

Legal Regulation of E-Commerce: A Study with Reference to Consumers' Rights

ABSTRACT

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Electronic commerce is currently an essential component of India's trade facilitation policy. Since 1991, economic reforms clearly resulted in the opening up of the economy in India with a view to integrating itself with the global economy. The last few years have witnessed a technological revolution with wide spread of the internet, web technologies and their applications. As part of the information technology revolution, electronic commerce (e-commerce) is widely used in world trade in general and in Indian economy in particular. As a symbol of globalization, e-commerce represents the edge of success in this digital age and it has changed and is still changing the way business is done around the world. Commercialization of the Internet has made electronic commerce one of the most capable channels for inter-organizational business processes. As a result, the growth of the Internet has led to a host of new developments, such as lower margins for companies as consumers shift and prefer the Internet in order to buy goods and demand the best prices.

The digital age of commerce changes the conventional business model into incumbents (in markets). The implication of a fully competitive global market is that the market itself will produce an efficient allocation of resources. The Internet is an effective tool in changing simple ways of doing business. In the digital market with no entry barriers –the 'internet' is the biggest force in this regard of them, the continuous approach of the competition is routinely, driving down the prices. Improvements in telecommunications and computer technologies in current years have made computer networks an integral part of the commercial infrastructure. This is evident from the fact that at present, more and more companies are facilitating transactions over the web.

In the digital era, a huge competition to target every consumer on an e-commerce website is involved. Although business-to-business transfers play an important role in the e-commerce market, in fast-growing countries such as India, a portion of e-commerce revenue is generated from business to consumer transactions. E-commerce offers many benefits to consumers in the form of availability of goods at low cost, wide choice and time saving. People

can buy goods out of their home or office with a click of a button. Moreover, unlimited services like banking, ticketing (including airlines, buses, and railways), bill payment, hotel booking etc. have tremendous benefits for customers. Financial services, travel, entertainment and groceries such as offline businesses are likely to grow.

Although e-commerce is recognized by the Information Technology Act, 2000 and by the recently enacted Consumer Protection Act, 2019 but still, the majority feel a sense of insecurity while dealing online. The reason behind is the lack of transparency in the terms and conditions attached to the contract and the jurisdiction in case of a dispute that may arise during the pendency of a transaction with a foreign site.

The e-commerce model is operated by specific, executed and deployed software systems. E-commerce is conceptually very similar to the traditional commercial market. Merchants present their products, prices and terms to prospective buyers. Buyers consider their options, negotiate prices and terms (where possible), place orders and make payments. Then, the vendors deliver the purchased products. Nevertheless, because of the way in which it differs from traditional commerce, electronic commerce raises some new and interesting technical and legal challenges.

In the COVID-19 situation, the economic recessions or much-dreaded pandemic; the trend of the market is changing the entire course of businesses. With Covid-19, at its all-time high, the early signs of consumer behavior shifting can be palpable. While remote working is garnering much importance, the profitability of a majority of businesses, such as airlines and hospitality, are getting adversely impacted. However, this pandemic obviously has enough potential to change how consumers shop, consume information, and even towards how business works. The recent living standard of consumers is primarily stay at home and is turning the attention of people towards digital shopping and selling and virtual shopping that has become a leading and growing trend in the Covid-19 pandemic thereby adding more importance and success to the e-commerce business industry. Before the danger of the Corona

Virus people were free to move and interact in all kinds of businesses and thus the domain of e-commerce business was not in consideration as it is nowadays. It can be understood in this way that the pandemic of COVID-19 resulted in either self-imposed or government imposed lockdown which is complete in some areas and partially imposed in others. People are hesitant to go back to their working places and resume the work from where they left it because the numbers of active Corona cases are increasing. The fear of getting sick is the primary reason behind the switching of people towards online shopping and this is the reason why the e-commerce market is rapidly making progress by leaps and bounds.

Covid-19 brings a lot of challenges for consumers. The online security and privacy violation are rapid; consumers are being trapped in many ways like online fraud, fake funds, UPI, fake call for demanding money for the victim of corona and help to poor people. This pandemic has created a new challenge before cybersecurity.

