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RESEARCH ARTICLE

A BRIEF ANALYSIS ON THE INDIAN CONSUMER PROTECTION ACT, 2020 VS. E-COMMERCE

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Abstract

From the year of its arrival in 1986, the Consumer Protection Act in India has played a vital role in safeguarding the interests of the consumers. The primary function of the act has been to provide a very quick redressal and simple solution to all consumer grievances and also to prevent all sorts of unfair practices in trade by businesses and manufacturers. The amended Consumer Protection Act of 2019 was proposed in the Lok Sabha in July and passed in Rajya Sabha in the same month. The new act which came into effect from July 24, 2020, focused on improving the transparency between the consumers and businesses to another level giving the customer more power. This paper focuses on the new points introduced in the bill for E-commerce and how it has been received by the public and e-commerce businesses alike. Excluding the basic necessities such as clothing, shelter, food etc. there are many other commodities like phones, perfumes, cosmetics and many other consumables which have become an indomitable requirement in life. While buying items from the market there can be instances where as a consumer we can be cheated. In this paper we discuss the basic necessities of the consumers and how the Consumer Protection Act plays an important role in it. We also discuss how the Consumer Protection (E-commerce Rules, 2020) under the new Act has placed a huge pressure on the E-commerce business to increase the transparency of the system and how it is being received by the public. This is achieved by interviewing a number of consumers to receive their opinion about the present act. By the end of the paper, we generate a deeper idea about the Consumer rights and how much it should protect to benefit not only the consumers but also allow the businesses to run smoothly.

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Introduction:-

With a fast growing population and the steady modernization of the world economy, the growth of E-commerce platforms has been a front runner in the business world for decades. With internet connecting every corner of the globe, the world of e-commerce and online shopping has been growing profusely. In recent years some of the most biggest and profitable companies on the list are e-commerce platforms, and still maintains a high growth even after the business has reached its maturity phase. One of the biggest examples is also one of the oldest one- Amazon. Starting from selling just books online, the company is now a multi-billion dollar empire. Although Amazon is solely an e-commerce platform, other companies has followed the etched steps to integrate a separate e-commerce

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platform within the structure of the company itself. Now all the major organizations have e-commerce platforms from where customers can directly order commodities to be delivered to their home. Naturally many companies started leaning towards the digital empire to create a successful and leading business avenue but this also brought a number of leaks in the protection of consumer rights. To fill up these major leaks the Indian Government introduced the Amended Consumer Protection Act of 2019 updating the previous act. Although after the introduction of the act many companies protested that the points were more about controlling and limiting the e-commerce industry instead of just looking out for the interest of the consumer.

The Consumer Protection Act was passed with the provision of providing detailed protection towards the interests of the consumers, also for making provisions towards the setting up of Consumer councils or authorities for helping in settling of disputes and any other connected matters. The basic intention is promotion and protection of the consumer rights with directives such as:

1. The right of protection against all marketing of goods, hazardous to property and life.
2. The right of the consumers of being informed about the quantity, quality, purity, potency, price and standard for protection against unfair trade methods against consumers.
3. The right of assurance given the access to the ownership of goods, with competitive prices.
4. The right that consumer interests will be able to receive proper considerations.
5. The right of seeking redressal towards trade practices which are unfair for the consumers.
6. The right of education of the consumer.

With the e-commerce growing fast as ever, the absence of rules and guidelines in the old Act have led to several emerging issues for the consumers. In time the Old Act, steadily became a useless act since it lacked in several aspects. To dissolve this issue the new and updated Consumer Act of 2019 was passed. Along with it came the E-commerce rules 2020 detailing every rules and guidelines regarding e-commerce business.

Objective:-

The objective of the study is to:

1. Analyze in detail the changes in the new Consumer Protection Act of 2019 and how it has transitioned from the old act.
2. To discuss comprehensively about the E-commerce rules 2020 and how it has affected the industry.
3. The public opinion about the E-commerce rules 2020 and analysis of support for it.
4. A comprehensive analysis of the E-commerce rules and defining them abstractly.

