

Consumer Protection (E-Commerce) Rules, 2020 : An Overview*

Introduction

To protect the consumers from unfair trade practices and to address their concerns, the Ministry of Consumer Affairs, Food and Public Distribution on July 23, 2020 notified the Consumer Protection (E-Commerce) Rules, 2020. The E-commerce Rules have primarily been formulated with the objective to regulate the E-commerce sector in India and protect consumers from unfair trade practices on such platforms.

The Consumer Protection (Ecommerce) Rules 2020 attempts to combine the teeth of the Consumer Protection Act 2019, Indian exchange control laws (IEC Regulations) and the Information Technology Act 2000, to ensure fair play in technology and data-driven ecommerce environment.

In this background, this write up aims at discussing the key highlights, scope and other vital information related to the recently notified rules.

Scope

The Rules are applicable to all goods and services bought or sold over digital or electronic network including digital products; all models of e-commerce, including marketplace and inventory models of ecommerce; all e-commerce retail, including multi-channel single brand retailers and single brand retailers in single or multiple formats; and all forms of unfair trade practices across all models of E-commerce.¹

- (1) Save as otherwise expressly provided by the Central Government by notification, these rules shall apply to:
 - a. all goods and services bought or sold over digital or electronic network including digital products;
 - b. all models of e-commerce, including marketplace and inventory models of e-commerce;
 - c. all e-commerce retail, including multi-channel single brand retailers and single brand retailers in single or multiple formats; and
 - d. all forms of unfair trade practices across all models of e-commerce: Provided that these rules shall not apply to any activity of a natural person carried out in a personal capacity not being part of any professional or commercial activity undertaken on a regular or systematic basis.

* Dr. Gargi Rajvanshi, Assistant Director, The ICSI.

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¹ https://consumeraffairs.nic.in/sites/default/files/e-commerce-rules_Hindi_0.pdf

- (2) Notwithstanding anything contained in sub-rule (1), these rules shall apply to an e-commerce entity which is not established in India, but systematically offers goods or services to consumers in India

Duties of E-commerce entities:

An e-commerce entity ((a) be a company incorporated under the Companies Act, 1956 or the Companies Act, 2013 or a foreign company covered under clause (42) of section 2 of the Companies Act, 2013 or an office, branch or agency outside India 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) shall:

- 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 thereunder.
- Every e-commerce entity shall provide the following information in a clear and accessible manner on its platform, displayed prominently to its users, namely:–
 - legal name of the e-commerce entity;
 - principal geographic address of its headquarters and all branches;
 - name and details of its website; and
 - contact details like e-mail address, fax, landline and mobile numbers of customer care as well as of grievance officer.
- No e-commerce entity shall adopt any unfair trade practice, whether in the course of business on its platform or otherwise.
- Every e-commerce entity shall establish an adequate grievance redressal mechanism having regard to the number of grievances ordinarily received by such entity from India, and shall appoint a grievance officer for consumer grievance redressal, and shall display the name, contact details, and designation of such officer on its platform.
- Every e-commerce entity shall ensure that the grievance officer referred to in sub-rule (4) acknowledges the receipt of any consumer complaint within forty-eight hours and redresses the complaint within one month from the date of receipt of the complaint.
- Where an e-commerce entity offers imported goods or services for sale, it shall mention the name and details of any importer from whom it has purchased such goods or services, or who may be a seller on its platform.
- Every e-commerce entity shall endeavour on a best effort basis to become a partner in the convergence process of the National Consumer Helpline of the Central Government.
- No e-commerce entity shall impose cancellation charges on consumers cancelling after confirming purchase unless similar charges are also borne by the e-commerce entity, if they cancel the purchase order unilaterally for any reason.
- Every e-commerce entity shall only record the consent of a consumer for the purchase of any good or service offered on its platform where such consent is expressed through an explicit and affirmative action, and no such entity shall record such consent automatically, including in the form of pre-ticked checkboxes.
- Every e-commerce entity shall effect all payments towards accepted refund requests of the consumers as prescribed by the Reserve Bank of India or any other competent authority under any law for the time being in force, within a reasonable period of time, or as prescribed under applicable laws.

- No e-commerce entity shall–
 - a. manipulate the price of the goods or services offered on its platform in such a manner as to gain unreasonable profit by imposing on consumers any unjustified price having regard to the prevailing market conditions, the essential nature of the good or service, any extraordinary circumstances under which the good or service is offered, and any other relevant consideration in determining whether the price charged is justified;
 - b. discriminate between consumers of the same class or make any arbitrary classification of consumers affecting their rights under the Act

Liabilities of Marketplace E-commerce Entities

- E-commerce entity which seeks to avail the exemption from liability under sub-section (1) of section 79 of the Information Technology Act, 2000 shall comply with sub-sections (2) and (3) of that section, including the provisions of the Information Technology (Intermediary Guidelines) Rules, 2011.
- E-commerce entity shall require sellers through an undertaking to ensure that descriptions, images, and other content pertaining to goods or services on their platform is accurate and corresponds directly with the appearance, nature, quality, purpose and other general features of such good or service.
- Every marketplace e-commerce entity shall include in its terms and conditions generally governing its relationship with sellers on its platform, a description of any differentiated treatment which it gives or might give between goods or services or sellers of the same category.
- Every marketplace e-commerce entity shall take reasonable efforts to maintain a record of relevant information allowing for the identification of all sellers who have repeatedly offered goods or services that have previously been removed or access to which has previously been disabled under the Copyright Act, 1957, the Trade Marks Act, 1999 or the Information Technology Act, 2000:
Provided that no such e-commerce entity shall be required to terminate the access of such seller to its platform pursuant to this sub-rule but may do so on a voluntary basis.
- The new rules also contain the duties laid down for the sellers on marketplace e-commerce & Duties and liabilities of inventory e-commerce entities.

Duties of Sellers on Marketplace

- No seller shall falsely present itself as a consumer and post fake reviews about the goods and services or about the features or qualities of those goods and services.
- No seller shall refuse to take back goods, or withdraw or discontinue services purchased or agreed to be purchased, or refuse to refund if the goods or services provided by the seller are defective or do not match the qualities or features mentioned by the seller on the website or if they are delivered later than the expected delivery date.

Duties and Liabilities of Inventory E-commerce Entities

Every inventory E-commerce entity shall provide the following information-

- Accurate information related to return, refund, exchange, warranty and guarantee, delivery and shipment, cost of return shipping, mode of payments, grievance redressal mechanism, all mandatory notices and information required by applicable laws, display single figure total along with the break-up price and ticket number for each complaint from which the consumer can track the status of complaint.

- If any inventory E-commerce entity vouches for the authenticity of goods or services sold by it then shall bear appropriate liability in any action related to the authenticity of such good or service.

Conclusion

The rules set out a level playing field for all ecommerce players and are a significant step towards better digital governance. However, its implementation would increase operational expenses for all ecommerce stakeholders including small sellers – the operational detailing would need significant man-hours in addition to costs for platform maintenance and uploading of data on the platform. Thus, the introduction of the Consumer Protection (E-Commerce) Rules, 2020 if implemented in true spirit will shield consumers from unfair trade practices to a great extent.

References

- S. S. Rana & Co. Advocates (2020), India: Consumer Protection (E-Commerce) Rules, 2020, Mondaq.Com
- E-commerce Rules 2020: The Road Ahead For E-tailers, Inc42
- Consumer Protection (E-Commerce) Rules, 2020 comes into force; No cancellation charges on consumers cancelling after confirming purchase, SSC Online.
