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An overview of the Consumer Protection (E-Commerce) Rules, 2020

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Introduction

The Central Government has notified the Consumer Protection (E-Commerce) Rules, 2020 ('rules'), in exercise of its powers conferred by sub-clause (zg) of sub-section (1) of section 101 of the Consumer Protection Act, 2019 ('Act'). These Rules primarily envisages the duties & liabilities of ecommerce entities involved in marketing and selling goods and services to the consumer on the online platform. The rules will be applicable to all electronic retailers (e-tailers), registered in India or abroad but offering goods and services to Indian consumers. The new rules empower the central government to act against unfair trade practices in e-commerce, direct selling. They require e-tailers to facilitate easy returns, address customer grievances and prevent discriminating against merchants on their platforms. The key provisions of the rules are hereunder:**Applicability:**The rules will apply to all goods and services bought or sold over any digital platform; all models of e-commerce including marketplace and inventory models of e-commerce; all e-commerce retail, including multi-channel single brand retailers and single brand retailers in single or multiple formats; all forms of unfair trade practices across all models of e-commerce. The rules are equally applicable on the foreign registered e-commerce entity offering goods and services to consumers in India.**Exceptions** –The rules will not apply to any activity of a natural person carried out in a one's personal capacity not being part of any professional or commercial activity.

Key Definitions:

- **e-commerce entity** means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce, but does not include a seller offering his goods or services for sale on a marketplace e-commerce entity
- **inventory e-commerce entity** means an e-commerce entity which owns the inventory of goods or services and sells such goods or services directly to the consumers and shall include single brand retailers and multi-channel single brand retailers
- **marketplace e-commerce entity** means an e-commerce entity which make available an information technology platform on a digital or electronic network to facilitate transactions between buyers and sellers.

Duties of e-commerce entities:

e-commerce entity be any company incorporate under Indian Companies Act, or any company incorporate outside but place of business in India^[1] or an office, branch or agency in India owned or controlled by a person resident outside India^[2].

The Rules prescribes compliance and checks to be adhered by the e-commerce entities. These include,

- Appointment of a Nodal Person ('Nodal Person'), who is resident of India, to ensure the compliance of the various provisions under the Act and the Rules hereunder;

- E-commerce entity has to maintain in clear and accessible manner of information relating to the legal name of the ecommerce entity, geographical location of his office and headquarter, details of its website and contact details i.e. email address, helpline number to address consumer grievances;
- Adoption of strict measures against any unfair trade practice on their platform or otherwise;
- Every e-commerce entity will be required to appoint a Grievance Officer ('Grievance Officer') for consumer grievance redressal, whose details will be mandatorily displayed on the platform. The Grievance Officer so appointed, has to acknowledge every complaint within 48-hours and redress the same within 1 month;
- For every imported goods or services offered for sale on the platform, the name and details of the importer and seller has to be mentioned;
- There will be no levy of cancellation charges, unless similar charges are also borne by the e-commerce entity;
- Consent of the consumer needs to be recorded by an explicit and affirmative action for the purchase of any goods or services. No such entity shall record consent automatically, including in the form of pre-ticked checkboxes;
- All the accepted refunds requests will be processed within a reasonable time, as prescribed by the Reserve Bank of India ('RBI') or any other competent authority;
- The entity shall not indulge in any illegal activity such as manipulating the price of the goods or services offered on its platform in such a manner as to gain unreasonable profit by imposing on consumers any unjustified price having regard to the prevailing market conditions;
- Collaborate and strengthen their partnership with the convergence process of the National Consumer Helpline of the Central Government;

Liabilities of marketplace e-commerce entities:

A marketplace e-commerce entity seeking exemption from liability for any third-party information, data, or communication link made available or hosted by him under sub-section (1) of Section 79 of Information Technology Act, 2001, will be subjected to the following rules as follows:

- Undertaking from the sellers to maintain the accuracy and quality of goods and services as displayed on online platform and when its finally delivered to the consumers;
- That in clear and accessible manner, the marketplace e-commerce entities on there online platform has to maintain details about the sellers offering goods and services, including the name of their business, whether registered or not, their geographic address, customer care number, any rating or other aggregated feedback about such seller, and any other information necessary for enabling consumers to make informed decisions at the pre-purchase stage. Further, on the request of the consumer, the marketplace entity has to provide necessary detail of the seller from which such consumer has made such purchase, including the principal geographic address of its headquarters and all branches;

- Set up a mechanism where the consumer can track the status of the complaint file by them. Further, maintain information relating to return, refund, exchange and shipment, modes of payment, and grievance redressal mechanism.
- Fair explanation of the main parameters which helps consumers in determining the ranking of goods or sellers on the online platform;
- marketplace e-commerce entities shall incorporate essential terms and condition for governing its relationship with sellers on its platform, a description of any differentiated treatment which it gives or might give between goods or services or sellers of the same category;
- Maintain a record of relevant information of sellers, who have repeatedly offered goods or services that have previously been removed, or access of the same has been disabled due to violation of Intellectual Property Laws.

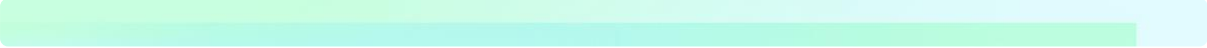
Duties of sellers on marketplace:

The Rules also prescribes a set of responsibilities on the seller's part. These includes:

- No seller shall engage in unfair trade practice in offering of goods and services on the online platform or otherwise;
- Seller shall not falsely represent itself as a consumer and post false review about goods or service.
- No seller shall refuse to take back goods, or withdraw or discontinue the goods and services so purchased, or refund consideration, if the characteristics of the same are not as shown in the advertisement, or if late delivered, save in the cases of any force majeure.
- Seller shall maintain he prior written contract with the respective marketplace ecommerce entity in order to undertake or solicit such sale and offer; appoint grievance officer who will acknowledge the receipt of complaint within 48 hours and redress the complaint within one month from date of receipt.
- Deliver the same goods and services as featured and advertised on the online platform by the seller. Further, the seller shall not refuse to take back goods, or withdraw or discontinue the goods and services so purchased, or refund consideration, if the characteristics of the same are not as shown in the advertisement;
- Seller should provide information such as their name, address, website, e-mail, customer care contact, and GSTIN and PAN details to the e-commerce entity;
- Seller shall provide correct details of all the contractual information necessary under the applicable under law, along with total price of goods and services, compulsory and voluntary charges, all mandatory notices, expiry date, country of origin, guarantees, terms of exchange, returns, refunds, costs of return shipping, and details related to delivery and shipment on the online ecommerce platform;

Duties and liabilities of inventory e-commerce entities:

- Duties and liabilities applicable on the ecommerce entities and marketplace e-commerce entities will equally be applicable on the inventory e-commerce activities, unless expressly exempted under the present rules.



***Contravention of rules:** The provisions of the Consumer Protection Act, 2019 (35 of 2019) shall apply for any violation of the provisions of these rules.