

A Study on legal and Ethical issues in E-tailing

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Abstract - The developing countries like India are going through a huge shift from old cultural and social era to 21st century new edge where the developed countries have already started taking the benefits of Retailing for their routine businesses. The citizens of developed countries have also accepted this transformation. But India is still far from this transformation. The Article focuses on the various legal and ethical issues of e-retailing and how this has impacted the society and by creating hurdle in accepting e-retailing in a developing country like India. My research identifies the answers required to accept the changes of modern e-retailing. The research also provides a deep insight to the business to implement the solution in business edifices by understanding the demands of future market. It also helps to governments of developing countries to take concrete decisions for changing customer's future needs to service them in competitive world.

Keywords: Online Marketing, Online Retailing, Ethical Issue, Legal Issue, Future of Online Retailing, e-tailing.

I. LITERATURE REVIEW

1) (Law & Technology: Evolving challenges as a result of fraud in E-commerce Sector, (ASSCHOM Report)

The economic crisis has forced retailers, like other organizations, to closely examine every aspect of their business for inefficiencies. This investigation has exposed the holes that exist in their e-commerce operations. Retailers are waking up to the realities of e-commerce fraud and are realizing the inadequacies of their current fraud management processes. Fraud is fast becoming an area of concern for retailers as they gear up for further growth in online commerce.

2) (Rashad, Noor & Seyed 2011) states that e-tailing does not allow a physical interaction between consumers and retailers and so it raises a numerous risks and issues concerning privacy, security, technology etc. The privacy in e-commerce models are considered to be important for consumers and business regulators. Most of the feel insecure because of existing norms of privacy and security online. These untowards incident creates a negative impact on economy and hinders the people to engage online buying.

3) (Palanissamy 2013) describes electronic commerce is gaining acceptability throughout the globe because of its ease, flexibility and speed. E-commercial transactions cannot be addressed simply in terms of mechanical changes. Rather, they have engaged a fundamental change in relationships, expectations and subject matter, which challenge contract law and contract scholars to come to grips with the nature of their doctrines, practices, and

presumptions as they are applied to fundamentally new and different relationships.

Objective of the Study

1. To know the factors relating to legal & Ethical issues of E-tailing in India.
2. To study the effects of legal and ethical E-Tailing India.
3. To know the possible means of solution in case of legal & ethical issues arises in future.

II. RESEARCH METHODOLOGY

(a) **Coverage of the Study:** This research paper is confined to study of Legal & Ethical Issues of Online Shopping in India.

(b) **Source of Data:** The study is based on secondary data collected through various books, business magazines, journals, newspapers, internet web sites and research studies.

(c) **Data Analysis:** Analysis of data and information collected from published sources were made keeping the objectives of the study in mind.

III. INTRODUCTION

Online retailing business has grown at an incredibly pace in these few decades. With the increasing of people tend to change their traditional shopping habits because of the convenience of online shopping and services that provide from online retailers, but, there are also shown some ethical issues, legal issues and challenges to online retailers nowadays. The definition and the scope of online marketing, online retailing, online retailer; and the ethical

issues, legal issues that challenges online shopping may not be neglected.

Now a days online business is rapid emerging trend, by the advanced and increased use of online media. Research shows that every five in eight companies are operating online, conducting e-commerce business. But being functional online doesn't mean the companies can escape legal matters. There are various legal issues associated with e-retailing business as well and if these issues are not taken care of in time, they can lead to serious problem for the business.

IV. E-COMMERCE

E-commerce is a place where it presents a world of opportunity for doing business, attaining global markets and buying without leaving home, just as any fresh business tool has linked issues and risks, E-commerce does have some issues too. It is necessary to know the legal and ethical issues regarding to e-commerce to ensure a safe and secure environment for trading with customers and other businesses.

