LAWS PERTAINING TO E-COMMERCE IN INDIAN CONTEXT

Ms Komal
Assistant Professor
Department of Management, Rayat Bahra University, Mohali #2176, Chandigarh Enclave, GTB Nagar, Kharar
komaluniyal3@gmail.com

Ms Ritu
Assistant Professor
Department of Management, Quest Group of Institution, Mohali

Ms Sneha Uniyal

ABSTRACT:

We live in a digitally advanced age. There isn't a single person here without internet access. India's youth rely entirely on the Internet for all kinds of tasks, including shopping, paying bills, and education. The shift to online buying had a significant effect on traditional shopping methods. The main objective of this paper is to study the fundamental idea and legal framework of e-commerce in India's context. E-commerce , to put it simply, is the exchanging of both digital and physical goods and services over electronic networks and platforms as an alternative to traditional selling methods. By 2026, the Indian e-commerce market is projected to grow to a value of US$200 billion. India's current e-commerce is growing by 21 % Compounded Annual Growth Rate (CAGR). The e-commerce business has seen increased investment as a result of the rise in digital literacy, which has also widened the base for new entrants. The advent of e-commerce in rural India has significantly transformed the lives of those living there. Not only did it demonstrate the viability of capturing the market, but it also gave rural residents employment opportunities. The world truly transforms into "Vasudev Kutumbakam" with the aid of e-commerce. Nonetheless, the COVID-19 pandemic-related surge in internet sales and transactions provided fraudsters with a new window of opportunity. Frauds involving online shopping made about 38% of all frauds recorded worldwide in 2020.

In order to counteract these kinds of frauds, the Indian government has created a number of rules and regulations. In order to protect internet users from identity theft, financial loss, exposure to pornographic content, asset seizure online, and other serious cybercrimes, the government passed the Information Technology Act of 2000. This act establishes legal measures to monitor and regulate the activities of computer devices that access the internet. However, these laws are insufficient to ensure that e-commerce runs smoothly.

This research paper seeks to analyse the regulations and guidelines related to e-commerce in India. The paper also suggests that the realm of e-commerce should be the subject of more strict regulations.

Keywords: Digitalization, Technology, E-Commerce.

Introduction

In today's era, the evolution of technology is progressing at a very fast pace. The previous purchase practices have been altered by technology. The earlier days of having to deal directly with the store owner to purchase things or having a middleman is quickly coming to an end. There were some shortcomings in this traditional type of purchasing activities such as time issues, limited services, payment delays etc. On the other hand, contemporary purchasing systems make use of internet resources and technology to streamline transactions. These days, e-commerce, online business, and internet commerce are the terms used to refer to this type of buying and selling. Due to smartphones, internet users and increasing income, the e-commerce

the sector has taken a huge leap towards success. An awful pandemic like as COVID-19 has severely hindered businesses' attempts to employ new technologies for product sales. Because of this, internet business has risen dramatically during the COVID-19 epidemic, displacing traditional businesses.The convenience of online shopping has given us a comfortable life but it has also given rise to some problems of online shopping scams like identity theft, financial loss, exposure to pornographic content, asset seizure online, and other serious cybercrimes etc. In order to safeguard consumers from these frauds and ensure fair competition in the market, the Indian government has established a number of laws and guidelines. The government of India has imposed various legislation for the protection of customers, including the Competition Act of 2002, Information Technology (IT) Act of 2000, and the Consumer Protection (E-commerce) Rules of 2020.

Meaning

E-commerce refers to the purchasing and selling of goods and services using the internet and other technological tools. It is a method in which products and services are delivered directly from the vendor to the customer through a single basket system. With the help of e-commerce, customers can easily complete their online transactions through debit card, credit card or any other mode. For example: Amazon, Flipkart, Myntra are among the top players in the Indian e-commerce market.

