

Recommendations to Amend the Consumer Protection (E-Commerce) Rules, 2020

September 11, 2021

The Central Government on Monday proposed amendments to the Consumer Protection (E-Commerce) Rules, 2020, pursuant to recommendations by a Parliamentary panel headed by Member of Parliament Partap Singh Bajwa. The new draft rules come at a time when leading e-commerce giants such as Flipkart and Amazon India are being investigated by the Competition Commission of India (CCI).

In news: Will take balanced approach on changes to consumer protection rules for e-commerce: Govt

Placing it in syllabus: Economy

Dimensions

- Recommendations of the Parliamentary Panel
- Consumer Protection (E-Commerce) Rules, 2020
- Importance of these rules

Content:

Recommendations of the Parliamentary Panel:

A parliamentary panel headed by Partap Singh Bajwa, in its report on 'The Consumer Protection (E-Commerce) Rules, 2020' tabled in Parliament made a host of observations.

The committee noted that while e-commerce enterprises offer many benefits, the development of the segment has rendered consumers vulnerable to new forms of unfair trade practices, violation of privacy and issues of unattended grievances.

It warned that there was a risk that predatory pricing by e-

commerce firms may result in competition being wiped out and prove detrimental to consumers in the long run.

“Predatory pricing as a short-term strategy, adopted by some of the market giants with deep pockets to sustain short-term losses and reduce the prices of their products below the average variable costs may lead to wiping out competition from the market and could be detrimental to the consumers in the long run,” the committee said.

It recommended that the government should :

- **Define the unfair trade practice:** The Committee recommends that there should be a more clear-cut definition of what constitutes Unfair Trade Practice and practical legal remedy to tackle such circumventing practices by e-Commerce entities specifically Multinational Companies and Kirana Small Vendors
- **Fix cap on delivery charges:** It has also recommended fixing a cap on delivery charges levied by e-commerce firms, as well as providing for penal provisions for violation of rules related to misinformation.
- **Issue guidelines for fixing Delivery Charges:** The committee suggested that the Ministry of Consumer Affairs, Food and Public Distribution should issue broad guidelines for the fixation of delivery charges charged by the marketplace entities along with a cap on the highest limits of the delivery charges in peak hours of service
- **Clearly distinguish types of misinformation:** It said that the Ministry should clearly distinguish in the Rules itself the cases of misinformation, no information and the information which is otherwise correct but creates a false impression and provide for penal provision for each case in the Rules itself
- **Define drip pricing:** The Ministry should also clearly define ‘drip pricing wherein the final cost of the product goes up due to additional charges, and provide

for protecting consumers against this by including penal provisions for violation.

- **Protection of privacy of users:** For protection of privacy of users and security of their data, the panel has recommended that users' personal data may be categorised as per the level of sensitivity and, appropriate protection may be assigned for each level
- **Secured payment system:** The panel recommends that the Ministry should ensure that a secured and robust system of payment gateway is made available to the consumers so that the transaction-related data of the users is not compromised in any way
- **Establish data centres in India:** The panel also suggested that all major e-marketplace entities should establish their data centre in India, so that consumer data are not hosted in a server outside the borders of the country, "which may be misused by an enemy country".
- **Sufficient protection to such small/local vendors:** Pointing out that many MNCs as well as offshore based companies were involved in e-commerce, it recommends that sufficient protection to such small/local vendors should be given in the Rules itself and the Ministry should devise out ways in which such small retailers may also become part of e-commerce
- **Mechanism for stopping fake reviews :** It recommended that some corrective mechanism to discourage deceptive tactics including manipulation of algorithms, fake product reviews & ratings must be created so that the consumer interest is not harmed in any way.
- **Define the role of customer service:** The committee also recommended that the duties and responsibilities of customer service provided by the marketplace entity should be clearly spelt out in the Rules itself
- **Dedicated customer care number:** It suggests that the Ministry should also direct e-commerce entities to provide a dedicated customer care number as well as a mechanism to monitor the time taken by customer care

executives to resolve an issue

Consumer Protection (E-Commerce) Rules, 2020

- In 2020, The Ministry of Consumer Affairs, Food and Public Distribution had notified **the Consumer Protection Act, 2019 (CPA 2019)** and the **Consumer Protection (E-Commerce) Rules, 2020 (E-Commerce Rules)**.
- The CPA 2019 introduced significant changes to the 1986 law, to address unique issues arising in this era of digitization and e-commerce
- The E-Commerce Rules provide a framework to regulate the marketing, sale and purchase of goods and services online.

