

# OTT Platform, Consumer's Rights In The Digital Age And Its Linkage To Consumer Protection Act

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## **Abstract:**

Today's epoch is known as the digital epoch. Everything is now available online, from education to pleasure. Information and items are now simply a few clicks away. The way we work and consume content has changed dramatically as a result of digitalisation. OTT platforms are becoming more demanding as a result of the pandemic crisis. People are increasingly turning to the Internet for entertainment, shopping, education, and information. This OTT platform has shifted the new dawn's patterns. All of the OTT platforms, such as Disney Hot star, Amazon Prime, Netflix, Sony Liv, Zee-5, and others, are now available. The popular perception is that the new Consumer Protection Act will exclusively govern the operations of Amazon and Flipkart, the two heritage e-commerce firms. However, according to a top official at the Ministry of Consumer Affairs, this is a mistake because the new rule encompasses the whole B2C internet sector. The Consumer Protection Act has already taken effect, but many internet service providers still believe that they are exempted. Thus, all the B2C online services, regardless of size or reach, all mobile app-based services, and all businesses operating on social media platforms will be covered by the bill.

**Keywords:** OTT Platforms, Digitalisation, internet, service provider, Consumer protection

## **Introduction:**

Movies and shows sent directly to the digital user without the use of cable or satellite television are referred to as over the top services. The Federal Communications Commission of the United States defines OTT as an online provider of video content delivered over the internet (FCC, 2013). The media and entertainment business, education and training industry, health and fitness sector, IT and telecom industry, ecommerce industry, and others make up the Over the Top services market. Due to an increase in the number of online video users, the media and entertainment business has emerged as the most dominant industry in the Over the Top market.<sup>1</sup>

The Information and Broadcasting Ministry enacted a light-touch regulatory framework, grouping print, television, radio, film, and digital media under the media and entertainment industry, in response to the growing popularity and user base of OTT platforms. OTT services operating in India were excluded from regulation due to a lack of applicable legislation; in other words, standard policy levers that apply to licensed broadcasters did not apply to OTT providers. As a result, OTT services used various methods to address community standards, primarily self-regulation.

While OTT service providers may regulate themselves, their younger audiences do not. The pervasive aspect of such platforms, as well as the fact that they provide a one-stop entertainment option for individuals of all ages at affordable prices, has contributed to their growing appeal around the world. In this situation, parents must be diligent in their knowledge and awareness of content screening and supporting tools such as filters. Most OTT services have evolved at least some level of self-regulation for community standards – but gaps still exist. With the growing number of OTT subscribers, the market is projected to expand in the future, and as a result, the OTT space will continue to offer a diverse range of unregulated content.

The government, customers, and legal experts have all been drawn to the unrestrained and unregulated streaming of COVID-19 across platforms, which has been sparked by the current

<sup>1</sup><http://www.ijlrhss.com/paper/volume-3-issue-9/11-HSS-747.pdf>

pandemic. However, a severely regulated structure may make it difficult for the industry to do business, reducing the regime's efficacy in achieving its primary goal. As a result of the code's immediate implementation, OTT platforms will be compelled to comply with disclosures such as specifying maturity ratings and content descriptors such as profanity, violence, nudity, and so on, essentially separating content for distinct audience bases. Regulation is preferable to censorship for artists, and such content delineation is a double whammy, allowing artist's unlimited creative freedom while also addressing consumer issues through an individual grievance redressal authority.<sup>2</sup> Electronic commerce has grown dramatically as a result of enabling access to Internet trade in the digital age. Because of its global reach, it offers various advantages for both consumers and businesses, since it is a quick and easy way to conduct business. It has given consumers and merchants with an active and coordinated plan of action. The rise of persons adopting electronic methods as a policy to trade may be used to gauge the expansion of electronic commerce. In the present era of technological technology, e-commerce has emerged as crucial potential. E-customers have many of the same aspirations and needs as conventional consumers. The rules relating to consumer protection appear to be weak in the majority of nations. Customer assurance is primarily concerned with ensuring that the consumer receives the items that he expects and that, if the product is proven to be faulty, he has access to a solution. In e-commerce, building trust is much more important than in traditional trading. Customer protection regulations in India have created challenges that have harmed consumer trust and confidence. Because consumers are considered as the kings of the market, rules and procedures to safeguard the safety of consumer transactions in e-commerce are required.<sup>3</sup> The Consumer Protection Act of 1986 acknowledges regulations dealing with unfair commercial practises, however it does not cover internet shoppers. To further improve consumer welfare in the digital age, a new statute, the Consumer Protection Act of 2019, was enacted. The current advances in consumer legislation in electronic commerce, as well as the issues in safeguarding electronic consumers in India, have been examined in this brief note.<sup>4</sup> When it comes to consumer safety when online buying, one of the most pressing concerns is privacy. It is difficult to execute an e-commerce transaction without knowing the user's personal information and identification. As a result, it is critical for e-commerce to consider or protect consumers' privacy. To cope with the idea of a person's privacy being violated, a method for verification and identification must be followed. Only when customers are provided the same degree of security as conventional users or consumers will e-commerce fulfil its full potential in the realm of technology. To cope with the idea of a person's privacy being violated, a method for verification and identification must be followed. Only when customers are provided the same degree of security as conventional users or consumers will e-commerce fulfil its full potential in the realm of technology. Consumers' interest and confidence in online marketplaces have been severely harmed by online frauds and scams based on misleading or non-availability of information. Consumer assurance is a crucial aspect of consumer safety, and a lack of information about online portals and privacy is one of the most common causes for customers falling into the trap of fraudulent transactions.<sup>5</sup> Consumer Rights are defined as "the right to have information about the quality, potency, quantity, price, and standard of goods or services," according to the Consumer Protection Act. In every situation, the customer must be safeguarded from unfair trade practises. Also, consumers must be aware of their rights. The first step in defending consumers' rights is to raise consumer awareness, and with that in mind, we commemorate 'World Consumer Rights Day' every year on 15<sup>th</sup> March.