Business Models in E-Commerce

- Business to Business (B2B) : Transactions between various businesses for enhancing business relationships. For e.g. AWS (Amazon Web Services).
- Business to Consumers (B2C) : Transactions between business and consumers, No middlemen will be there. For e.g. Amazon, Flipkart.
- Business to Business to Consumer (B2B2C) : Transactions between business and consumer with partnership of other business. For e.g. Swiggy.
- Consumer to Business (C2B) : Consumer sells its value products to business. For e.g. Blog, website etc.
- Consumer to Government (C2G) : Consumer purchase products from government agencies. For e.g. Government portals for paying tax, insurance etc.
- Consumer to Consumer (C2C) : One consumer sells its products to another consumer. For e.g. etsy, olx, ebay etc.
- Business to Government (B2G) : Business sells its products and services to government agencies. For e.g. Construction of buildings, infrastructure etc.
- Government to Business (G2B) : Government agencies provide its products or services to businesses. For e.g. e-filing tax return, GST etc.

Review of Literature

E-commerce has become a vital aspect of our everyday life. For the majority of individuals, especially in urban areas, having access to e-commerce platforms has replaced being a necessity rather than a privilege.

- A study titled "E-commerce Laws and Regulations in India: Issues and Challenges" by Aijaj Ahmed Raj and Wazida Rahman attempts to determine the efficacy of current laws and regulations in addressing e-commerce-related legal issues within the current legal system and makes suggestions for any necessary improvements to the legal and regulatory framework in order to ensure a just, equitable, and consumer-friendly e-commerce environment in India. It neglects the present laws that are impeding the advancement of e-technology and, consequently, e-commerce in India are not sufficiently addressed.
- Another study titled "AN ANALYSIS OF LEGAL FRAMEWORK FOR ONLINE BUSINESSES IN INDIA: COMPLIANCE AND RISK MANAGEMENT" by Vaibhav Chaudhary and Jai Sharma attempts to represent current laws prevailing in India for the issues related with e-commerce. Significance : This has aided the author's analysis of rules and regulations working in the field of e-commerce.
- In order to fully comprehend the growth rate of the Indian e-commerce market, the author has also specifically cited the "E-commerce industry report" that was released by the India Brand Equity Foundation (IBEF) in 2023. Significance : This has aided the author's analysis of the growth in India's compound annual growth rate (CAGR) and the entry of foreign companies into the country's e-commerce sector.

Objectives of the Study

1. To determine the basic idea of e-commerce workings in India.
2. To study about the various rules and regulations governing the field of e-commerce. 3. To study the implications of these rules and regulations on e-commerce.

Research Methodology

The methodology includes data collected from various articles, journals, websites, books. All the data has been included in the secondary base and proper reference has been given for that.

Laws related to e-commerce in India

E-commerce businesses must abide by a number of current laws and regulations. The current state of e-commerce is governed by a variety of laws and regulations across various sectors due to its cross-cutting nature. These include the Income Tax Act of 1961, the Consumer Protection Act of 1986–1999, the Information Technology Act of 2000, the Foreign Exchange Management Act of 1999, the Payment and Settlement Systems Act of 2007, the Companies Act of 2013, and laws pertaining to Goods and Services Tax.

Information Technology (IT) Act, 2000

The Information Technology (IT) Act, 2000 is an act passed by the Indian parliament on 17 October, 2000, applicable to all over India. IT Act, 2000 provides legal recognition to electronically exchange transactions. This act consists of 13 chapters, 94 sections and 4 schedules. The main objective of this act is to provide rules and regulations regarding cybercrime, electronic records, electronic transactions and digital signatures. The act has provided various provisions and civil offenses under different sections that are relevant to online business. One of the main key provisions is section 66 which deals with the hacking of computer systems with the intention to cause wrongful loss. For this a provision of imprisonment of three years or with fine upto Rs.2 lacs or both, has been provided under section 66. Section 66A of the act deals with sending offensive messages through communication service. The punishment for the offense under section 66A is imprisonment of one year which may extend to three years with fine. Section 66F deals with cyber terrorism , for which imprisonment may extend from one year to lifetime. Under section 70 punishment of imprisonment which may extend to 10 years or with fine has been provided for the offense of attempting a secure access to a protected system. Section 73 provides protection against publishing false digital signature certificate, with a imprisonment upto two years or with fine which may extend to Rs 1 lakh rupees or with both. Under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2023, the central government has the authority to delete any online material related to its operations that it considers to be inaccurate or deceptive. To reduce legal risk, it is now crucial for e-commerce businesses to carefully review the rules of the IT Act of 2000.