Review of Literature:-

According to (Daniel, 2005) customers need protection since they are treated as inferior compared to the contracting partners. Thus based on the bargaining power of the customers it is generally believed that their interests need security. Also based on (Haupt, 2003; Porter, 1979) the theory of inequality of negotiating power, strongly declares the inferior position of the customers in relation to the suppliers (Liyang, 2019). Although based on a research, Ruhl (2011) concluded that in modern times, the conventional theory of defining the customer as the weaker party was not really viable. The previous theories didn't take the competition between firms into account. Nowadays with so much competition between firms in the market, it has become essential to keep the customer needs ahead everything else. It was understood that the economic theory was best suited for creating a theoretical analysis of the customer protection as of today.

According to (Nielson, 2018), shopping online requires much more trust compared to purchasing anything offline. Pavlou (2003) suggested that based on the behavioral economic viewpoint, trust has been one of the biggest trigger in the buyer-seller transaction and that factor is the most in online transactions. An important study by O'Hara suggested that the trust and law relationship plays an essential role in maintaining the harmony between the two parties (safety net evaluation). This defined that law does play an essential role in building up of trust between the buyer and the seller since it plays a part from both the sides.

There are several trust factors which regulates the e-commerce transactional analysis between the seller and the buyer, according to (Orendroff, 2019), one of the most prominent being the method of payment. The payment mode plays a very important role in securing a good trust between the buyer and the seller as well reasons like, proper delivery, proper advertisements, customer care and many more. In this paper, we discuss how the changes made in

the Consumer Protection Act have developed a more transparent window for the customer and how it is affecting the e-commerce business.

Methodology:-

The initial method in the research dwelled a lot into detailed study of the guidelines of consumer protection from various bodies like the OECD and UNCATD, along with the legal structure of the Consumer Protection in India. The main analysis subjects were the Consumer Protection Act of 1986, the Consumer Protection Act of 2019 and also the E-Commerce Rules 2020. The study also used various news articles and studies about how the e-commerce companies reacted to the new rules and guidelines and what were the after effects of the implementation of the act. The data collected from the secondary materials, growth trends, news articles along with a survey of over 20 individuals played the role of main root of analysis in this study.

The respondents came from many backgrounds. They include students, doctors, teachers and many other professionals. The questionnaire used in the study is a structured questionnaire with relevant options. Just to ensure, that the respondents gave a proper answer, it was ensured that those who had less or no idea about the basic Consumer Protection Act and also of the new E-commerce rules, were informed properly about it before answering the questions. The questionnaires also include some open ended questions for the respondents to freely express themselves about how they felt about the E-commerce rules after understanding them.

The list of methods used is the following:

1. Analysis and review of the Consumer Protection Act 1986 and 2019.
2. Analysis and review of the E-commerce Rules and Guidelines 2020.
3. Primary Survey
4. Comparative analysis of the respondents.
5. Brief analysis of the news articles and studies about mass reaction to the rules along with comparative analysis with the respondents.

Analysis:

The new act defines **e-commerce** as the buying or selling of goods or services including digital products over digital or electronic network. [Section 2(16)]. Furthermore the term **electron service provider** symbolizes a person who provides technological processes to enable a product seller to engage in advertising or selling goods or services to a consumer and includes any online market place or online auction sites. In the simplest of definition the e-commerce signifies the selling and buying any services or goods, transmission of any funds or data over any electrical network.

The old Act was not able to keep pace with the fast growth in e-commerce each year, this resulted in several issues, like non-delivery of product, faulty product, wrong product, accountability and so on. Before the new Act, multilevel marketing and direct selling came under the regulations of Consumers Affairs Ministry and the State Governments. The old Act had a lot of problem regarding its applicability in the e-commerce sector as well as in the processes of adjudication of consumer rights in this sector. The Consumer Protection Act of 2019 nationalizes all these aspects and brings them under one umbrella. It brings in fundamental changes towards the scope of solving grievances and issuing penalty and applicability.

In the new act a number of changes were made along with the inclusion of several more factors. By the new definition a Consumer became a person who is able to buy any good or avail any service. This included both the online and offline transactions by the means of direct selling, multi-level marketing or even teleshopping. [Section 2(7)(b)].

By this act the Central Government has also been given the power of preventing dishonest trade practices in direct-selling, e-commerce etc. The Section 94 of the act directly gives power to the Central Government to take suitable measures for stopping any form of unfair trade practices in direct-selling, e-commerce and also the protection of rights and interests of the consumers.

