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**SHRI DHARMASTHALA MANJUNATHESHWARA  
LAW COLLEGE & CENTRE FOR  
POST GRADUATE STUDIES & RESEARCH IN LAW**  
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# Legal opus

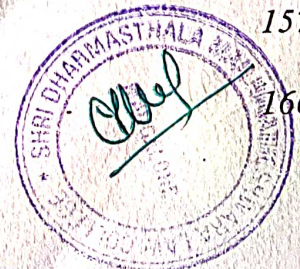
Issue No. 12  
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# LEGAL OPUS

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# ONLINE SHOPPING - SECURITY ISSUE AND DEFECTIVE SERVICE

Karthik Anand <sup>1</sup>

### Abstract

*This study is an attempt to analyse online shopping behavior of the customer in India. Online shopping is more convenient but at the same time risk is another factor. All of the online shopping platforms are not trusted one. Eventhough various payment options are available for the customers, still loss of money and various kinds of frauds are involved in online shopping. This study also shows how far Information Technology Act and Consumer Protection Act protects the interest of the customers.*

### Introduction

In India most of the consumers purchase various goods through online mode which increase the joy of shopping. Present global competitive scenario visualizes the various business entity are most worried about the future uncertainty. But at the same time customer's behavior shows that they feel uncomfortable to search the products and goods in crowded markets. As now we all know that with the help of a computer or mobile by downloading the application from Google play store shopping can be easy for 24 hours. Particularly during holidays and festival seasons, consumers will always think about online mode of shopping because they need not to wait for long hours and also saves the time.

### What is online shopping?

Online shopping is a process where purchasing of the goods/products are made with the help of a electronic device which is connected to the internet and it is a part of e-commerce. The major e-commerce sites are Amazon.com, Flipkart, eBay.com etc.

### Need for online shopping

Lifestyle and purchasing behavior of the consumers in India changing rapidly over the years in all walks of the life starting from household goods to luxurious items. Easy accessibility and availability of any kind of goods and products with their full specification makes most of the consumers including the illiterates purchases the goods through online either by using the net banking facility or cash on delivery option and goods will be supplied to door step of the customer.

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Online markets are "dynamic". Online markets are part of the information and communication technology - intensive service sector which has exhibited an acceleration of labour productivity growth in many countries.

**Payment Options in Online Shopping:**

Majority of online shoppers use a credit card to make payments, on the other hand there are some systems allow users to create accounts and pay by alternative means, such as;

- a. Cash on delivery (C.O.D., offered by almost all online stores),
- b. Online Cheques (E-cheques)
- c. Debit card
- d. Credit card
- e. E-wallet
- f. Electronic money
- g. Gift cards
- h. Net banking etc.,

**Challenges to the online shoppers and customers**

**A. Stock Control :** High demand during the festival season makes these shoppers to collect the stocks in advance especially those products are high received and products offered on flash sale. Sometimes these shoppers offers high discount because of high demand always the products will be out of stock if they are unable to collect report on best selling items based on trend in the market.

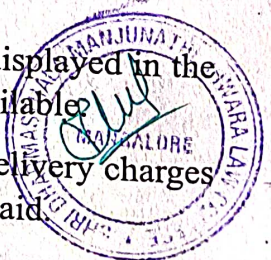
**B. Security Threat :** Increase in the demand during the festive season customers at the risk to be victim to payment fraud. It is very much essential that online shoppers has to ensure that website is secure and safe in all process of purchase otherwise customer's valuable personal information such as password and bank account may be stolen easily unless shoppers takes the proper security measures.

**C. Reliability :** Most of the customers always having the fear that products displayed in the website and product received will be the same in quality and quantity.

**D. Delivery :** If customers in the town area there is much delay in receiving the product booked. But villages and town located in remote area delivery date may delay or sometimes may not be delivered in the proper date because of logistics issue.

**E. Service Delay :** If customer receives the product which is not displayed in the cart or any defect in most of the cases proper service may not be available.