The world is facing a severe lockdown currently. With only a few people out on the roads, the number of those who have isolated themselves is increasing day-by-day. As a result, housebound consumers across the globe are turning towards online shopping, even for essential supplies. With lockdowns, brick-and-mortar stores i.e. traditional street-side businesses that offers products and services to their customers face-to-face in an office or store that the business owns or rents, are completely shut and badly hit. Brick-and-mortar businesses have found it difficult to compete with mostly web-based businesses like Amazon.com Inc., retailers are facing a harsh reality, considering that the government has enforced quarantine and restricted outdoor trips. With e-commerce, on the other hand, shipping and supply challenges are persisting.

Nowadays e-commerce modes are operating by social media with a new term and condition regarding users' privacy. Social media is a powerful tool for e-commerce platforms. The ability to not only direct shoppers toward a

new product or an attractive deal, but to engage with them and create a sense of community, is incredibly useful. A complete social media presence also includes direct sales through some networks, as well as having the back-end tools in place to let customers share products and recent purchases with friends and followers through just a single click. But the harmful effect of social media is the possibility of the company and consumer network being exposed to cyber threats such as malware. Cyber hackers can install malware through social media platforms which is be very unsafe for consumers and potentially damage consumer privacy, financial loss, computer networks or computers.

In the year 2021, WhatsApp brought new privacy policy; users have to accept the new conditions. The terms will also have to be deleted if they are not considered. It is time till 15th May to think about whether to accept the conditions. More than 200 crore users worldwide use WhatsApp. Many questions related to these conditions will be coming to mind. We are responding to them. New terms and privacy policies have been updated on WhatsApp. It says that users will have to agree to these policies. It is coming into effect from 15th, 2021. After this date, it will be necessary to agree. If you do not agree, you will not be able to use the account. You can visit the help centre for this. The policy is now getting the option of agree or not agree.

The use of digital currency by the consumer in e-commerce is rapidly growing in the world including India. Crypto means confidential. Currency or digital currency. it is a currency whose identity of the transaction is hidden and Its data is in a language that not everyone can understand. Only two people who are dealing with transactions know how many bitcoins were bought or sold. This term was first given by computer engineer Wei Dai in 1998.¹ This currency on the computer's algorithm is only digitally present. That is, like a rupee or dollar, you cannot hold it in hand. It can be placed in the wallet, but not in the wallet that fits into your jeans pocket made of leather, in the digital

¹ Dil Prakash, "Why the world is running behind Bitcoin" Navbharat Times, March 29, 2021

wallet. Bitcoin, Ethereum, Ripple, Litecoin, Ciccoin are also similar currencies.

In India, The Reserve Bank of India is considering bringing its digital currency (Digital Currency, virtual currency) into the country. The RBI said that because of the rapidly changing scenario of the payment industry, the arrival of private digital tokens and increased expenditure related to the management of paper notes or coins, many central banks around the world are considering bringing in digital currency (CBDC). The RBI has also set up an inter-departmental committee to study the possibilities of the central bank's digital currency and to frame guidelines for the same.²

Objectives of Research Work

The objectives of the study are to evaluate the law and policies of e-commerce and suggest protection of the consumer in online shopping, to point out the lacunae in the law and policy and to suggest better law to plug-in the concerned lacuna. Given all the above facts, the following objectives of the proposed study are being framed:

1. To delineate the difference between traditional commerce and electronic commerce.
2. To spell out the legal framework of the regulation with major limitations of e-commerce.
3. To study the challenges before e-commerce posed by consumer protection issues.
4. To analyze the effects of e-commerce on consumer rights, and to provide plausible solutions in e-commerce issues.
5. To discuss legal and other related implementation issues in the area of e-commerce.

²Digital currency may soon come to the country, RBI considers, *available* at hindi.news18.com (last visited on March 9,2021)

Hypothesis

1. The protection of consumer rights is a major concern in e-commerce.
2. There is a lack of a uniform standard for the quality of goods and services, security and the issue of privacy in e-commerce. Multiple financial, organizational, technological and managerial issues are not being addressed.
3. There is a lack of national and international government regulations and industry standards regarding e-commerce.
4. Advertising affects consumers' choices regarding what they buy and it is not legally addressed.

Research Methodology

The present study would be based on the method of doctrinal, in addition to descriptive, exploratory, historical analytical research methods shall be applied per the need of prospective study. Where the things are introductory, the method to be applied would be descriptive. Regarding the analysis of the legal provisions and judicial decisions, the method to be applied will be analytical.