E-commerce is not about the technology itself, it is about doing business leveraging the technology. A technology innovation is shadowed by frequent combination of ethical standards into law. New forms of E-commerce that allows new business practices have many benefits but also bring several risks-commerce businesses have many advantages but it also brings numerous risks. E-commerce has some advantages like entrance to a global market, open for 24hrs a day, decreases marketing costs, better customer information, lots of choices etc. and some disadvantages like credit card frauds, security issues need for an internet connection and internet access device, lack of personal touch etc.

V. UNCITRAL MODEL LAW ON ELECTRONIC COMMERCE

The Model Law on Electronic Commerce (MLEC) purports to enable and facilitate commerce conducted using electronic means by providing national legislators with a set of internationally acceptable rules aimed at removing legal obstacles and increasing legal predictability for electronic commerce. In particular, it is intended to overcome obstacles arising from statutory provisions that may not be varied contractually by providing equal treatment paper based and electronic information. Such equal treatment is essential for enabling the use of paperless communication, thus fostering in international trade.

This model law

- Establishes rules and norms that validate and recognize contracts formed through electronic means,

- Sets rules for forming contracts and governing electronic contract performance,
- Defines the characteristics of valid electronic writing and of an original document,
- Provides for the acceptability of electronic signatures for legal and commercial purposes, and
- Supports the admission of computer evidence in courts and arbitration proceedings.

VI. LEGAL & ETHICAL ISSUES OF E – TAILING

a) Legal Issues

The Essentials of a valid contract under the ICA are applicable to e-contracts as well, like lawful consideration, lawful object, free consent, parties to be competent to the contract and like. Unless expressly prohibited under any statute, e-contracts would be enforceable and valid if the requirements of a valid contract as per the ICA are fulfilled. However, certain peculiar difficulties may arise while applying the ICA to e-contracts. For instance, under ICA a minor (below 18 years of age) or a person of unsound mind is not competent to contract, whereas in online transactions it is virtually impossible to verify such details.

Fraud is fast becoming an area of concern for retailers as they gear up for further growth in online commerce. There are several avenues of risk associated with each and every process. From a risk perspective, e-commerce companies could face issues around brand risk, insider threats and website uptime. Issues around employee-vendor nexus, bribery and corruption make companies vulnerable to fines. Cyber security also raises some concerns around website exploitation by external entities.

Applicable law and choice of forum are different concepts that must both be addressed while addressing internet jurisdiction concerns. Applicable law refers to which country's law will be applied to a particular dispute. While some contracts will specify which law governs should a dispute arise, where such a clause has not been included. It is left to the courts to determine which law should be applied.

Conclusion of contracts through electronic means, such as through e-mail communications (or execution of e-contracts) has been recognized by Indian courts from time to time. Cyber law due diligence is vigilantly being exercised by the authorities and companies and websites are being duly prosecuted for non-compliance. However, legal issues of e-commerce in India vary as per different business models. For instance, electronic trading of medical drugs and healthcare products undergo more aggressive scrutiny than other e-commerce activities. With increasing use of mobile phones, statistics have projected a tremendous rise in e-commerce and m-commerce, which have entered into everyday lives of the citizens. The need of the hour is a comprehensive legislation that not only safeguards the

sellers but also provides secure transactions to the consumers.

1. Consumer Rights Information:

Consumer information rights legislation imposes obligations on retailers to provide information to consumers before the goods or services are purchased. Consumers must be informed of the identity and address of the retailer, the characteristics of the goods, the price or manner in which the price is calculated, and any applicable delivery charges.

2. Electronic Marketing Consents:

Many businesses will seek to target customers by sending electronic marketing communications relating to new offers. This type of marketing is very tightly regulated and is frequently prosecuted by the DPC. Each vendor-customer relationship will be different and specific legal advice should be sought for these marketing activities given that this is a complex area of law.

3. Website/App Terms of Use:

These terms (which are separate to terms of sale) apply to all website/app users rather than just to customers and set out the terms and conditions on which the user may use the website/app. These terms enable businesses to limit their liability and to assert intellectual property ownership over website or app content.