Consumer Protection Act, 2019 and Consumer Protection (E-Commerce) Rules, 2020

The Consumers Protection Act, 2019 was passed with the intention of ensuring prompt and efficient management and resolution of consumer disputes and related issues. Earlier Consumer Protection Act 1986 was in operation after that an amendment in the act was made. The amendment was made in 2019 and it replaced the earlier act of 1986. Under this amended act, the definition of consumer has been changed. The Consumers Protection Act, 2019 defines that a consumer includes any person who buys any goods or services through online or electronic means. Whereas, consumer protection act 1986 doesn't define this type of consumer.The Department of Consumer Affairs has notified the Consumer Protection (E-Commerce) Rules, 2020 to protect the consumers from unethical business practices in e-commerce. These rules provide a regulating framework for marketing, sale and purchase of goods and services online.In order to regulate concerns pertaining to deceptive or misleading ads that are detrimental to the interests of the public and consumers as a class, the Central Consumer Protection Authority (CCPA) was established under the Consumer Protection Act of 2019. The Central Consumer Protection Authority (CCPA) has issued an advisory notice for the consumers to not to purchase any item which do not hold valid ISI (Indian Standards Institutions) mark and do not comply with BIS (Bureau of Indian Standards) standards. The CCPA has also issued advisories to e-commerce businesses, advising them to refrain from producing, marketing, or listing goods or services that endanger the lives of consumers. Examples of these include the sale and listing of car seat belt alarm stopper clips, the unlawful sale of wireless jammers, and the requirement that all marketplace e-commerce platforms display seller-provided information in accordance with the 2020 E-Commerce Rules (Press Information Bureau Government of India, 2023). Under the Consumer Protection Act of 2019, it is against the law for internet companies to make deceptive or fraudulent statements regarding the features of their goods or services. The registration of e-commerce businesses from Department for Promotion of Industry and Internal Trade (DPIIT) is mandatory, and they must clearly display their registration numbers to users on their platform and on invoices. Additionally, they are prohibited from using bait and switch strategies or giving out fake discounts. Nowadays, it becomes essential for e-commerce companies to understand the act and its provisions for avoiding any type of legal risk.

Payment and Settlement Systems Act, 2007

In accordance with the Payment and Settlement Systems Act, 2007, the Reserve Bank of India (Reserve Bank) is designated as the governing body responsible for overseeing and regulating payment systems in India as well as any associated topics. As of August 12, 2008, the PSS Act, 2007 became operative after the President's assent on December 20, 2007. The Act also provides the legal basis for "netting" and "settlement finality". Netting is the process of combining two or more transactions into a single transaction for reducing financial risk. All the internet companies that run payment gateways or enable online transactions must apply for and receive a licence from the RBI, as well as adhere to any rules and regulations that the RBI issues. The National Payments Corporation of India (NPCI) created the Unified Payments Interface, or UPI, as an instantaneous payment system in 2016. It is governed by the Reserve Bank of India (RBI) and operates as an open source application programming interface (API) on top of the Immediate Payment Service. Of the 8,840 crore digital financial transactions that occurred in FY22, 52% were made using Unified Payments Interface (UPI), according to the Economic Survey 2023. There has been a steady increase in UPI usage. UPI accounted for 17% of the 3,100 crore digital transactions in FY19, according to the report, and by FY20, that percentage had risen to almost 27% of the 4,600 crore digital transactions. (madhukalya, 2023) In accordance with section 26 of the act, an individual or business found guilty of violating any of the provisions may be sentenced to up to 10 years in prison or a fine of up to Rs. 10 lakhs. Under the act, if an individual or company is found guilty of providing false information or papers, they may be sentenced to one month or more in jail, up to three years, and a fine ranging from 10 lakh to 50 lakhs. A person must be punished with a fine of either Rs. 10 lakhs or Rs. 25 000 each day if he became unable to present any information, under the act. Section 30 of the act defines the power of RBI to impose fine in case any contravention is noticed. Online businesses that run payment gateways or make online transactions must do a thorough study of the rules and regulations made by RBI to maintain data security and effectiveness of settlement .