The information shall be based on the analysis of a secondary source of data. The secondary data is available from various journals, the internet, government publications, earlier studies, media reports, and books. The research would be descriptive and narrative information using a secondary source of data. Some primary sources of data like UN Model law, Indian Penal Code, IT Act, International Conventions could also be used in accordance with the requirement of the study. The proposed study will encourage existing knowledge about the legal and social aspects of e-commerce and consumer protection. The selected research methods have resulted in a comparative analysis whereby sources, dealing with e-commerce on the one hand and consumer protection, on the other hand, are compared to each other.

Concerning the characteristics of e-commerce and consumer issues, the extensive reference to the available literature is used. Examples of such

materials are books on e-commerce, data privacy, cyber jurisdiction, international convention, and consumer rights.

The Ph.D. thesis “**Legal Regulation of E-commerce: A Study with Reference to Consumers’ Rights**” is divided into seven chapters. The first chapter is the “Introduction” of research work. At the initial stage, the selected area of research work has been identified. After identification of the research problem, a synopsis of the research work and its basic structure has been developed. The main objectives of the research study are put in para 1.6 in this chapter. A review of literature is also put in para 1.3 in this chapter. A para of hypothesis is constructed in which four assumptions are made. On the basis of research observations, utilizing qualitative and quantitative research methodology, all assumptions are proved. Further, the selection of research problem, statement of research problem, significance of research study, scope of research study is also briefly mentioned in this chapter.

The historical development of both e-commerce and traditional commerce systems is convoluted and complex. Researcher does not intend to provide a detailed analysis of the historical developments. However, the researcher felt it necessary to provide a broader context within which to frame the most relevant legal principles and structures of e-commerce law and the foundations that underpin it. For this reason, chapter 2 titled “*E-Commerce: A Conceptual Analysis*” gives a detailed exposition of the history of e-commerce, consumer online habit and different key drivers of e-commerce.

In order to form a comparison regarding the fundamental characteristics of e-commerce and consumer habits, and the consequent interplay in borderless transactions and consumer’s right in the system of digital marketing, discussions on the nature and functions of e-commerce have been undertaken. This is critical to a proper understanding of the process of the e-commerce system as a whole. In this chapter researcher has attempted to review the relevant literature, focusing specifically on the early history and evolution of e-commerce with the help of some recent consumer shopping data on digital

platforms. in this chapter researcher also discussed the international nature of e-commerce and highlight the basic features of e-commerce in general. Further in this chapter, the researcher has dealt with the advantages and disadvantages of e-commerce for all groups such as sellers, buyers, retailers at the national and international levels.

Chapter deals with e-commerce in general, the present scenario and popular online e-commerce websites, categories of e-commerce, quick view on international issues concerning e-commerce such as infrastructural issues, cultural issues, language issues, trust issues on the internet. After going through the brief historical development of e-commerce law, the researcher found that the long-run history of e-commerce has been one of expanding subject-matter and the scope of consumer protection. Traditional commerce is dependent on the system of direct selling and buying and such consumer rights were protected under traditional law and policy. With the progression in time, the scope and subject-matter of protection of consumers widened. Now in this sensory world, anything which has perceptible features and all things which can be done on the internet can be put under the category of e-commerce.

Further in this expanding field of e-commerce, the outbreak of the internet has brought about a vast change. The internet has reduced the size of the world and brought it onto the screen of a computer. It has changed the way we live. There is a huge amount of information on the net, which is available to anyone who can access it. By just typing a word through a search engine one can have more information than one can handle. It is the cheapest and the fastest system of communication, commerce and entertainment. In the 1990s the privatization of the internet has resulted in the commercialization of the internet. It is this commercialization of the Internet which resulted in the dawn of electronic commerce (e-commerce). The basis of every online business is the e-commerce website that it creates on the internet. This chapter of research study ends with a finding that the scope and the subject-matter of e-commerce and consumer protection are still expanding.

Consumer issues and protection are discussed in the third chapter titled *Consumer Protection and Issue in E-Commerce* of this research study. The purpose for discussing consumer issues in e-commerce is that it has brought significant changes in the traditional way of business and thereby expanding the field of e-commerce. This chapter is a sort of bridge between e-commerce and consumer issues in the digital world. In this expanding field of consumer protection, the outbreak of the internet has brought a vast change. In this chapter, a detailed discussion on consumer issues and protection in e-commerce as well as of cyber crime has given. The internet has shrunken the world and brought it onto the screen of a computer. It is the cheapest and the fastest system of communication, commerce and entertainment.