**F. Delivery Charges :** Most of the products above Rs.600/- only delivery charges will be free. Below that for all products delivery charges has to be paid.



**V. Tips for safe Online shopping :** Research unknown e-commerce companies before you buy from them. If in doubt, avoid the purchase.

- i. If you are buying from a site for the first time, opt for cash on delivery.
- ii. Before making a purchase, read the terms of use and privacy policy; scrutinise the fine print. Details such as whether your debit card number would be shared with a third party would be mentioned.
- iii. Understand cancellation, return and refund policies.
- iv. Ensure that customer care details like address, email, phone number/helplines of the e-commerce company are available.
- v. Understand product and warranty description, and check if the adequate quantity of material that you need is available.
- vi. Before making payment, confirm that the product is deliverable to your postal pincode.
- vii. Take a screenshot of the product/service you purchased, in case the company changes the price or product description later.
- viii. Beware of claims like no exchange or refund, handling charges for refund etc. Under Consumer Protection Act, companies are required to provide exchange/return/refund if the product/service is deficient.
- ix. Before making payment, check for encryption key – a small key symbol – in the payment portal to ensure that the transaction is secure.
- x. Do not tamper with or use the product if you are dissatisfied with it. Call the customer care number of the e-commerce company to file a complaint. The company may resolve the issue at this stage or direct your complaint to the manufacturer/service provider.

### **Legal Frame Work to Regulate the Online Shopping**

In India apart from the provisions under the Indian Contract Act for formation of a contract between customers and online shoppers other regulations such as Information Technology Act, 2000, Consumer Protection Act, 1986 and Competition Act, will be applicable to protect the interest of all the consumers.

### **Provisions under the IT Act**

The Information Technology Act, 2008 (IT Act), under section 10A provides for validity of contracts formed through electronic means and lays down that where in a contract formation, the communication of proposals, the acceptance of proposals, the revocation of proposals and acceptance, as the case may be, are expressed in electronic form and by means of an electronic record, such contract shall not be deemed to be unenforceable solely on the ground that such electronic form or means was used for that purpose<sup>2</sup>.

<sup>2</sup> Section 10 of the Information Technology Act 2008



Under section 84A<sup>3</sup> of the act provides that the Central Govt. may for secure use of the electronic medium and for promotion of e-governance and e-commerce, prescribes the modes or methods for encryption.

Section 66C<sup>4</sup> of the Act provides penalty in case of breach of confidentiality and violation of privacy.

The Indian Contract Act 1872 would apply to determine whether the arrangements between different stakeholders (i.e. the buyers, the sellers and the e-commerce / marketplace platform itself) has been structured as valid enforceable contracts.

The laws relating to intellectual property (such as the Copyright Act 1957 and the Trademark Act 1999) would be referred to determine the intellectual property rights of the stakeholders. For instance if a seller is selling fake goods of a well-known brand via a marketplace platform, the seller may be prosecuted by the lawful brand owner under the Copyright Act 1957 and the Trademark Act 1999.

The entity, which operates an e-commerce business, would also need to comply with applicable local laws such as the Shops and Establishments Act which are specific to different states, in relation to their physical offices<sup>5</sup>.

Under consumer protection Act, 1986 for defective products and deficiency of service complaint can be filed before the consumer forums established in three tier system. Now a day's many online portals opened and day by day number of these portals is increasing. Whenever a consumer buys product from online portal like Flipkart, Amazon or other local portals, he /she is not able to see the physical product and many companies take the advantage to make more profit from innocent and unaware customer.

