

The background of the journal cover features a top-down view of a desk. On the left, a pair of black leather brogue shoes is partially visible. In the center, an open notebook with lined pages and a silver pen lies on a light-colored wooden surface. To the right, a black leather bag with a zipper and a black leather watch with a silver face are also visible. A large, semi-transparent white rectangular box is centered over the image, containing the journal's title and ISSN information.

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CONSUMER RIGHTS IN THE AGE OF E-COMMERCE: AN ANALYSIS OF THE CONSUMER PROTECTION ACT, 2019

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CHAPTER 1

INTRODUCTION

1.1 Background of Study

The Internet has revolutionized the world in ways which we never thought about before. Internet owes its origin to ARPANET¹ which was setup in September 1969 as a joint venture of the Massachusetts Institute of Technology and the American Department of Defense Advance Research Project Administration as a source to establish continued communication between remote computer resources in the event of war. The communication links of ARPANET were confined to military defense contractors and the university laboratories involved in defense related research.² The network later allowed the researchers across the country to approach directly the powerful super computer located at a few key universities and laboratories. But the trading potential of this medium was discovered only in the first half of 19th century. Due to the speed interactivity and flexibility of internet, it has tremendous potential to disseminate information beyond the geographical boundaries. One of the major areas impacted by internet has been commerce.³ Now people indulge in diverse activities like shopping, investing, listening to music, news, advertising, consulting etc. on the internet. The traditional market structure has been transformed. In fact, the whole globe has been converted into a marketplace. Manifold advantages have been unfolded both for seller and buyer.

In 1993 the traditional way of doing commerce has changed as the world has discovered the World Wide Web (www) and rush was to establish a presence of any kind of business on the

¹ ARPANET stands for the Advance Research Project Administration Network. Leiner et al, A Brief History of Internet, the Internet Society available at www.isco.org/internet_history/brief.html. Feb 2026

² Leiner et al, A Brief History of Internet, the Internet Society available at www.isco.org/internet_history/brief.html. visited on 12-6-2013

³ Patrick. E. Cole et al, 'Business-the internet economy, 34 Time July 20, 1998.

web. Electronic commerce as referred to e-commerce is future of trade. E-commerce, in the beginning, consisted of a network of closed business transactions conducted among known business houses but it has now expanded into a complex web of multiple commercial transactions involving a large number of business organizations and individuals. E-commerce has changed the way in which business transactions were conducted earlier. The services like medical, legal, information, software, entertainment etc. were revolutionarily redefined by e-commerce. The acknowledgeable change here has been the reduction of the factor of distance and time. Now, for producers and consumers, geographical boundaries are no longer significant. People no longer need to depend on roads as the only source to tune into individual stations. This is because web allows its audience to listen live from various broadcasting stations. Internet can be leveraged to provide better customer service and tremendous time and cost savings. Many companies are pumping their marketing dollars doing advertising and promotion via the internet.

Business houses saw the internet as a great way to put their sales literature online. Number of web sites increased from zero in 1993 to over 4 million today. Analysts at eMarketer reported American e-commerce sales in 2012 at an estimate of \$343 billion. This figure includes online retail sales, travel sales (\$119 billion) and digital downloads, but not sales of tickets to events or online gambling. Global Internet retail sales exceeded \$1 trillion for the first time in 2012, up 21.1% from 2011. For 2013, the Asia-Pacific region is expected to see 30% growth in online sales, reaching \$433 billion. China alone is expected to be the second largest e-commerce market in the world with \$181 billion (up 65% from 2012) behind the U.S., which should hit \$384 billion in 2013. Plunkett Research estimates global travel sales online at \$320 billion for 2012⁴.

Online advertising in 2012 in the U.S. reached \$37.3 billion, according to eMarketer, accounting for 24% of all advertising spending in America. Online advertising leader Google's recent results are a good indicator of the strong growth in online advertising. The firm saw revenues rise by 21.3% in fiscal 2012, to \$46.0 billion (not including its acquisition of Motorola's mobile division).

Growth in broadband subscriptions worldwide continues at a strong pace. The number of American homes and businesses with broadband access capabilities topped 90 million by the end of 2012, thanks in part to modest monthly fees at Internet service providers. This number

⁴ J.H Smith, *Electronic Commerce, Law and Practice London*, (Sweet and Maxwell, 1999)

does not include mobile broadband users, estimated at another 180 million⁵.

Many companies are scrambling to connect electrical and electronic gadgets to the internet. Computer geeks are brimming with new ideas and researchers are competing to be the first to introduce new products or solutions that can provide such capabilities. Examples include Kiosks, set-top boxes, laptops, mobiles etc. People talk to each other via desktops/laptops with internet connections every electronic gadget that one carries or encounters is public will possibly have internet connection capabilities and the world is awake to business 24 hours a day, 7 days a week throughout the year.

