

# REVIEW OF RESEARCH

*An International Multidisciplinary Peer Reviewed & Refereed Journal*

**Impact Factor: 5.2331**

**UGC Approved Journal No. 48514**

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## THE OVERVIEW OF E-COMMERCE IN INDIA: CURRENT ISSUES AND INFLUENCES

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### ABSTRACT: -

Today e-commerce has become an integral part of everyday life. Accessibility to e-commerce is necessity for most people, particularly in the urban areas. There are alternative e-commerce platforms for almost every aspect of our lives, starting from purchasing of everyday



household items to online broking. In this paper discussed about E-commerce, the top motivating factors of shopping online and issues related to E-commerce in India.

**KEYWORDS:** E-commerce platforms, motivating factors & issues.

### INTRODUCTION:

Today around 40% of the world population has an internet connection; around 34.8 % of Indians has internet and broadband connectivity. This penetration of internet coupled with the increasing confidence of the internet users to purchase online, has led to an enormous growth in the e-commerce space, with an increasing number of customers registering on e-commerce websites and purchasing products through the use of mobile phones. It is not surprising; therefore, that India is in a prime position for the growth and development of the e-commerce sector. In particular, e-commerce presents one of the greatest opportunities in the retail sector.

Today e-commerce has become an integral part of everyday life. Accessibility to e-commerce platforms is not a privilege but rather a necessity for most people, particularly in the urban areas. There are alternative e-commerce platforms available (instead of the traditional physical platforms) for almost every aspect of our lives, starting from purchasing of everyday household items to online broking.

### NEED FOR THE STUDY

In recent days social networks play an important role in driving consumers online and getting them to engage with brands. This would gain specific significance in light of facts such as India being ranked as Face book's second largest audience after the US. However, it should be kept in mind that there still exists a form of 'digital divide' in India where the benefits of internet have not fully percolated to non-urban areas. The present study where taken up 'The Overview of E-commerce in India: Current Issues and Influences'

### OBJECTIVES

Our objective was to explore e-commerce associated issues in India such as

- + To understand the consumer protection issues, intellectual property issues, regulation issues, jurisdiction issues and taxation of E-Commerce in India
- + To analyze transactions and influence of growth in E-commerce in India.

## RESEARCH METHODOLOGY

**Secondary data:** - The secondary data where be collecting from the reports, Centrum Direct Ltd annual reports, websites related journals and books.

## E-COMMERCE

Though there is no standard definition for the term e-commerce, it is “a method of conducting business through electronic means”. Such electronic means include ‘click & buy’ methods using computers as well as various mobile devices or smart phones. This term takes into account not just the act of purchasing goods and / or availing services through an online platform but also all other activities which are associated with any transaction such as:

- + Delivery,
- + Payment facilitation,
- + Supply chain management.

E-commerce has defied the traditional structure of businesses trading with consumers bringing to the fore various business models which has empowered consumers.

Some of the common business models which are facilitated by e-commerce are as follows:

**1) B2B:** E-commerce has enabled various businesses to build new relationships with other businesses for efficiently managing several of their business functions. B2B e-commerce could comprise of various models, which may include distribution services, procurement services, digital / online market place like services etc. IndiaMART.com is one such B2B online market place which provides a platform for businesses to find other competitive suppliers. On the other hand Ariba provides procurement services by providing access to digital electronic market.

**2) B2C:** Direct dealings between businesses and consumers have always existed; however with the emergence of e-commerce such transactions have gained further momentum. In a traditional B2C model, the distribution channel typically starts with manufacturer and goes through a distributor / wholesaler to retailer, who interacts with the end customer. However, in an online model one finds the manufacturer or the intermediary directly trading with the consumer.

**3) C2C:** Traditionally consumers have had dealings with other consumers, but only few of those activities were in a commercial sense. E-commerce has made it possible to bring together strangers and providing a platform for them to trade on. For example, portals such as eBay and quikr enable consumers to transact with other consumers.

**4) C2B:** This relatively new model of commerce and is a reverse of the traditional commerce models; here consumers (i.e. individuals) provide services/ goods to businesses and create value for the business. This type of transaction can be seen in internet forums where consumers provide product development ideas or in online platforms where consumers provide product reviews which are then used for advertisement purposes.