<sup>2</sup><https://www.businessworld.in/article/OTT-Platforms-The-balancing-act-between-consumer-empowerment-and-artistic-expression/13-11-2020-342314/>

<sup>3</sup><https://taxguru.in/corporate-law/protection-e-consumers-era-e-commerce-issues-challenges.html>

<sup>4</sup><https://revistas.unlp.edu.ar/ReDIP/article/download/6354/5418/>  
<https://taxguru.in/corporate-law/protection-e-consumers-era-e-commerce-issues-challenges.html>

<sup>5</sup><https://taxguru.in/corporate-law/protection-e-consumers-era-e-commerce-issues-challenges.html>

This is the digital era, and e-commerce marketplaces are booming, which is great for consumers since it opens up new opportunities, but it also poses a threat to consumer rights protection. There are laws in India to safeguard consumer rights, but the question is whether these laws are sufficient in protecting consumer rights in today's digital era, particularly when it comes to e-commerce and online contracting.

There are numerous consumer affairs agencies and ministries, all of which are dedicated to raising consumer knowledge about their rights. This is the government's primary responsibility because how can consumers protect themselves if they are unaware of their rights? Aside from it, the 'Consumer Protection Act of 1986' and consumer courts are available to help victims.

### **E-COMMERCE & INTERNET USER GROWTH<sup>6</sup>**

According to a global poll, over 40% of the world's population had access to the internet in 2016, with roughly 10% of the population in poor countries having access as well. By 2020, it is predicted that 52 percent of the world's population will have Internet connection. E-commerce has revolutionised the way people do business around the world, particularly in India. By 2026, the Indian e-commerce market is estimated to reach \$200 billion. Increased internet and smartphone usage have fueled the industry's expansion. India's entire internet user base is predicted to grow to 829 million by 2021, up from 636.73 million in FY19, thanks to the country's continuous digital transformation. India's e-commerce revenue is increasing at the fastest rate in the world, at 51% annually (Indian E-Commerce Industry Report, 2019). Because of low-cost Internet connection and online marketplaces such as Flipkart, Amazon, Snapdeal, Paytm Mall, and others, the global E-commerce business is expanding.

### **RIGHTS OF THE CONSUMER<sup>7</sup>**

The following are some basic consumer rights:

**Right to Safety-** The right to safety of a customer is to be protected from marketing goods and services that are dangerous to life and property. Consumers should opt for a quality-marked product with ISI, AGMARK, or other equivalent authority marks.

**Right to Choose-** The consumer has the option of selecting from a wide range of goods and services at reasonable pricing. It means the right to be assured of good quality and services at a reasonable price in the case of monopolies.

**Right to be informed -** Consumers have the right to be informed about the quality, quantity, potency, purity, standard, and price of goods so that they can protect themselves against unfair trade and practises.

**Consumer Education-** The consumer's right to know things and gain information and skills for comprehending them in a certain way so that he or she may make informed decisions. Consumer ignorance, particularly among rural customers, is largely to blame for their exploitation. Consumers should be aware of their rights and should use them. Only by succeeding in both traditional marketplaces and the e-commerce market can true consumer protection be realised.<sup>8</sup>

**Right to be Heard-** If a consumer feels exploited; he has the right to file a complaint with a consumer court. This right ensures that his complaint will be properly heard. Consumers have the right to express their concerns and seek justice without fear of retaliation.

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<sup>6</sup> Consumer Online Foundation, Consumer Rights in India, <http://www.jagorahakjago.com/consumer-rights/>

<sup>7</sup> [nitimanthan.in/blog-posts/blog-niti-manthan/2020/01/25/consumer-rights-digital-era/](http://nitimanthan.in/blog-posts/blog-niti-manthan/2020/01/25/consumer-rights-digital-era/)

<sup>8</sup> Ministry of commerce and industry, the government of India, E-COMMERCE Industry in India, <https://www.ibef.org/industry/ecommerce.aspx>

Right to File a Complaint - The right to seek redress for losses incurred as a result of unfair business practises or exploitation. If a consumer is defrauded or exploited, they have the right to have their claims resolved in their favour.