Electronic commerce is a modern business methodology that addresses the needs of organizations, merchants and consumers to cut costs while improving the quality of goods and services and increase the speed of service delivery using computer networks to search and retrieve information. E-commerce is associated with the buying and selling of information, products and services via computer networks. In other words, it is a means of transacting business electronically and in many cases over the internet. It involves composite technologies, processes and business strategies that poster the instant exchange of information superhighway (I-way) will transformer information transport technology for electronic commerce applications and provide an electronic windfall. E- commerce is well suited to facilitate the current re-engineering of business processes occurring at many firms. The broad goals are reduce costs, lower products cycle times, faster customer response and improved services quality by reducing paperwork, increasing automation. Today the emphasis has shifted from the narrow focus to the invention of entirely new business applications for reaching and getting close to the customer. New types of information-based business such as online advertising, online ordering, publishing banking investments etc. We take cash from automated teller machine, we order train or coach tickets from their home pages, we pay with credit cards in stores to avoid taking large amount. All these facilities or services reduced costs in managing orders, interacting with a wide range of suppliers and trading partners. E – commerce facilities formation of new types of information-based products such as interactive games, electronic books and information on demand. E- Commerce will result in improved efficiency in finding and interacting with customers, in communicating with trading partners and in developing new products and markets. Key elements of E- commerce is information processing. All the facets of the business transaction which we are accustomed to in physical environment can now be

⁵ Plunkett Research, ltd. available at www.plunkett-research.com/ecommerce-internet-technology-market-research/industry-and-bussiness-data. Visited Feb 2026

executed over the internet. E-commerce is the tool that leads to enterprise integration for a company for an industry and ultimately for the vast network of small business, government agencies, large cooperation's and independent businessmen. An E-commerce site will enable one to extend the reach of his business by bringing in customers from previously untouched regions without incurring additional expenses for opening up branch officers or extensive and expensive advertisement campaigns.

E-commerce refers generally to all forms of transactions relating to commercial activities involving both organizations and individuals, those are based upon the processing and transmission of digitized data, including text, sound and visual images. It also refers to the effect that the electronic exchange of commercial information may have on the institution and processes that support and govern commercial activities. E-commerce, as the name suggests is the practice of buying and selling goods and service through online consumer service on the internet.⁶

1.2 Position in India

Although E-commerce has definitely not left India untouched, yet India has a long way to go to before it matches international standards. It was only in 1998 when the Indian Government establishes National Information Technology task force with an objective to suggest ways and means to facilitate e-commerce. Its objectives initially were twofold:

(i) to focus on the internet infrastructure (ii) to provide congenial atmosphere for service providers to operate efficiently. As a part of this strategy, it was decided to issue licenses to service providers who could facilitate e-commerce.⁷ At present there are ten large Service providers operating in India and 60 million of total population have access to the internet.⁸ India's e-commerce industry will contribute over \$20 billion by 2017 to the country's incremental GDP, according to a research report by consulting and research firm McKinsey. "In 2012, Indian e-commerce industry crossed the \$10-billion mark, of which \$8 billion alone was from travel," said Rajan Anandan, managing director at Google India, quoting figures from the report. India's e-commerce industry size three years ago was a mere \$2 billion. It is expected to reach \$80-100 billion by 2017.

There are 150 million internet users today in India, which is expected to increase to 450- 500

⁶ Dr. K.V.S Sharma, *Law Relating to Contracts through Internet, Cyber Space and the Law- Issues Challenges*, p.273, Universal Publications, New Delhi, 2003.

⁷ Kotler, Phillips and Gray Armstrong, *Principles of Marketing*, (Prentice Hall of India, New Delhi 1999).

⁸ Dr.Farooq Ahmed, *Cyber Law in India, Law on Internet*, (New Era Law Publications, Delhi 2009).

million by 2017.⁹ E-commerce sector in India has witnessed an unprecedented growth, ASSOCHAM Resurgent India Study published in January, 2017 reports that in 2016 about 69 million consumers purchased online and the number is expected to shoot upon 100 million consumers by 2017.