Draft e-commerce Policy, 2018

In 2018, the Government of India has published a draft e-commerce policy.This strategy focuses on six main aspects of the e-commerce ecosystem: data, e-commerce marketplaces, infrastructure development, regulatory matters, promoting the domestic digital economy, and export promotion via e-commerce. The Policy considers the interests of investors, manufacturers, MSMEs, traders, retailers, startups, and customers, among other stakeholders. In B2B e-commerce activities, 100% FDI was allowed under the FDI Policy on E-Commerce. FDI has never been allowed for business-to-consumer (B2C) e-commerce, which is multi-brand retail via an inventory-based approach.

The Competition Act of 2002

The Competition Act of 2002 delineates specific facets of the e-commerce ecosystem that are expected to fall under the purview of competition-related matters. Platform neutrality and parity terms; exclusive agreements between online merchants (e-tailers) and sellers; significant discounts offered on online platforms, which are frequently predatory in character. E-commerce platforms are also subject to the provisions of Section 4 on the misuse of dominant position and Section 3 involving anti-competitive agreements.

Goods and Services Act 2017

The supply of goods or services, or both, including digital products over digital or electronic networks, is described as electronic commerce in Section 2(44) of the CGST Act, 2017.Each online purchase involves the following three parties: Seller-Buyer E-commerce Operator (ECO).Everybody who supplies products or services through electronic commerce operators is required to be compulsorily registered under Section 24 (ix) of the Central Goods and Service Tax Act, 2017, with no threshold exemption limit. Food delivery apps such as Zomato and Swiggy would be required to collect GST from clients on behalf of the restaurant and deposit it with the government for deliveries performed via the platforms, from January 1, 2022. E-commerce operator that violate the following will be subject to a penalty of Rs. 10,000 or the amount of tax, whichever is higher:

(a) Permit an unregistered individual to sell products, services, or both through the operator, unless they qualify for an exception.

(b) Permit any GST-registered individual to use the operator to supply any products or services outside of their registration state for which they are not qualified to do so. (c) Operators, with the exception of those exempt from GST registration, do not accurately file GSTR-8 for information on online sales made through them by e-tailers.

Statistics & Data

Here I would like to present some data & statistics which shows internet penetration rate, projected growth of e-commerce and rates of cybercrime in India.

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Fig 1: Internet Penetration rate in India

Year	Internet Penetration Rate
2020	45%
2021	47%
2022	48.70%

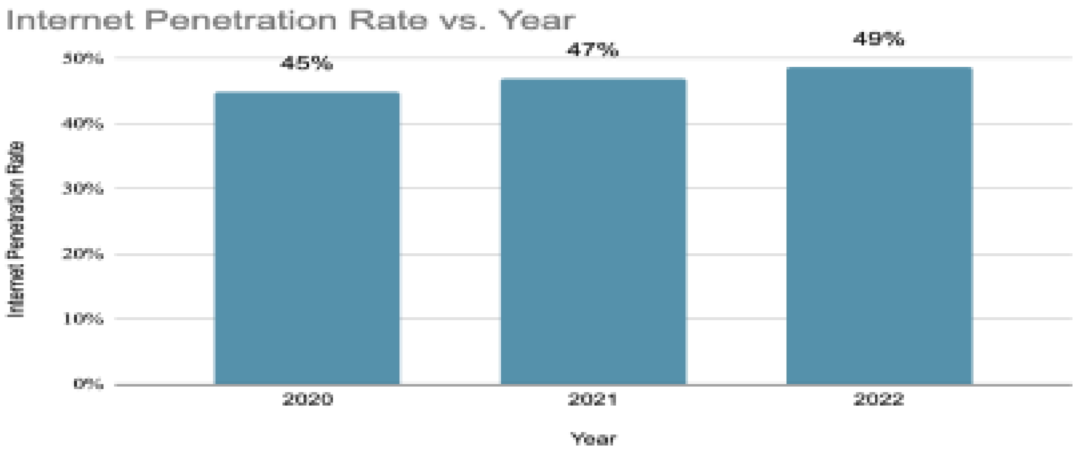


Fig 2: Projected Ecommerce Revenue of India from 2017-2027

Year	Revenue (in billion US dollars)	Year	Revenue (in billion US dollars)
2017	$28.77	2022	$88.29
2018	$36.28	2023	$113.55
2019	$45.77	2024	$135.08
2020	$64.77	2025	$162.12
2021	$85.42	2026	$175.51
2027	$191.44		

