

Legal Issues of E-Commerce in India: A Contemporary Academic Review

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Abstract

The rapid expansion of e-commerce in India—propelled by digitalisation, economic liberalisation, and evolving consumer behaviour—has generated complex legal challenges that span data governance, cybersecurity, competition policy, intellectual property protection, and consumer rights. Although India has enacted multiple regulatory instruments, the legal environment remains fragmented and continually evolving. This article critically examines the major legal issues shaping the Indian e-commerce landscape, synthesises scholarly perspectives, and evaluates emerging policy developments. It argues for a coherent, technology-neutral, and future-ready regulatory framework capable of sustaining the country's digital economy.

Key words : E- Commerce, Legal Issues

1. Introduction

India has emerged as one of the world's fastest-growing e-commerce markets, driven by increased smartphone penetration, expanded digital payment infrastructure, and government initiatives promoting online commerce. Yet this expansion has brought legal complexities that challenge existing regulatory structures. As Singh (2020) notes, the digital economy is redefining traditional commercial norms, necessitating adaptive governance models. Against this backdrop, Indian policymakers face the dual task of fostering innovation while safeguarding consumer interests and ensuring market fairness.

2. Literature Review

Fragmented Regulatory Architecture

Sharma and Kapoor (2021) contend that India's e-commerce regulation lacks coherence due to the absence of a single comprehensive statute. Instead, multiple laws govern discrete issues—from cybercrimes to consumer rights—creating interpretive ambiguities and compliance burdens.

Evolving Data Protection Landscape

Mathew (2022) argues that the exponential rise in consumer data processing by e-commerce platforms heightens privacy risks. The absence of an operationalised, unified data protection statute has historically led to inconsistent enforcement and limited accountability mechanisms.

Platform Accountability in Consumer Protection

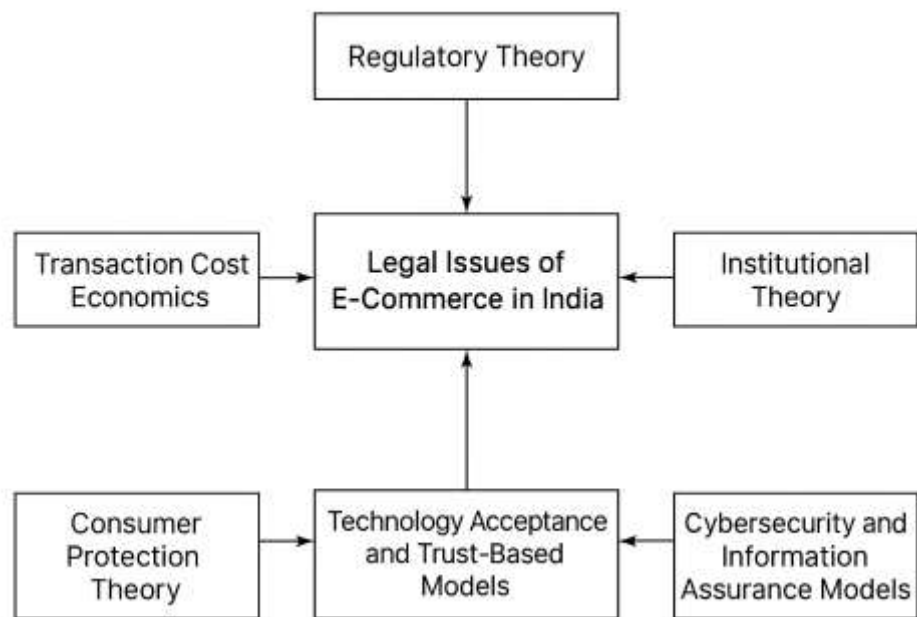
Saxena (2019) highlights persistent concerns surrounding unfair trade practices, misinformation, opaque return policies, and counterfeit listings. While the Consumer Protection (E-Commerce) Rules, 2020 aim to enhance platform responsibility, questions remain regarding liability attribution in a marketplace model.

Competitive Integrity and Market Dynamics

Gupta (2021) examines the concentration tendencies among dominant e-commerce platforms, noting practices such as exclusive agreements, deep discounting, and algorithmic preferencing. These may distort competitive neutrality and warrant intervention by the Competition Commission of India.