The new act included a lot of new and updated definitions regarding the e-commerce sector. Under this act Section [2 (47) (ix)] gives the description of unfair trade practices referring to online service providers using any information given by the consumer in confidence.

The 2019 Act also adds on to the already existing grievance system by adding another layer to the three tiers with the establishment of Central Consumer Protection Authority or the CCPA. This organization consist the power of inquiring and regulating any violations of consumer rights and also any kind of unfair trade practices. Section 28 of the act through Section 78 confines all the aspects of the dispute redressal system. The change in terminology of DCDRF to DCDRF (District Consumer Dispute Redressal Commission) is another addition in this section.

The Consumer Protection Act 2019 also gives a mechanism for dispute settlement by the mediation process which can be used in case of any kind of compromise at the point of acceptance or at the point of mutual consent (Sec 37). The detailed procedure is laid from Section 74 to 81. This has been done to ensure that the redressal procedure is speedy which in turn will help both the service provider and the consumer.

The main aim of the E-commerce rules 2020 is the prevention of any unfair trade practices and also the protection of consumer rights and interests.

The application of the rule is extended to:

1. All the services and products sold and acquired through digital networks.
2. All segments of e-commerce
3. All the practices inclusive of all the e-commerce models.
4. Any entity of e-commerce which is not in India but are offering services and goods in the country.

The new act also defines in detail all the rules and guidelines a company needs to follow to be designated as an e-commerce business and conduct business in the country.

There have been a lot of changes but some of them have put a lot of restrictions on certain major aspects of the e-commerce which has resulted in a bit of uprising in the e-commerce business community.

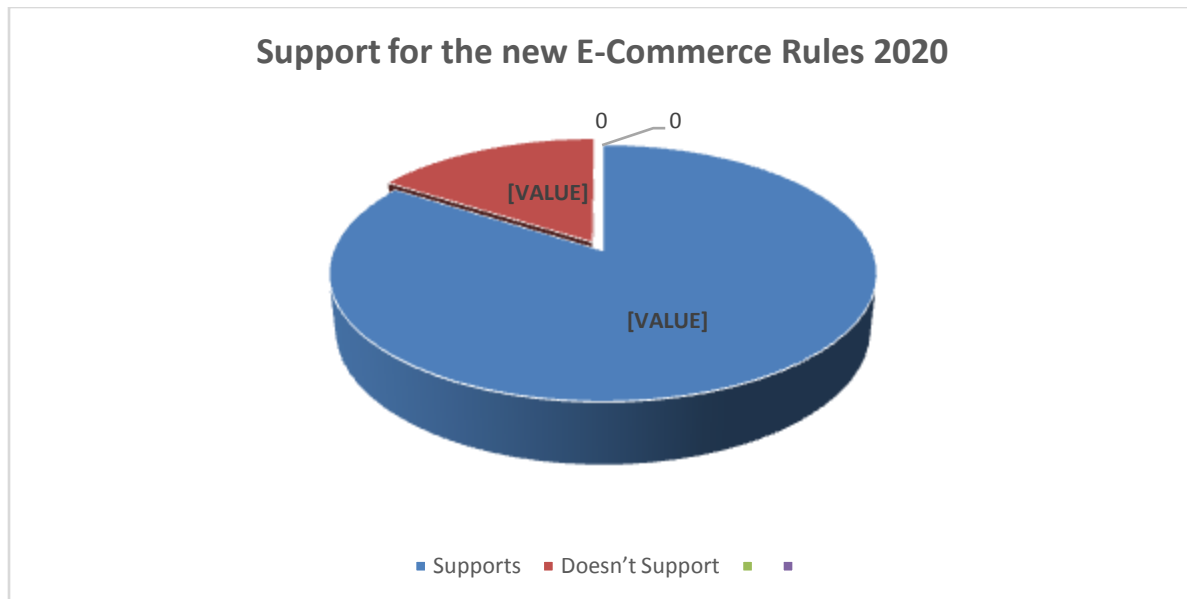
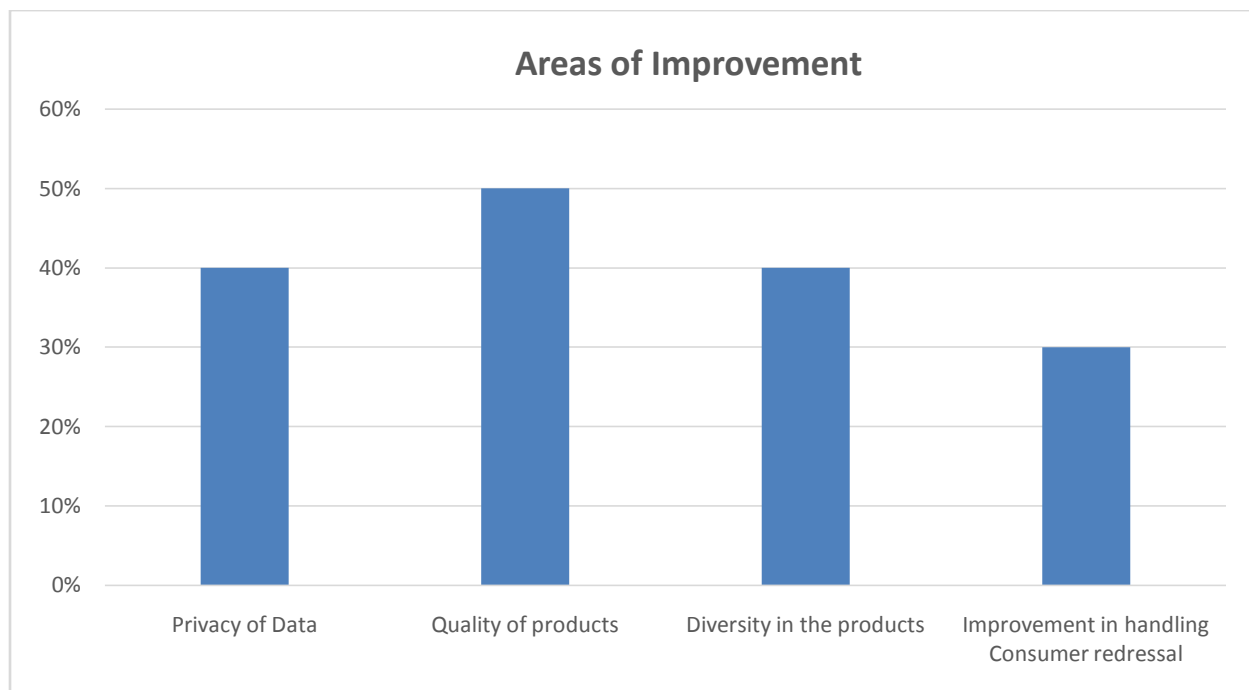
Originally the Government announced a full ban all kinds of flash sale but later by a clarification the decision was explained that it would not take effect in case of conventional flash sales. Although the term conventional was not properly defined keeping everyone in a confusion loop.