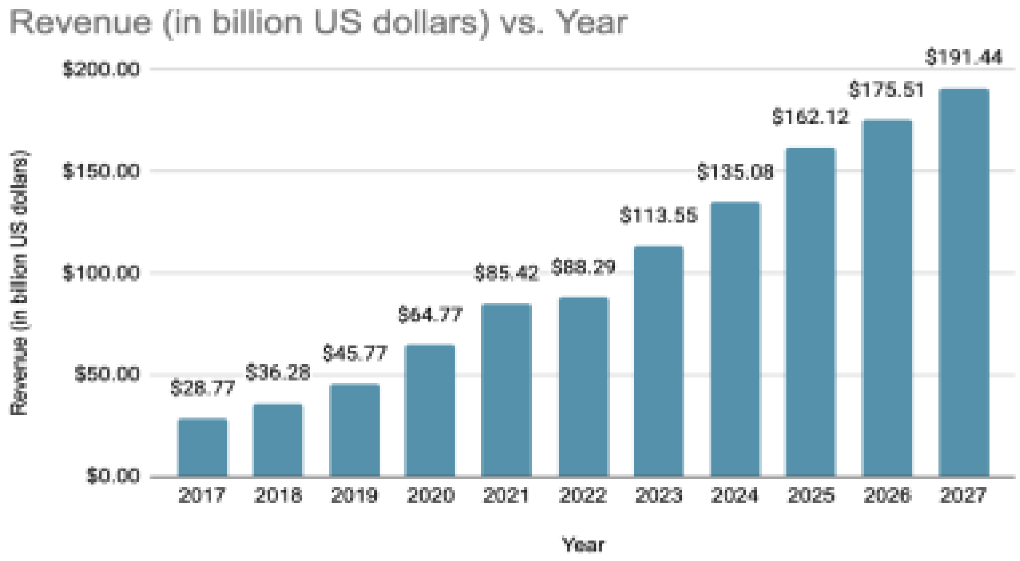
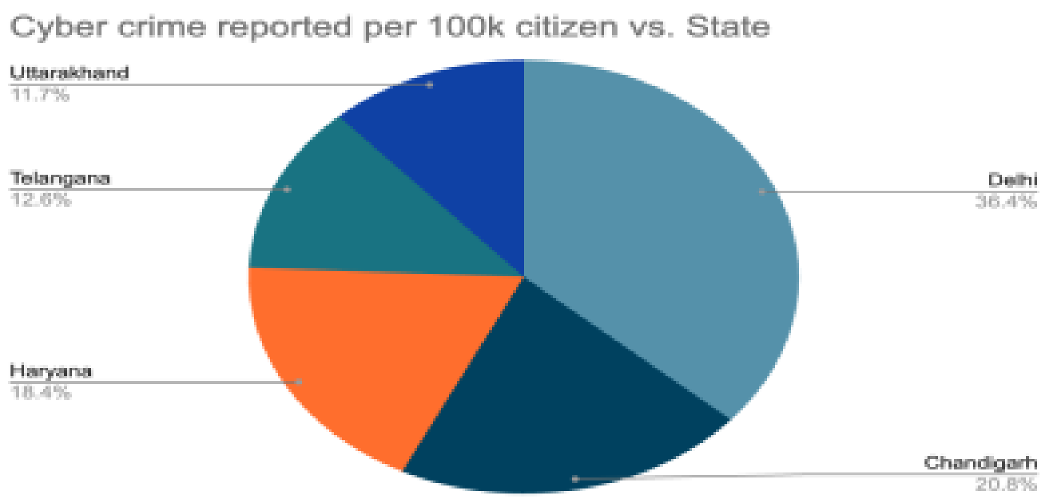


