '*Market Study on E-Commerce in India*'. The Study suggested

⁸ Reply by the Union Minister of State for Consumer Affairs, Food and Public Distribution, Shri Danve Raosaheb Dadarao in Rajya Sabha on 18 SEP 2020 (PIB Delhi)

⁹ Indian E-Commerce Industry Analysis | IBEF

¹⁰ Market Study on E-Commerce in India, Competition Commission of India, https://www.cci.gov.in/sites/default/files/whats_newdocument/Market-study-on-E-Commerce-in-India.pdf

certain areas for self-regulation by the E-Commerce marketplace platforms with a view to reduce information asymmetry and promote competition on the merits. The Commission under its advocacy mandate has urged the E-Commerce platforms to put in place self-regulatory measures such as search rankings, collection, use and sharing of data, user review and rating mechanism, revision in contract terms and discount policy for ensuring competition, harnessing efficiency and greater transparency.¹¹The study confirms that online commerce is gaining importance across the sectors studied. The share of online distribution and its relative importance vis-à-vis traditional channels varies significantly across products. Online commerce, as the study shows, has increased price transparency and price competition. The search and compare functionalities of online platforms have lowered search cost for consumers and have provided them with a wide array of alternatives to choose from. For businesses, E-Commerce has helped expand market participation by aiding innovative business models. The report released presents the key trends identified and also discusses the issues that may, directly or indirectly, have a bearing on competition, or may hinder realisation of the full pro-competitive potential of E-Commerce. These include the issues of lack of platform neutrality, unfair platform-to-business contract terms, exclusive contracts between online marketplace platforms and sellers/service providers, platform price parity restrictions and deep discounts. The CCI is of the view that many of these issues would lend themselves to a case-by-case examination by the CCI under the relevant provisions of the Competition Act, 2002. The report outlines these issues and presents the observations of the CCI on the same without assessing whether a conduct is anti-competitive or is justified in a particular context.¹²

References:

- <https://www.ibef.org>
- <https://economictimes.indiatimes.com>
- E-Commerce Industry in India | Companies & Investment Opportun.
- <https://pib.gov.in/PressReleasePage.aspx?PRID=1657323>
- <https://consumeraffairs.nic.in>
- Indian E-Commerce Industry Analysis | IBEF
- Market Study on E-Commerce in India, Competition Commission of India
- Lok Sabha Website : Lok Sabha Questions : Lok Sabha Unstarred Question No. 1584 - Answered on 20.09.2020
- <https://www.ibef.org/industry/ecommerce.aspx#:~:text=The%20Indian%20E%2Dcommerce%20market,38.5%20billion%20as%20of%202017.&text=As%20of%20August%202020%2C%20the,the%20'Digital%20India'%20programme.>
- <https://pib.gov.in/PressReleasePage.aspx?PRID=1598745>
- <https://www.indialegallive.com/special/consumer-protection-e-commerce-rules-2020/>

¹¹ Lok Sabha Unstarred Question No. 1584 - Answered on 20.09.2020

¹² <https://pib.gov.in/PressReleasePage.aspx?PRID=1598745>