The emergence of e-commerce has ultimately led to many new disputes. Among these disputes, the dispute relating to consumer issues and cyber crime is most prominent. Its effects are far-reaching, affecting not only the field of technology development but also the realm of business marketing and strategy. Online consumers have found that the use of the Internet offers new and previously unknown possibilities and it also empowers not only as an information provider but also as forums of dialogue between manufacturers and sellers regarding their commercial, ethical and social responsibilities. Online traders build and improve their websites, they update and constantly improve the information on the website relating to products so to support their advertising claims such as merchandize dimensions, colour, manufacturers name and product model/ serial numbers price, discount amounts and the time period for the discounts, shipping and handling costs, return and exchange policy and even third party reviews regarding goods and services. E-commerce is rapidly changing the way we do business around the world. In the business-to-consumer segment, sales through the web have been increasing dramatically over the last few years. Consumers from well-developed countries as well as from developing countries are getting used to the new shopping trends. However, as every coin has two sides to it; similarly it has been observed that doing online trade or business with all of its advantages also has dangers and

associated legal issues pertaining to it. It has been seen in the COVID-19 pandemic, that digital transactions are growing fast and cyber crime have increased manifolds rapidly. Covid 19 has brought innumerable challenges for consumers. The online security and privacy violation are rapid, consumer are trapped in many ways and are under constant threat such as online fraud, fake funds, UPI, fake call for demanding money for the victim of corona and help to poor people. This pandemic has given a new challenge before cyber security.

The advancements in e-commerce has left the legal framework struggling, increasingly, to keep up with the acceleration in the sector. In the same way as companies conducting business online must invent new rules and procedures; the legal system is attempting to adjust existing laws to fit new settings where it is unclear how these laws will apply. With the advent of the Internet, the loopholes generated as a result of the instabilities in the law, potentially became a site of malpractice. A few practices occupied by organizations were untrustworthy and at the end perceived as unlawful, a few practices are presently being imagined that raise new considerations and ultimately led to new disputes. Among these disputes, contention in relation to e-commerce and consumer rights is prominent, with many consumer issues which should be considered by law are left unaddressed, creating a vacuum in the digital world regarding consumer issues.

The digital money Cryptocurrency and new WhatsApp terms and conditions, 2021 and their impact on users are also discussed in this chapter.

Chapter four titled “*International Framework of E-Commerce*” explains the International mechanism to regulate e-commerce and analysis law and policy in some countries such as UNCITRAL Model Law on Electronic Commerce, United Nations Convention on Contracts for the International Sale, European Union Directive, 2000, Anticybersquatting Consumer Protection Act.1999, etc. The Model Law was adopted in 1996 to facilitate the use of modern e-means of communication and storage of information, such as electronic data interchange (EDI), electronic mail and telecopy. Its main

objective was to bring uniformity in national laws in relation to e-commerce, thereby granting legal recognition to the data message and digital signature. It has encouraged national legislators to adopt a set of internationally acceptable rules for the validity of electronic commerce by providing equal treatment to paper-based and electronic information. The MLEC was the first legislative text which adopted the fundamental principles of non-discrimination, technological neutrality and functional equivalence. In order to ensure that a document would not be denied legal effect, validity or enforceability, solely, because it is in electronic form; the principle of non-discrimination has been laid down.

The practice of e-commerce has brought with it several challenges and socio-economic issues that need urgent attention within a unified and specific legal framework. Several issues in law have made the practice of e-commerce increasingly difficult. The adoption of universal law conflict within nations, in the enforcement of its own indigeneous laws, the present structure of both the WTO and the UNO has adversely affected e-commerce. The researcher also discussed Information and Communication Technologies (ICTs) in this chapter which has played an important role in developing e-commerce at a global level. The researcher also analyzed all those tools and trends that regulate the e-commerce imperative to the digital market and ensure its exponential growth.

As indicated in this chapter, there is a lack of an international legal instrument which governs electronic commerce. The introduction of such an act would ensure a uniform and enhanced level of consumer protection, reduced transaction cost incurred by entrepreneurs, accelerating and simplifying procedures with the intention of settling disputes emerging from electronic commerce, in connection with the law of at least two states. It should also be stressed that the continual development of new technology brings forth the evolution of a legal framework which is able to ensure the fair distribution of rights and responsibilities, along with the risks related to the concluded contracts between the parties. Bearing in mind the UNCITRAL

achievements in the field of unification regulations relevant from an international trade perspective, there is reason to believe that UNCITRAL as a forum is formidable in its adoption of the uniform act on electronic contracts. Moreover, it should be underlined that UNCITRAL's range of activities qualifies it to take such an action, in particular, not a regional, but a global scale. As the researcher has repeatedly emphasized the work on the international framework of electronic commerce should cover not only the existing phenomena and trends but also this concept, which is going to be crucial and play a significant role in the future, for example internet of things (IoT).