**5) B2B2C:** A variant of the B2C model wherein there is an additional intermediary business to assist the first business transact with the end consumer. This model is poised to do much better

## PAYMENT MECHANISMS FOR E-COMMERCE

The advantages of new methods of conducting business, particularly electronic commerce brought about the need for new, payment systems that are both tech savvy and efficient at the same time. This has led to the phenomenal growth of electronic payment systems around the world. An electronic payment system,

modeled for an e-commerce business, may sound simple – a customer chooses a product to buy online, clicks ‘pay’, enters certain credit card / bank details, and the entire transaction is complete. However, electronic payment systems are often more complex than traditional payment methods, as they typically involve a number of players:

a payer – the customer;

a payee – the merchant;

an issuing bank - the customer’s bank;

an acquiring bank - the merchant’s bank;

entities such as Master or Visa – typically associations of banks / financial institutions, which provide an array of payment products to financial institutions;

One or more payment processors / payment gateways - that provide technology for the receipt and processing of payment instructions and settlement, or actually receive and hold funds received from the customer for onward payment to the merchant.

## ISSUES OF E-COMMERCE

1. Consumer Protection Issues
2. Intellectual Property Issues
3. Regulation issues
4. Jurisdiction Issues
5. Taxation of E-Commerce Transactions

### 1. Consumer Protection Issues

In view of the new models of business in e-commerce, it is important to keep in mind consumer protection issues. In India the Consumer Protection Act 1986 (“CPA”) governs the relationship between consumers and providers. There is no separate consumer protection law that is specific to and regulates online transactions.

Liability under the CPA arises when there is “deficiency in service” or “defect in goods” or occurrence of “unfair trade practice”. The CPA specifically excludes from its ambit the rendering of any service that is free of charge.

If an online platform is not charging the users, the CPA may not apply.

If actual sales are taking place on the online platform, the users will be considered ‘consumers’ under the CPA and its provision will apply to the sale of products by the online platform. Depending upon who is actually selling the goods or rendering services the liability may trigger. The distributor of goods also comes within the purview of the CPA.

There is a special adjudicating forum (with appellate forums) which is constituted under the CPA. Some of the various sanctions which may be imposed under the CPA are as below:

- i. Removal of defects / deficiencies
- ii. Replacement of goods
- iii. Return of price paid;
- iv. Pay compensation as may be awarded;
- v. discontinue the unfair trade practice or the restrictive trade practice or not to repeat them;

### 2. Intellectual Property Issues

One of the foremost considerations that any company intending to commence e-commerce activities should bear in mind is the protection of its intellectual assets. The internet is a boundless with minimum regulation and therefore the protection of intellectual property rights (“IP” or “IPR”) is a challenge and a growing concern amongst most e-businesses. While there exist laws in India that protect IPRs in the physical world, the

efficacy of these laws to safeguard these rights in e-commerce is not simple. Some of the significant issues that arise with respect to protecting IPRs in e-commerce are discussed hereunder.

### **I. Is there a Protectable Intellectual Property?**

Traditionally inventions, literary works, artistic works, designs and trademarks formed the subject matter of early intellectual property law. However with the advent of new technologies, new forms of IPRs are evolving and the challenge for any business would be in identifying the various options for protection of its intellectual assets and how best they can be protected. Some of the main forms of intellectual property protection that an e-commerce business would be concerned about are as follows:

Copyrights for protection of the content, design of the websites, the software underlying the platform and the content transmitted over such platforms.

Trademarks to protect the words, taglines or logos with which any person would identify with the e-commerce platform/ business. In addition to protecting their own trademarks, an e-commerce business that sells or markets other brands on its portal would have to ensure that such business' trademarks are protected as well.

Patents to protect (where allowed by law) the functionality of the software and the methods underlying such e-commerce. In India there is no patent protection for a computer programs and hence there is a need to look at alternate

### **3. Regulation issues**

For the e-commerce ventures that distribute content or acts as a platform for distribution or exchange of third party information/ content, compliance with content regulations assumes paramount importance. There is no single legislation in India that would deal with regulation of content in India; rather a plethora of legislations would come into play coupled with judicial interpretations. It would be essential for any e-commerce business to be mindful of such laws primarily because an e-commerce website acts as a platform for several third party information/ content and it is important to examine if such content would be objectionable under any of the laws. In this chapter we discuss some of the important statutes which deal with content regulation.