Next, the E-commerce sellers now need to mention the Country of origin on all the products and also suggest local alternatives against products. This meant that all millions of the products had to be listen based on their origin and ranked accordingly on the platform.

Any indulgent of e-commerce retailers in wrongly selling of services and goods were prohibited. Although companies like Flipkart and Amazon are not directly involved with the products but this rule will ensure a much detailed check of the products before being ranked in the registry. After understanding that companies are able to tweak results to promote their companies over others, was prohibited as per the rules. Another aspect which is upheld in the law is sharing of data, which implies sellers to collect and give data of buyers to the Government if required. This policy applies a grey area in the data collection and privacy protection policy of the consumers.

In the questionnaire various aspects were inquired of the consumers based on their support of various factors listed in the E-commerce Rules 2020. The open ended questionnaire helped in diagnosing the public opinion about the consumers based on their knowledge about the act and how it can make progress.

Here is a graph which shows out of the 24 respondents, the percentage of people who totally support the new Act:

**Fig. 1:-****Fig.2:-****Conclusion:-**

It is clear that with the new E-commerce rules, life did get a bit easier for online shoppers. With numerous guidelines and rules, online shopping should be much smoother and enjoyable. Now the platforms cannot charge any cancellation fees even after confirming the order. This will help in give proper defined legal guidelines. The e-commerce platforms also have to vouch for the products which are registered in the platform bearing legal liabilities to all of them, which will increase screening of products and reduce the distribution of faulty and counterfeits.

The road is less smooth for the e-commerce sellers though. The number of rules and regulations kept in place for the sellers have placed a huge pressure on the companies on regulating their and processes as per the guidelines of the E-commerce rules 2020.

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