### **CONSUMER PROTECTION ACT (1986) AND RELATED ACTS<sup>9</sup>**

The Consumer Protection Act of 1986 (CPA) was enacted to better safeguard the interests of consumers and to establish consumer councils and other agencies for the resolution of consumer disputes and related problems. The Consumer Protection Act of 1986<sup>10</sup> strives to defend and safeguard consumers' rights against deficiency and faults in goods and services. This act also aims to protect consumer rights against unfair or restrictive trade practises. Other acts relating to consumer protection exist, such as the Indian Contract Act, 1872, which states that the idea of invitation to offer and acceptance applies to an online offer and acceptance. The Information Technology Act of 2000 is the other one help to achieve success.

### **Why does India's copyright legislation need to be updated for the digital age?<sup>11</sup>**

The Registrar of Copyrights recently sought input from industry stakeholders on amending the Copyright Act 1957, acknowledging that creative "industries are performing and evolving in light of changes brought about by internet use, digitalisation, and an increasingly globalised market for digital content." This development gives India the opportunity to refocus its goals for online creative content creation and distribution under a stable legal framework. The consumption of material in India is steadily increasing online. According to the International Federation of the Phonographic Industry's Music Consumer Insight Report, 2018, almost 95% of Indian consumers listen to music via on-demand streaming. OTT services are also gaining popularity among consumers as a way to watch movies and TV shows. According to a FICCI-EY research on Media & Entertainment in 2020, OTT platform subscriptions doubled in 2019. Their share of overall digital segment revenues climbed from 3.3 percent in 2017 to 13% the following year. This shift in consumer behaviour is due to high internet penetration, low data pricing, and a proliferation of smart phone users. The Covid-19 epidemic has ushered in a digital era.

### **To avoid criticism in India, Netflix and Hotstar have chosen self-regulation.**

Standardised ratings, descriptions, and technical measures will aid sites such as Netflix and Hotstar in gaining consumer and government trust.<sup>12</sup>

On September 4, the Internet and Mobile Association of India published the third edition of its Self-Regulation Code for Online Curated Content Platforms. Its inception comes at a time when middle-class Indians have become accustomed to watching movies and TV shows online via sites including as Netflix, Amazon Prime Video, and Disney+ Hotstar, especially since the Covid-19 lockdowns. However, in addition to attracting more viewers, streaming platforms have sparked concern and

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<sup>9</sup> Department of Consumer Affairs, Consumer Rights and Responsibilities, <http://vikaspedia.in/social-welfare/social-awareness/consumer-education/consumer-rights>

<sup>10</sup> GS Rao, Consumer Rights in the digital era, <https://www.google.com/amp/s/www.lawyersclubindia.com/amp/articles/Consumer-rights-in-the-Digital-era-8065.asp>

<sup>11</sup> <https://theprint.in/opinion/why-india-needs-to-modernise-its-copyright-laws-for-the-digital-era/550243/>

<sup>12</sup> <https://theprint.in/opinion/netflix-hotstar-opt-for-self-regulation-in-india-to-ward-off-criticism/509108/>  
Tilak, G. (2019). Freedom of Expression in the Digital Age.

criticism due to their unregulated position, which has been expressed in public interest lawsuits. One such PIL was dismissed by the Karnataka High Court in August 2019. It had hoped to bring these digital outlets under the Cinematograph Act, which requires the Central Board of Film Certification to certify all theatre releases (CBFC). A PIL seeking a ban on these platforms until regulations were created was denied by the Delhi High Court earlier that year.

## CONCLUSION

The best way to protect consumers' rights is to educate them about their rights so that they can use them to their advantage. If the New Consumer Protection Bill of 2015 becomes law, consumers will be protected in both offline and online transactions, and the IT Act will be referenced. It also holds manufacturers accountable for product quality defects. Let's hope that the new consumer protection statute regulates E-commerce transactions and protects consumers' rights against deceptive advertising, poor items, and delayed reimbursements. This is the digital era, and online marketplaces will eventually supplant conventional markets, thus it is the state's responsibility to ensure that this does not happen. Consumers should be informed about their rights in terms of consumer protection, and tighter regulations should be enacted.<sup>13</sup> While OTTs are not required to follow the IT Rules' Code of Ethics, according to Shreya Suri, a partner at legal firm Indus Law, they may still be required to ensure that the content available for public access does not violate the provisions of the IT Act, 2000, which, for example, prohibits the publication and transmission of any obscene or lascivious material. "Furthermore, content will continue to be subject to the reasonable restrictions on freedom of speech and expression set forth in our Constitution, which may be imposed on a case-by-case basis, (for example,) in the interest of India's sovereignty and integrity, or to prevent incitement to commit any cognizable offence."<sup>14</sup>

<sup>13</sup> Consumer organizations and NGO's, consumer protection act, <https://www.toppr.com/guides/business-studies/consumer-protection/consumer-act/>,

<sup>14</sup>

uillbot.com/?utm\_source=Google&utm\_medium=Search&utm\_campaign=Paraphrase\_Developing&gclid=CjwKCAjw682TBhATEiwA9crl32A4aRteQ1614PhCz0K5jgBERjJLuHoK79OKvOw8\_K6KtFDh-8CGxoCs2wQAvD\_BwE