Chapter Five titled “*Indian Legal Framework of E-commerce*” deals with the Indian law and policy on e-commerce and gives a detailed analysis of newly passed the Consumer Protection Act, 2019 and the Consumer Protection (E-Commerce) Rules, 2020. The 2019 Act has brought in some major changes and provides for more protection to the consumers in *pari materia* to the earlier 1986 Act which can be seen from the comprehensive definition provided for the term ‘Consumer’ and ‘Unfair Trade Practice’. The 2019 Act expands the scope of the definition of Consumer to include those involved in online transactions and now squarely covers the E-commerce businesses within its ambit. The 2019 Act has also widened the definition of Unfair Trade Practices as compared to the 1986 Act which now includes within its ambit online misleading advertisements; the practice of not issuing bill/memo for the goods and services; failing to take back defective goods or defective services and refund the amount within the stipulated time mentioned in the bill or memo or within 30 days in the absence of such stipulation, and disclosing personal information of a consumer unless such disclosure is in accordance with law. In this chapter the researcher discussed the new trend of e-commerce as a second hand consumer to business (C2B) model and mentioned that second hand Consumer to Business (C2B) is a very new trend in the business model of e-commerce, in which consumers sell and buy used products.. Companies like eBay, Etsy, Cashify, OLX, and Quikr are engaged to buy and sell used

products. Under this model a person who sells or buys a used product is not consumer under the new Consumer Protection Act, 2019.

The main problem in buying and selling second-hand C2B in e-commerce is the lack of quality control. There is no guarantee of the product value and protection of money. The lack of clarity on the refunds policy makes accountability and action against a dishonest purchaser impervious to be followed through. Under the new Consumer Protection Act, 2019 second-hand C2B consumers, not considered consumers, the act does not protect those who bought or sold the used product. Meanwhile, in India this model is growing fast and e-commerce websites are earning a million dollars every year with no protection for a consumer who cheated by an e-commerce company which in reduction of the price of its goods binds the consumer to frivolous and stringent terms and conditions. The consumer stands by for a pickup company agent who after holding their device for a month, informs them that due to technical error they were unable to collect the order and requests the consumer to place a fresh order. Consequently, in the new order the device price was reduced by the company and the consumer has no recourse in the face of this fraud committed against his order.

In India's scenario, it can be said that the Information Technology Act, 2000 has resolved some of the particular issues that arise in information and authentication of electronic commerce. The IT Act, based on the UN model law on e-commerce, has brought changes to various enactments, such as the Indian Evidence Act, Indian Penal Code, Criminal Procedure Code, Reserve Bank of India Act, and some others.

In this chapter, the researcher analyzed the law and policy premised on the following criteria:

- 1) There is a need for a consumer awareness plan regarding law and policy on e-commerce, in India maximum consumers do not know about the protection of privacy and online dangers.

- 2) Procedure of courts and systems in consumer matters are very slow and we all know that the e-commerce system is working on the internet, the proliferating cyber fraud happening today needs to be confronted and regulated by well-functioning mechanisms in place.
- 3) The judicial response to e-commerce consumer matters is very slow. The sitting judges are not technically sound, and are dependent on expert opinion on these matters. So the need for technical awareness among the judiciary is paramount.

In this chapter, the researcher has discussed some judicial cases relating to cyber fraud and cyber crime and observed a very disheartening judicial scenario with regards to e-commerce. The researcher found that all the cases were registered in the High Court with no e-consumer cases in the Supreme Court. In the high court itself, very few cases are available on consumer protection in e-consumers. The courts in the U.S.A. and U.K. are largely responsible for the emergence of cyber jurisprudence in the global context. On 8 July 2019, The Delhi High Court restrained e-commerce platforms Amazon, Flipkart, Healthkart and Snapdeal and several sellers from displaying, advertising and offering for sale the products of companies that are 'direct selling entities' without their consent. The interim injunction was passed on July 9th by a Single Judge Bench, in clubbing of suits filed by direct selling entities like Amway, Modicare and Oriflame. Amway, Modicare and Oriflame deal in healthcare and beauty products. The companies alleged that the aforementioned e-commerce platforms are sourcing and selling their products in an unauthorized manner at cheaper rates, resulting in financial losses to companies. *SMC Pneumatics (India) Pvt. Ltd. v. Jogesh Kwatra*,³ In India's first case of cyber defamation, a Court of Delhi assumed jurisdiction over a matter where a corporation's reputation was at stake through emails, passing an important ex-parte injunction. The order of Delhi High Court assumes tremendous significance since this is for the first time that an Indian Court