### **Intermediary Liability**

Intermediary is defined under the IT Act as any person who on behalf of another person receives, stores or transmits that record or provides any service with respect to that record and includes telecom service providers, network service providers, internet service providers, web hosting service providers, search engines, online payment sites, online-auction sites, online market places and cyber cafes

When an e-commerce website merely provides a platform and acts as an intermediary between different parties, the question that then arises is - what is the extent of liability of such e-commerce companies for acts of third parties? Is the intermediary to be held liable for the actions of third parties who may make use of the platform provided by the intermediary for their illegal activities?

Section 79 of the IT Act provides for exemptions to the liability of intermediaries if certain requirements have been fulfilled such as:

i. the intermediary merely provides access to a communication system over which information made available by third parties is transmitted or temporarily stored or hosted; or

#### **ii. the intermediary does not at its instance**

initiate the transmission;

determine the receiver of the transmission,

choose or alter the information contained in the transmission; and

iii. the intermediary observes due diligence or any guidelines issued by the Central Government in this regard.

#### 4. Jurisdiction Issues

In any dispute, one of the primary issues that a court determines is whether or not the said court has jurisdiction to try the dispute; a court must have both subject-matter jurisdiction (i.e. jurisdiction over the parties involved in the dispute) and territorial jurisdiction. The increased use of the internet has led to a virtual world which is not possible to be restricted in terms of traditional concepts of territory; this has led to complications in determining jurisdiction. According to the traditional rules of jurisdiction determination, the courts in a country have

jurisdiction over individuals who are within the country and/or to the transactions and events that occur within the natural borders of the nation.<sup>69</sup> Therefore in e-commerce transactions, if a business derives customers from a particular country as a result of their website, it may be required to defend any litigation that may result in that country. As a result, any content placed on an e-commerce platform should be reviewed for compliance with the laws of any jurisdiction where an organization wishes to market, promote or sell its products or services as it may run the risk of being sued in any jurisdiction where the goods are bought or where the services are availed of.

Jurisprudence in India with respect to issues relating to jurisdiction and enforcement issues in e-commerce is still nascent.

#### 5) Taxation Issues

In absence of national boundaries and physical nature of transacting in goods/ services (as is the case with traditional commerce), taxation of e-commerce activities raises several issues, with the accessibility to internet across borders, e-commerce transactions can involve people who are resident of more than one country. Therefore, income arising out of such transactions may be taxed in more than one country.

#### Top influences for Shopping Online

In present days top motivators for shopping online and due to which online shopping is developed so well such as

**1. Cash back guarantee:** An option available to online retail consumers when, during a debit card transaction, the customer can request to add an extra amount to the purchase price and receive the added amount in cash. Cash back using debit provides customers a convenient method of obtaining cash when purchasing goods and services without having to make a separate trip to an ATM or bank.

**2. Cash on delivery, fast delivery:** Cash on delivery (COD) is a type of transaction in which the recipient makes payment for a good at the time of delivery. If the purchaser does not make payment when the good is delivered, then the good is returned to the seller. The recipient can make payment by cash, certified check or money order, depending on what is the shipping contract stipulates.

**3. Substantial discounts compared to retail:** Purchasing sound recordings via the mail order record clubs entitles subscribers to receive a substantial discount over the life of their membership; initial free recordings, periodic special offers and, most importantly, the convenience of never having to leave their home to shop.

**4. Brand loyalty:** Brand loyalty is a pattern of consumer behavior where consumers become committed to brands and make repeat purchases from the same brands over time. Loyal customers consistently purchase products from their preferred brands, regardless of convenience or price through online. Companies often use different marketing strategies to cultivate loyal customer, including loyalty programs through online (i.e. rewards programs) or trials and incentives (such as samples and free gifts).

#### FINDINGS

With reference to e-commerce there are many issues other than Infrastructure such as Consumer

1. Consumer Protection Issues

2. Intellectual Property Issues
3. Regulation issues
4. Jurisdiction Issues
5. Taxation of E-Commerce Transactions, The govt. has to take necessary steps to resolve the problems constitutionally associated with E-commerce in developing country like India.

## CONCLUSIONS

Even though there have been earlier studies that have tried to understand and address issues Related to e-commerce, there have been very few that have focused on the impact of culture and Non-infrastructure related issues. We would like to encourage other researchers to focus on different cultural environments (countries or regions, if there is homogeneity of culture) and, by understanding and dealing with these characteristics, enable a broader globalization and acceptance of e-commerce.

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