Fig 3: Cyber crime rate in India

State	Cyber crime reported per 100k citizen
Delhi	755
Chandigarh	432
Haryana	381
Telangana	261
Uttarakhand	243



Result

Figure 1 illustrates how the number of internet users in India is rising yearly. The number of internet users has increased by 2% a year. This is a result of India's growing digital economy as well as cheaper internet and smartphone costs. The revenue generated by the e-commerce business in India was approximated by Figure 2. According to the data, there would be a minimum of 10% rise in revenue compared to the previous year. Figure 3 illustrates how there is a rise in cybercrime as a result of the growth in mobile users and e-commerce. The statistics indicate that Delhi has the highest rates of cybercrime. India surpassed China to become the most populous nation in the world in 2022, yet it currently ranks sixth in terms of e-commerce penetration, behind the United States, United Kingdom, Japan, and South Korea. Approximately 75% of e-retail activities in India are made using cash on delivery, making it the most popular payment method. The market for foreign consumer goods, especially long-tail items, is expanding far more quickly than the domestic supply via licensed distributors and online retailers.

E-commerce Industry Report

By 2034, the Indian e-commerce market is predicted to have surpassed the US to take the second place in the globe, continuing its upward growth trajectory. Growing at a 19.24% CAGR, India's e-commerce market is predicted to reach US$ 111.40 billion by 2025 from US$ 46.20 billion in 2020. The main drivers of this incremental development are probably going to be groceries and fashion/apparel. With a 33% compound annual growth rate, the online grocery market in India is projected to reach US$ 26.93 billion in 2027 from US$ 3.95 billion in FY21. From 2021 to 2025, e-commerce sales are projected to grow at a compound annual growth rate (CAGR) of 18.2%, reaching Rs. 8.8 trillion (US$ 120.1 billion).

By 2026, it is anticipated that Indian e-commerce will have grown to US$ 163 billion at a compound annual growth rate (CAGR) of 27%. The Gross Merchandise Value (GMV) of online sales increased by 22% to US$ 60 billion in FY23 from the previous year. The gross margin on e-commerce was US$49 billion in FY22.By 2030, the Business-to-Business (B2B) internet marketplace in India is expected to generate US$200 billion in opportunities.

Major retail and consumer products companies have increased their online operations as a result of India's burgeoning e-commerce business, which is being driven by reasonably priced smartphones and inexpensive data plans.According to the Payoneer research, the Indian e-commerce industry is rated ninth globally for cross-border growth. According to projections, e-commerce in India is expected to grow from 4% of the overall retail trade in food and grocery, fashion, and consumer electronics in 2020 to 8% by 2025.Large multinational firms are making significant investments in the e-commerce space. One such company is Facebook, which is investing in Reliance Jio. Additionally, Google revealed that it has invested US$4.5 billion in Jio
Platforms for the first time. Following this purchase, Future Group was acquired by Reliance Retail, expanding the Ambani Group's presence in the e-commerce sector.

Growing use of smartphones and the internet has contributed significantly to the industry's growth. The "Digital India" programme played a significant role in the expansion of internet connections, which reached 830 million in 2021. A total of 97% of internet connections were made wirelessly, with urban regions accounting for roughly 55% of these connections.Seven hundred people two years of age and older were active internet users as of December 2022. Among them, 425 million people in rural India used the internet, nearly 44% more than the 295 million people who used it regularly in cities.The Government of India wants to establish a trillion-dollar internet economy by 2025 through its Digital India effort. A new steering committee has been established to oversee the creation of an e-commerce platform centered on government services. The Open Network for Digital Commerce (ONDC) is an e-commerce platform that the government is supporting for development, and the new committee was established by the Commerce Ministry to oversee the policies for this platform. The final storefront, which would resemble Flipkart and Amazon, will be created using the pen Network for Digital Commerce (ONDC) infrastructure.