³ Suit No. 1279/2001 Delhi HC

overseeing jurisdiction in a matter concerning cyber defamation, granted an ex-parte injunction restraining the defendant from defaming the plaintiffs by sending derogatory, defamatory, abusive and obscene emails either to the plaintiffs or their subsidiaries *Nasscom vs. Ajay Sood & Others*⁴. This is a landmark judgment in the case of the National Association of Software and Service Companies vs Ajay Sood & Others,⁵ delivered in March, the Delhi High Court declared 'phishing' on the internet to be an illegal act, entailing an injunction and recovery of damages. Elaborating on the concept of 'phishing', in order to lay down a precedent in India, the court stated that it is a form of internet fraud where a person pretending to be a legitimate association, such as a bank or an insurance company, extracts personal data from a customer such as access codes, passwords, etc. Personal data gathered by misrepresenting the identity of the legitimate party is commonly used for the collecting party's advantage. The court also stated, by way of an example, that typical phishing scams involve persons who pretend to represent online banks and siphon cash from e-banking accounts after conning consumers into handing over confidential banking details.

Electronic commerce in India is growing expediently, particularly in Covid -19 situations. However, a need for its regulation through a compact legal framework has been aptly demonstrated in this research study. India has a capacity for a standard global e-commerce operation. Though there exists some provisions of the law in certain documents, these have not addressed the issues that are arising from e-commerce. India could borrow from the United Kingdom which has a plethora of Laws on e-commerce, some segments and parastatals of that country have a legal framework that regulates e-commerce transactions. Singapore, on the other hand, has gone into partnership with several companies both in China and Japan because of the multiplicity of laws in the e-commerce arena, demonstrating that e-commerce is a remedy for economic and financial growth, when effectively utilized and controlled. The

⁴ 119 (2005) DLT 596, 2005 (30) PTC 437 Del

⁵ 119 (2005) DLT 596, 2005 (30) PTC 437 Del

Indian parliament has passed a new consumer protection act which includes e-commerce issues. Our Lawmakers should also amend the contract law of India which is cognizant of traditional illustrations of business activity; fails to take note of digital transactions.

Disputes are traditionally located within the shared territorial landscape of one or both parties involved. The principles applied differ in accordance with the national jurisdiction the case falls under. In the beginning, courts in different countries began to access the internet merely to use it as a sufficient ground for assuming jurisdiction over internet related transactions. Jurisdiction dispute in e-commerce has been dealt with in chapter-6 titled “*Internet Jurisdiction on E-commerce*”, describing USA, European Union, Hague Convention 2005 on Choice of Court with a detailed discussion on leading case law on Yahoo case in European Union and Zippo case in the USA. The US court had applied two types of theory to resolve jurisdiction disputes: general jurisdiction and jurisdiction specific. The U.S. courts underlined the fact that orders of a foreign court against a legal entity of another country would not automatically become operable in the country of origin, but would need scrutiny by the court of the country of origin with reference to its laws and constitution.

Courts have established the benchmark for determining jurisdiction based on the level of interactivity and the commercial nature of the exchange of information that occurs on the website in a particular jurisdiction and has classified website activities in three areas:

- a) Fully interactive sites where users buy goods or services, exchange information or files, or enter into agreements;
- b) Completely passive sites where the information is available for people to see;
- c) Websites somewhere in the middle, with restricted interaction.

Courts are likely to take jurisdiction over the out-of-state operator of fully interactive sites unless the operator forbade the sale in the state or did not aim to target them. Fully passive websites are not likely to be subject to jurisdiction as they operate from outside the state. From the discussion under this chapter, it is clear that every nation has its own law and no country wants to enforce a foreign court's judgment in its own country. E-commerce is a paperless and borderless commercial activity. Because of nations' interest, the problem of the jurisdiction in e-commerce is the main dispute. In the absence of better legal alternatives, consumers initially attempted to fight cybersquatters by invoking consumer rights. However, traditional commerce law did not contemplate e-commerce disputes occurring in a global, electronic medium. In particular, the uniqueness and global reach of e-commerce serves to complicate the application of traditional commerce concepts. Several countries, including India, have tried to extend the scope of traditional consumer law to the online world through amendments and judicial outreach. However, the United States of America has taken the lead in addressing e-commerce disputes by suitably introducing new legislation and expanding the horizons of existing ones through judicial activism. The courts in the U.S.A., Singapore and the U.K. are largely responsible for the emergence of cyber jurisdiction in the global context.