Intellectual Property Enforcement Challenges

Kumar (2020) emphasises that the proliferation of online marketplaces has amplified risks of trademark violations and counterfeit goods. Despite safe-harbour protections for intermediaries, scholars argue for stronger, proactive monitoring requirements.



Conceptual Framework

3. Legal Framework Governing E-Commerce in India

E-commerce in India operates within a multi-tiered legal architecture comprising:

- **Information Technology Act, 2000:** Establishes the legal basis for electronic records, digital signatures, intermediary liability, and cyber offences (Agarwal, 2018).
- **Consumer Protection Act, 2019 and E-Commerce Rules, 2020:** Introduce mandatory disclosures, grievance redressal norms, and transparency obligations for online platforms.
- **Competition Act, 2002:** Addresses anti-competitive conduct, abuse of dominance, and cartelisation in digital markets (Gupta, 2021).
- **Goods and Services Tax (GST) Laws:** Regulate taxation, including Tax Collected at Source (TCS) obligations for e-commerce operators.
- **IPR Legislation:** Copyright, trademark, and patent statutes govern online infringements and counterfeit distribution.

Together, these instruments constitute an evolving legal ecosystem marked by both progress and persistent gaps.

4. Key Legal Issues in the Indian E-Commerce Sector

4.1 Validity of Electronic Contracts and Jurisdictional Conflicts

E-commerce transactions rely heavily on click-wrap and browse-wrap agreements. While enforceable under the IT Act, concerns remain regarding informed consent, unfair terms, and the complexity of determining jurisdiction in cross-border digital transactions (Agarwal, 2018).

4.2 Data Protection, Privacy, and Cybersecurity

High-profile data breaches have underscored vulnerabilities within digital commerce. The forthcoming Digital Personal Data Protection Act seeks to recalibrate consent standards, data processing obligations, and cross-border transfer rules (Mathew, 2022). Compliance readiness remains a major challenge for platforms.

4.3 Consumer Rights and Intermediary Liability

The shift to online marketplaces has complicated the attribution of liability between sellers and platform operators. While the 2020 Rules aim to ensure due diligence, Saxena (2019) argues that ambiguities persist concerning defective goods, misleading product descriptions, and refund logistics.

4.4 Competition Law and Algorithmic Market Behaviour

Digital platforms increasingly rely on algorithmic decision-making for product ranking, pricing, and recommendations. Gupta (2021) suggests that such systems may perpetuate discriminatory practices or preferential listings, raising red flags under the Competition Act.

4.5 Intellectual Property Challenges and Counterfeit Goods

Online marketplaces often host third-party sellers whose products may violate trademarks or copyrights. Kumar (2020) stresses the need for robust notice-and-takedown mechanisms and argues for stronger statutory obligations on proactive monitoring.

4.6 Taxation and Regulatory Compliance

The GST regime has streamlined taxation; however, interpretational challenges remain regarding cross-border digital services, classification of digital goods, and compliance burdens on small sellers operating across multiple states (Sharma & Kapoor, 2021).

5. Emerging Policy Developments

A series of recent policy shifts signal India's intent to strengthen digital governance:

- **Digital Personal Data Protection Act (DPDP):** Expected to redefine data governance and impose stringent obligations on data fiduciaries.
- **CERT-In Directions (2022):** Introduce mandatory breach reporting and enhanced cybersecurity requirements.
- **National E-Commerce Policy (Draft):** Focuses on data localisation, consumer safety, and fair competition.

These developments reflect a move towards a more structured, accountability-driven regulatory environment.

6. Conclusion

India's e-commerce sector stands at a pivotal juncture where technological innovation must be balanced with comprehensive regulatory oversight. While significant progress has been made through updated consumer protection frameworks, competition scrutiny, and forthcoming data protection regulations, persistent gaps underscore the need for a unified, technology-neutral legislative approach. Policymakers must anticipate emerging challenges, including algorithmic governance, cross-border digital trade, and platform accountability. A harmonised and forward-looking legal framework will be essential for sustaining trust, fostering innovation, and supporting India's vision of a resilient digital economy.

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