4. Cancellation Rights:

For 'distance' contracts (contracts concluded 'facelessly' online or via mail order, SMS, fax, phone or teleshopping), consumers should be informed of the 14-day 'cooling off period' which entitles them to cancel the contract within 14 days of the delivery of the goods.

b) Ethical Issues

The major issue that can create the problems for both Companies and customers. Consumers share information with business online by expecting it must be under confidential. But, just one minor mistake takes the leakage of valuable information of a customer. By this the business will lose not only potential customers but also company image and reputation.

The Privacy has active role in electronic e-commerce and we find less number of people have assumption that how the personal information is collected and disseminated. Present e-commerce practices have led to the fear in consumer mind regarding the privacy. The consumers have various types of conceptualization about privacy like a fundamental, commodity right etc. The E-commerce sites collect an enormous number of data regarding their personal information, shopping patterns and patterns of search can be computed in real time and which led to types of concerns like risk of secondary use without the consent

of consumer and unauthorized access of personal data because of security breaches.

Security over the Internet is of vital importance to promote e-commerce. Companies that have sensitive information on their websites must ensure that they have adequate security measures to safeguard their websites from any unauthorized intrusion. A company could face security threats externally as well as internally. Externally, the company could face problem from hackers, viruses and Trojan horses and internally, the company must ensure security against its technical staff and employees.

The online security causes a serious threat to the consumers by causing economic hardship by in secured payment methods through unlawful access. Virtual consumers are worried about security issues when they do shopping online. There consumers will have normally issues of security like financial information and individual specifics. Consumer feel uncertain when they deal with financial transactions because of this their remains ambiguity with intention to purchase in the consumer mind. The security to use online shopping also depends on how trusted parties create reliable and comfortable situations for consumers dealing with the system.

In Online Shopping must have faith in the competence of internet websites that offer internet shopping services. But the websites are poorly designed and consumers will never come to know the competence of the company, so these effect users trust and refrain consumers from buying online. If the companies want to be successful online they need to advertise their services focusing on how competent and reliable the company is in the market. The lack of third party recognition makes the online vendor less unswerving and abstain the customer not to buy online products.

1. Information Security

Hackers are very willing to attempt to breach websites and their e-commerce software in an attempt to get consumer information, which can then be used to steal money from customers account or perpetrate identity fraud. This information is often sold on the black market, increasing its exposure and subjecting users to increased

Risk of identity theft and financial loss.

Companies that fail to protect their data can be held liable for information security breaches. Consumers may become disgruntled and cancel their accounts, opting to take their business to competitors.

2. Product Quality

One advantage to shopping in a brick and mortar store is being able to view and inspect merchandise before purchasing it. This can't happen online, which means that the customer has to trust the merchant to sell her an item that matches the photographs and descriptions posted on the retailer's website.

Unfortunately, some companies take advantage of the distance between consumer and product to sell inferior goods. Many consumers have opened a package expecting a high quality item, only to find a product that is shoddily made or that does not resemble its online images.

3. Customer service

Unethical e-commerce companies can make it very difficult to get help. They may simply refuse to respond to emails and other attempts to contact them. In addition, the company may continuously promise a customer that the company will deal with the customer's concern, but will continually delay taking action, until the customer gives up trying to get her problem resolved or when is too late for for her to request a chargeback from her credit card company.

VII. V.CONCLUSION

Due to feasibility in Acceptance of technology and viability of internet. There is potential increase in the e-commerce market in India. The Changing work habits and consumers opting for adaptability and convenience had made the consumers to adopt the new ways buying the products with minimum diligence. The transformation and paradigm change in the rural and urban areas with consumerism has significantly made customers to buy and sell the products through online. The online contracts cannot be addressed in terms of the mechanical changes but need to change the fundamentals of relationship and subject matter and expectations of consumers according to the changing situation and issues of time. India has responded to technological changes and enacted Information technology act 2000 in modeled to UNCTRAL model law, but this law departs in many respects from the spirit of the UNCTRAL law.

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