At present, to solve the jurisdiction dispute at the global level, Online Dispute Resolution (ODR) like arbitration and mediation are new tools in e-commerce issues regarding cyber jurisdiction. Part -2 of chapter -6 briefly discussed ODR. The concept of online dispute resolution (ODR) has emerged in various jurisdictions due to globalization. The many benefits of ODR include less time, speed, costs and convenience. These advantages make it more lucrative than traditional methods such as litigation. Due to insufficient adequate e-commerce laws, lengthy litigation process and overcrowded Indian courts, ODR is a more convenient way to handle e-commerce litigation in the world, including consumer complaints. Indian law on cyber jurisdiction. unable

to deal with e-commerce disputes, the issues of jurisdiction and enforcement in e-commerce are relatively nascent in India. The IT Act by the force of its Section 75 is extended to the whole of India and therefore it shall apply also to any or contravention thereunder committed outside India by any person and the law applies to any crime or offense committed outside India by any person if the act or behavior committing the crime or violation involves a computer, mobile, smart device, computer system or computer network located in India. In the absence of the availability of case laws like Zippo and Yahoo, some high courts of India decide the case relating to cyber crime and cyber tort, but all cases are not directly related to e-commerce and e-consumer issues. Recently India enacted the new Consumer Protection Act, 2019 which includes e-commerce and misleading advertisements but this Act does not provide an adequate remedy to e-consumer victims.

Indian law on cyber jurisdiction is unable to deal with e-commerce disputes adequately as the issues relating to jurisdiction and enforcement in e-commerce are still relatively nascent in India. In general, a number of local statutes provide for a 'long-arm jurisdiction' whereby the operation of such local laws have extra-territorial application if an act or omission has resulted in some unlawful or prejudicial impact within the territory of the country. The IT Act by the force of its Section 75 is extend to the whole of India and therefore it shall apply also to any or contravention thereunder committed outside India by any person and the law applies to any crime or offense committed outside India by any person if the act or behavior creating the crime or violation involves a computer, mobile, smart device, computer system or computer network located in India.⁶

Section 3 of the Indian Penal Code (IPC), 1860 provides that any person who is liable, by any Indian law, to be tried for an offence committed beyond India shall be treated under the provisions of the IPC for any act committed

⁶The extra territorial jurisdiction of the Indian criminal courts *available* at <http://www.shareyouressays.com/knowledge/the-extra-territorial-jurisdiction-of-the-indian-criminal-courts/115819> (last visited March18,2020)

outside India in the same way as such an act was committed in India. Therefore, the jurisprudence in India on the issue of jurisdiction in electronic commerce cases is seemingly meagre.

Due to the borderless nature of the Internet, 'territorial' jurisdiction becomes complex. Furthermore, regarding various categories of disputes, issues such as jurisdiction, choice of law and the high cost of cross-jurisdiction litigation arise. There are certain loopholes in the IT Act such as ambiguity with respect to the legal jurisdiction of contracts involving international parties and absence of dual-key pairs for individuals and business, compromising the confidentiality of e-transactions.

The discussion under this chapter leads us to the conclusion that the technological changes bring challenges to the basic principles of international jurisdiction and the digital revolution has posed complex problems for consumer protection. So far as India is concerned, there is no legislation that is directly related to the internet jurisdiction disputes. Unlike the legal precedence in the USA, the law is yet to be framed. However, the Information Technology (Amendment) Act 2008 and the Consumer Protection Act, 2019 provides punishment for cheating and impersonating by means of any communications device or computer. There is still an urgent need for definite laws in this field.