Suggestions

Since the Indian government has implemented numerous laws and regulations pertaining to e-commerce operations. These laws still have a lot of gaps in them, though. These kinds of flaws are being exploited by an increasing number of hackers and spammers. A rigorous policy against these cyberstalkers ought to be drafted by the government. The rules set forth by the Indian government under various statutes should be adhered to by e-commerce companies. Government regulation of cybersecurity is necessary to guarantee that websites are safeguarded against cybercrime by implementing the previously outlined measures. Cyber Frauds are becoming more common due to a lack of awareness and consistent security measures. Both the web portal and its clients are suffering significant losses as a result of this. As we proceed with virtual transactions, it is critical that e-commerce businesses address the issue of safeguarding their online platforms with cutting-edge technologies that guarantee consumer protection.There are currently few norms and regulations governing many of the e-commerce services offered in India, which results in less information being disclosed to customers. The government must ensure that all e-commerce businesses are registered and bound by the same regulations in order to achieve this.

Conclusion

More people are connecting with e-commerce and the ratio of that is rising daily as a result of the development of e-commerce in both rural and urban areas due to the lower cost of consumption. The swift expansion of the e-commerce sector not only signifies the public's increasing embrace of it, but it has also raised awareness of issues that the nation's legal system has been handling. Since there is no unique codified law, the laws governing e-commerce are rather complex and
comprise many statutes. The businesses must examine this aspect of the specific circumstance for which the regulations are intended to be applied. It is noted that a substantial portion of the populace now relies on e-commerce websites for their daily necessities. Consequently, in contrast to cash on delivery, the majority of purchases made these days are prepaid. This indicates that the public has accepted e-commerce platforms, particularly in light of the COVID-19 epidemic, as evidenced by the sharp rise in e-commerce usage. In order to protect the interests of the customers, our legal system is continuously enacting new laws and guidelines to address this substantial change in the business model. For E-commerce enterprises to succeed in this market, they must thus have a solid grasp of the legal framework, be aware of any potential issues, and implement a risk-reduction plan that works.

References

1. Agrawal, A. (2024, January 4). Delhi highest in per capita cybercrime complaints in 2023 Latest News India. *Hindustan Times*
2. Chaudhary, V., & Sharma, J. (2023). AN ANALYSIS OF LEGAL FRAMEWORK FOR ONLINE BUSINESSES IN INDIA: COMPLIANCE AND RISK MANAGEMENT. *International Journal of Advanced Research in Commerce, Management & Social Science (IJARCMSS), Volume 06, No. 01(II)*(January-March, 2023), 105-109. https://inspirajournals.com/uploads/Issues/2113485802.pdf
3. *Ecommerce Market in India - Size, Share & Growth*. (n.d.). Mordor Intelligence. RetrievedFebruary25,2024,from https://www.mordorintelligence.com/industry-reports/india-ecommerce-market
4. *E-Commerce Sector In India – An Overview Of Legal Framework - Dodd-Frank, Consumer Protection Act - India*. (2022, February 8). Mondaq. Retrieved February 25, 2024,from https://www.mondaq.com/india/dodd-frank-consumer-protection-act/1158964/ e-commerce-sector-in-india--an-overview-of-legal-framework
5. *Indian E-commerce Industry Analysis*. (2023, November 24). IBEF. Retrieved February 25, 2024, from

https://www.ibef.org/industry/ecommerce-presentation

6. Ingole, A. V. (2021). E-Commerce Revolution: Contemporary Challenges of Legal Regulation. *International Journal of Economic Perspectives*, *15*(1), 309–319. 7. madhukalya, a. (2023, January 31). *Economic Survey 2023: UPI accounted for 52% of total digital transactions in FY22*. Business Today. Retrieved February 25, 2024, from https://www.businesstoday.in/latest/economy/story/economic-survey-2023-upi-accounted -for-52-of-total-digital-transactions-in-fy22-368267-2023-01-31
7. Press Information Bureau Government of India. (2023, August 2). *Press Information Bureau*. Press Information Bureau. Retrieved February 25, 2024, from https://pib.gov.in/PressReleasePage.aspx?PRID=1945167
8. Shrivastava, D., Mahatara, A., & Dey, S. (2022, December 2). *The Rise And Future Of Ecommerce Industry In India*. StartupTalky. Retrieved February 25, 2024, from https://startuptalky.com/ecommerce-industry-in-india
9. Consumer Protection Act, 2019
10. Goods and Services Act 2017
11. Information Technology (IT) Act, 2000
12. Payment and Settlement System Act, 2007