Mobile ecommerce (m-commerce) is growing rapidly as a secure supplement to the ecommerce industry. India has topped the U.S to become the second largest market for Smartphone after China. The number of Smartphone users is expected to reach 650 million by 2019.¹⁰ Indian e-commerce market is expected to reach US\$ 64 billion by 2020.¹¹

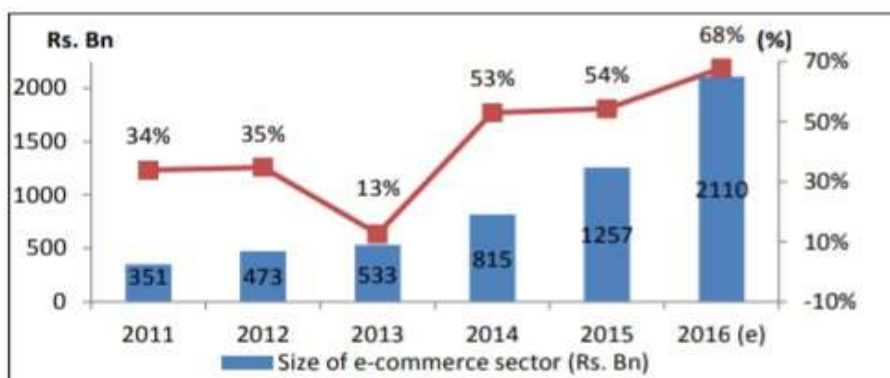


Source: United Nation Report on E-Commerce Development in India, 2017

Figure 1: E-commerce size (\$ billion) in India

As per another report, the value of E-commerce sector (GMV) in Indian rupee was as under:- The size of the E-Commerce industry was estimated to be Rs. 2,110 billion by 2016 as per Digital commerce Report 2015 (IAMA and IMRB). The industry was worth Rs. 351 billion in 2011 and grew at a CAGR of 37% to touch Rs. 1.257 billion in 2015.

Size of E-commerce sector (2011-2016)



Source: United Nation Report on E-Commerce Development in India, 2017

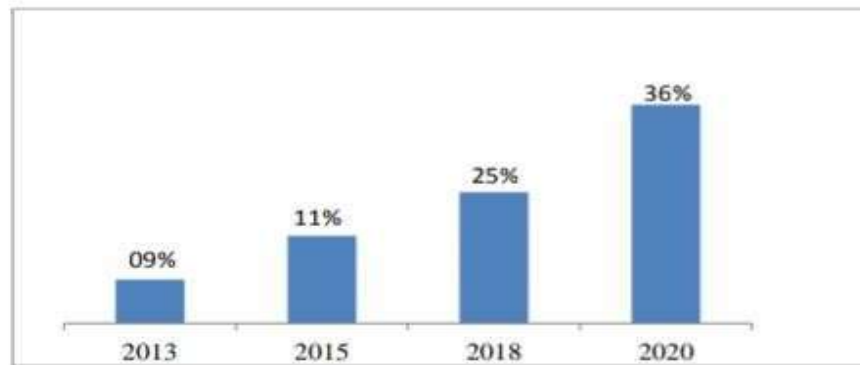
⁹ The Indian Express. Feb15-2013. www.indianexpress.com/news/ecommerce. Visited on Feb 2026

¹⁰ <https://www.export.gov/article?id=India-e-commerce>. Visited on Feb 2026

¹¹ <https://www.ibef.org/Industry>. Visited on Jan 2026

Figure 2: Size of E-commerce sector (2011-2016)

Online Shoppers as %age of total internet users



Source: United Nation Report on E-Commerce Development in India, 2017

Figure 3: Online Shoppers as %age of total internet users

Various initiatives have been taken both at national and international level to bring improvements in e-commerce. Therefore, it becomes imperative to discuss the steps taken at the international and national level as the internet does not know any boundaries.

1.3 Statement of Problem

The application of Internet is still infancy. The policy makers and researchers are not yet in a position to foresee in concrete terms the future of internet and its ramifications. The Indian Information Technology Act tries to sort out many problems of cyberspace. This is done by two ways; firstly enacting Information Technology Act; secondly by making suitable amendments in various Central Acts viz., the Indian Penal code 1860; the Indian Evidence Act, 1872; the contract Act, 1872; the Indian Telegraph Act, 1885; the Bankers Book Evidence Act, 1891; the General clause act, 1897; the Reserve Bank of India Act, 1934 to facilitate electronic commerce. It was the first time that Information Technology Act 2000 was enacted in order to facilitate e-commerce. The preamble to the Act provides legal recognition for transaction carried out by means of electronic data interchange and other means of electronic communication, commonly referred to as “electronic commerce”, which involve the use of alternatives to paper- based method of communication and storage of information, to facilitate electronic filing of documents with the Government agencies. The Preamble of the Act provides legal recognition of e-commerce in order to facilitate people’s participation in e-commerce. But still there are various issues which need further improvements in the Act. Although Information Technology (Amendment) Act 2008 is an improvement over its preceding Act, there is much scope for further improvements. Some of the areas which qualify

for serious considerations under the present work include:

- i) E-commerce in International and Indian Perspective
- ii) Authentication of Electronic records
- iii) Cyber frauds in Online Advertisement System
- iv) Consumer Protection in Cyber World
- v) Jurisdictional issues in Cyber Space.