In the last chapter, on the basis of this research study, certain conclusions are drawn and some suggestions regarding laws, consumer and social media are also placed for consideration. Based on the findings of this research study, it is inferred that the problem of e-commerce dispute and e-consumer rights needs addressed urgently. In the recent past, legal researchers have dedicated their area of study to the manner in which digital broadcasting of data over the Internet has confronted and examined traditional legal principles, particularly in the field of e-commerce. In the recent past, legal researchers have dedicated their area of study to the manner in which digital broadcasting of data over the Internet has confronted and examined traditional legal principles, particularly in the field of e-commerce. The Internet is a

source of inconvenience to those who are trying to save the intangible value and goodwill sumup in e-commerce. The flooding of activities on the internet has quickly changed the nature of the Internet from the “cozy, non-commercial environment” to a medium through which commercial traders can offer on-line services, advertise and sell goods, distribute software and other products. The growing number of cybersquatting cases and other domain names issues has resulted in an explosion of cases pouring in all the way through court systems worldwide, thus requisiting with urgency the development of a legal framework to deal with the emerging internet related problems and threats.

The study finds that there is no effective institution or efficient mechanism to control, prevent, or check e-commerce and violation of consumer rights. The United States of America, for its part, introduced the federal law known as Anti-Cyber Squatting Consumer Protection Act, 1999, making cybersquatting a crime. As far as the United Kingdom is concerned, there is no specific law relating to cybersquatting, whereas the Electronic Commerce (EC Directive) Regulations 2002, implemented through the courts apply in the e-commerce issue. If we talk about India, we will find that there is no law, which directly deals with the issue of consumer disputes in e-commerce. But after the newly Consumer Protection Act, 2019, some sections relating to e-commerce disputes has been placed and it is a good step towards the protection of consumer rights in e-commerce. But at the point of internet jurisdiction, the new CP act is silent. However, the Indian Parliament enacted the Information Technology Act in the year 2000, in order to grant legal acknowledgment to e-commerce, to amend related statutory provisions and to give favourable consideration to the United Nations Model Law on Electronic Commerce (Model Law), to facilitate electronic filing of documents with the government agencies. But it does not mention any strong provision about cyber jurisdiction.

In the last pages of this research study, it is suggested that to have a law in the form of a treaty or convention under the aegis of UN, which thoroughly

covers all parts of known and potentially illegal activities committed on, or with the assistance of the internet. Every country, including India, must endeavour to draft a complete Cyberspace Code, which inter alia also addresses issues relating to e-commerce dispute and infringement of consumer rights on the internet. E-commerce dispute issue in cyberspace is too technical an issue to be dealt with by simply extending the scope of traditional laws according to the digital atmosphere. It is required that the technical aspects must be given appropriate treatment and due weight while enacting the law. The law makers are required to form policies for the less expensive and fair resolution of e-commerce disputes. Such policies are fruitful only if law makers implement subsequent suggestions. In India strict implementation of legal provisions is the biggest problem, which provides opportunists to the cyber criminals to break and play with the law. So it needs the creation of an active cyber cell, a national nodal agency and a computer disaster response team in each state who are empowered to meet the challenges and danger of the Internet. It is suggested to insert a new section or new act applied to the Constitution of Digital Consumer Courts (DCC). The principle of natural justice requires a fair and speedy procedure for the dispute of online consumers. Constitution of Digital Consumer Courts (DCC) can play a very positive role to implement principles of natural justice to consumer disputes in cyberspace. In order to this, there is a need for a digital healing mechanism; there must be an establishment online consumer court particularly to deal with frauds and crimes with consumers in e-commerce.

It is humbly submitted that India's Contract Act 1872 was made about 148 years ago except for minor changes. The illustrations cited in the law are inconsistent with the situations of digital contracts. Hence, the legal provisions for a valid online business contract should be updated and the latest illustrations should be added in the Information Technology Law, 2000 (2008). In order to make the IT Law a complete guide in itself for every situation arising from e-commerce. It is suggested to consumers that use of keypad phone is safest way of online transactions because keypad phone does not

support any 3G, 4G network and you cannot access internet facility. Hacking or online thieves are not possible on keypad phone. So the mobile number registered with UPI or bank should be used on a keypad phone device.

Social media attention is increasing worldwide. With a phenomenal increase in the use of social media platforms, social network environments provided a prolific ground for cyber criminals to engage in illegal activities. To share your personal information such as an address, phone number, date of birth, your family photos, your future plan and about your travel on social media, may be a big privacy risk and sometimes as a crime. Hackers, companies, cyber criminal can use your shared information against you. So, don't share any personal information on social media, think hundred times before sharing. It is suggested that proper education and awareness program for people and law makers must provide a separate law to control illegal activities on social media and also make a proper mechanism for the grievance of e-consumers.