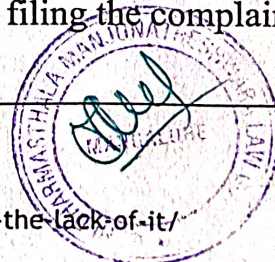
Whenever a consumer has been a victim of online fraud such as;

- a. Product not delivered
- b. Similar impression of product sent
- c. Cheap and used product sent
- d. Wrong and cheap product sent instead of expensive product you ordered.
- e. No return policy given etc. It is now hassles free and easy accessible actions and can be done online also. To complaint can log in to
- f. Voxya online consumer complaint portal <https://www.google.com/url?sa=t&...>
- g. National consumer helpline <https://www.google.com/url?sa=t&...>
- h. Department of consumer affairs public grievance [cpgrams-home](http://cpgrams-home)
- i. Consumer redressal <https://consumerhelpline.gov.in> for filing the complaints in online mode

<sup>3</sup> Section 84-A of Information Technology ACT 2008

<sup>4</sup> Section 66C of Information Technology Act 2008

<sup>5</sup> <https://indianonlineseller.com/2016/02/laws-of-indian-ecommerce-or-the-lack-of-it/>



### The Draft E-Commerce Policy, 2018

A framework is definitely needed for standardization as well as to ensure necessities concerning digital transactions in India including fair price in the country's digital marketplace are met with. The draft E-Commerce Policy, 2018 seems to be a positive development in the sector which is a result of suggestions that have been received from industrial players and various industrial bodies. This is an indicator that the government is interested in consulting with other players in the sector to ensure that there is a policy that contemporarily meets the needs of the market and is dynamic enough to adapt to the vibrant economy of India. That being said, this draft policy has its own set of boons and banes.

The draft policy states that deep discounting has affected offline sales in a negative manner and that unregulated discounts must be brought to an end. It also states that direct or indirect influence on the price or sale of products and service of an online retailer may not be allowed to any group company investing in the online retailer. This move can lead to complete restriction on e-tailers from giving deep discounts. Business decisions should not be micromanaged this way<sup>6</sup>.

### Future of Internet Shopping

People use the Internet to shop online for mobile phones, laptops and other consumer goods. If the Internet is anything to go by, India's technological and economic growth has moved into the top gear. With more India's online shopping registering a phenomenal 100 per cent annual growth, many retail chains and consumer durable companies are joining the Web bandwagon to tap the e-shopping market. The online shopping industry in India is fast catching on, not just in the larger metros but also in the smaller cities. At present the market is estimated at Rs.46,000 crore and is growing at 100 per cent per year<sup>7</sup>.

According to Google, India has more than 100 million Internet users, out of which around half opt for online purchases and the number is growing every year. With such a large market size, companies, right from retail shops to consumer goods, are entering the Web space to attract potential customers. Even traditional retailers like Shoppers Stop, Westside and Pantaloons are looking at the online shopping space for growth. According to the Associated Chambers of Commerce and Industry of India (Assocham), the size of the online retail industry is expected to touch Rs.7,000 crore by 2015, up from Rs.2,000 crore now, at an annual growth rate of 35 per cent.

According to industry leaders, portals offering daily deals and discount offers with good delivery services attract the largest number of online shoppers. The companies that provide daily deals or discount offers are doing brisk business. People are looking for value shopping that saves their money as well as time. The customer behaviour is changing dramatically. People are not only using the Web to book air tickets and

<sup>6</sup> <https://blog.ipleaders.in/ecommerce-law>

<sup>7</sup> Rayport and Jaworski, "Cases in E-commerce", Mc-Graw Hill, 2001



movie tickets but also do not hesitate in placing orders for mobiles, laptops and other consumer electronics and home appliances. Seeing this bold consumer behaviour, more companies are collaborating with such daily deal and discount sites.

All the top consumer electronics and home appliances companies are listed with us. In the growing competition space companies with good delivery services score points over others. Keeping in mind this growing potential, not just large brands but even general retail chains are upgrading their sites for e-commerce, making it more convenient for customers to place online purchase orders. According to eBay, Indian online shoppers remain brand savvy, even when they are shopping online. The eBay India Census has found that brands such as Sony, Nokia, Samsung, Apple and Reebok continue to top buyers' charts. Category-wise lifestyle products, such as cosmetics, jewellery, watches, fashion products and fitness equipment contribute over 45 per cent to eBay's sales in India.<sup>8</sup> Thus it can be concluded that online shopping holds a great future ahead provided that both customer and shoppers interest are safeguarded by appropriate regulations.

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