Consumer Protection (E-Commerce) Rules 2020 shall apply to:

- All goods and services bought or sold over digital or electronic networks including digital products.
- All models of e-commerce, including marketplace and inventory models of e-commerce.
- All e-commerce retail, including multi-channel single brand retailers and single brand retailers in single or multiple formats.
- All forms of unfair trade practices across all models of e-commerce.

Features of the e-commerce Rules:

- They are applicable to all electronic retailers (e-tailers) registered in India or abroad but offering goods and services to Indian consumers.
- The e-commerce players should display the total price of goods and services offered for sale along with break-up of other charges.
- Every e-commerce entity is required to provide information relating to return, refund, exchange, warranty and guarantee, delivery and shipment, modes of

payment, grievance redressal mechanism, payment methods, security of payment methods, charge-back options, etc. including country of origin which are necessary for enabling the consumer to make an informed decision at the pre-purchase stage on its platform.

- 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 punishment by a competent court for manufacture or sale of adulterant/spurious goods. The court may, in case of first conviction, suspend any licence issued to the person for a period of up to two years, and in case of second or subsequent conviction, cancel the licence.
- The entities 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-tailers will also have to provide information on available payment methods, the security of those payment methods, any fees or charges payable by users, the procedure to cancel regular payments under those methods, charge-back options, if any, and the contact information of the relevant payment service provider.

In 2021, the Union government proposed to amend the e-commerce rules

Key changes proposed-

- Ban on fraudulent flash sales and mis-selling, and

appointment of chief compliance officer/grievance redressal officer are among key amendments proposed to the Consumer Protection (e-commerce) Rules, 2020, on which the government had sought public comments by July 6.

- The Ministry of Consumer Affairs is considering changes to the consumer protection rules on e-commerce that may include redrafting related party sales and clarity on flash sales, after consultation with industry and e-commerce players.
- A “flash sale” is defined as a sale organised by an e-commerce entity at significantly reduced prices, high discounts or any other such promotions or attractive offers for a predetermined period of time.
- As per the proposed rules, e-commerce companies will not be allowed to organise a flash sale where goods or services are sold at significantly reduced prices and high discounts.
- The final rules are expected to give clarity on issues such as what constitutes flash sales, finer details and issues regarding appointment of resident grievance officers, among others.
- According to the current draft, country of origin norms for e-commerce players will be tightened to push the sale of locally produced goods on their platforms.
- Towards this, e-tailers cannot mislead consumers by manipulating search results on their platforms.
- They will have to ensure that marketplaces do not use any information collected through its platform for unfair advantage of its associated enterprises.

Importance of these rules:

- For the last couple of years, e-commerce and online shopping have increasingly become a key part of the consumer experience.
- These trends were provided a further flip by the

COVID-19 pandemic induced lockdown, as an increasing number of people were forced to shop online.

- This resulted in a 46% growth in sales volume year-on-year for Q4 of 2020, which translated to a 43% growth in value!
- What's more, this growth was not just limited to urban metropolises: 90% of the incremental growth came from tier 2 and tier 3 cities.
- However, as might be expected, this growth has brought with it an increase in both e-commerce fraud and consumer manipulation.
- Although e-commerce enterprises offer many benefits, the development of the segment has rendered consumers vulnerable to new forms of unfair trade practices, violation of privacy and issues of unattended grievances.

The number of cases of e-commerce fraud has jumped nearly six times from 977 cases in FY17 to 5,620 cases in FY20 till November 2019.

Meanwhile, the number of e-commerce complaints raised through the national consumer helpline during FY2020 stood at 1,54,122, compared to 1,03,364 during FY2019, a rise of almost 50%.

Between April 2020, and February 2021, this figure increased further to 1,88,262 complaints.

- Existence of these unfortunate incidents has negatively impacted the consumer and business sentiment in the market, causing immense distress and anguish to many.
- Some urgent actions were required to regulate oversight in e-commerce.
- The E-Commerce Rules and CPA 2019 bring transparency in the e-commerce platforms and further strengthen the regulatory regime to curb the prevalent unfair trade

practices

- They also protect the interests of consumers, prevent their exploitation and encourage free and fair competition in the market
- They also strengthen the grievance redressal mechanism on e-commerce entities.
- They ensure that the consumers are able to verify the genuineness of an e-commerce entity before transacting through their platform
- They are also important to ensure that the domestic manufacturers and suppliers get a fair and equal treatment on the e-commerce platform

Mould your thought: The recently proposed changes to the Consumer Protection (E-Commerce) Rules, 2020, seek to usher in a stricter framework to ensure consumer protection against unfair trade practices of e-commerce companies. Evaluate.

Approach to the answer:

- Introduction
- Discuss the issues with e-commerce in India
- Mention the provisions of E-Commerce Rules
- Mention recommendations of the parliamentary committee
- Enumerate the importance of these changes
- Conclusion