Information Technology Act addresses contractual issues, computer crime and data protection. It also includes a section on digital signature. Although people are aware of the advantages of the digital technology, but they are reluctant to conduct business or conclude any transaction in electronic form due to lack of appropriate legal framework. The principle hurdles which stand in the way of facilitating electronic commerce and electronic governance are the requirement as to writing, signature for legal recognition, authentication, enforcement of awards or judgments and inadequate protection to online consumers . As many laws are traditionally based upon, records and oral testimony, but the electronic commerce has eliminated the need for paper based transactions thus in order to boost the trust, confidentiality of consumers adequate protection against online frauds in advertisements in order to facilitate e-commerce, the need for legal changes was felt an urgent necessity in order to keep pace with global growth.

1.4 Objectives

Today the e-business is growing at a very fast pace, and cyberspace has become an e- market place where there are e-sellers and e-buyers. Consumers are the important components of any economic system, which has premise of greatest good for the maximum numbers. Today there are e-shops selling all kinds of goods and services and providing information to the customers. With the developments that are taking place in local and global market presently many transactions are taking place through internet and this makes it imperative that e-buyers buying goods and availing services on the internet should be treated as the consumers and their interests be protected under respective Consumer Protection Laws irrespective of jurisdictional barriers. Since the explosive growth in cyberspace has led to some new problems and challenges for consumer protection therefore for building consumer confidence in electronic commerce those who purchase the products or avail services online be treated as consumer (s) under the Indian and International laws relating to consumer protection.

In the light of above said, the present research has been undertaken with following objectives:

- i) To analyze applicability of existing laws to e-commerce at national and international level.
- ii) To apprise Legal protection of e-consumers and check frauds in online advertisements under present legal system.
- iii) To evaluate choice of law and Forum in trans-border transactions made through internet.

1.5 Hypothesis

The growth of e-commerce and its rapid advancement in the use of e-contracts poses legal challenges to contract formation, authentication, Consumer Protection and the issue related to jurisdiction that place a limit upon a party to enforce decision beyond jurisdiction.

1.6 Methodology

Research methodology is means to achieve the purpose of study. It involves the application of logical and systematized technique with the aim of discovering new facts or verifying old facts. The suitable methodology that helps in achieving the objectives set in this study has been adopted. Methodology has remained same throughout all the above objectives, as the whole study is doctrinal in nature. As far as doctrinal research is concerned relevant statutory material along with analysis of decisions pronounced by Consumer Forums, Cyber Appellate Tribunal, various High Courts of India and state of Jammu and Kashmir, Supreme Court of India and Apex Courts of other Countries has been examined and analyzed. Besides, reference books, research papers published in national and international journals and reports, International Covenants etc. were thoroughly studied. The proceedings of seminars, conferences, symposiums and workshops relevant to subject were consulted. The material collected has been analyzed and inferences-cum-conclusions were drawn accordingly in order to know about the loopholes if any in the legislations and difficulties encountered by the consumers has been highlighted and redressal mechanism also suggested.

1.7 Chapter Scheme

Chapter 1. Introduction

This chapter is introductory in nature. It contains the background, scope and magnitude of E-commerce in India and has discussed the effects of online contract on consumers. This chapter

highlights the research problem. It also contains the objectives, hypotheses and the methodology adopted for present research.

Chapter 2. E-Commerce: Indian and International Perspective

In this chapter the definition of e-commerce, distinction between the term e-commerce and e-business, define online contracts and its various forms has been analyzed and discussed under the provisions of the UNCITRAL Model Law, Indian Contract Act and Information Technology Act 2000 and the other Laws governing the online contracts.

Chapter 3. Authentication of Electronic Records in India: Socio-Legal Analysis

In this chapter the various methods of authentication of electronic records, legal recognition and applicability of electronic records as evidence under legal system has been discussed. The chapter will highlight the e-governance in India and the management system of e-records and its uses.

Chapter 4. An Analysis of Consumer Behavior in E-Commerce

In this chapter the legal aspects regulating online advertisements, types of fraud involved in e-contracts and security issues have been examined. The potential risk of online advertisement frauds of how authorities deal with such types of online advertisement frauds has been examined and discussed in detail.

Chapter 5. Consumer Protection in Cyber World: A Critical Analysis

In this chapter a distinction has been drawn between e-consumer and consumer in the physical world. Besides laws which govern online consumers at international, national and State level, the rights and remedies available to all types of consumers and applicability of Consumer Protection Act in digital medium has also been discussed.

Chapter 6. Conclusion and Suggestions

This chapter deals with summary of whole study. It covers the conclusion to the study and ends up with couple of suggestions.