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CONSUMER PROTECTION LAWS IN INDIA

-Pracheeta Beck

The rise of e-commerce, social media and digital advertisements in India has not only changed the landscape of consumerism but also created new ways of exploiting buyers. Right from misleading claims of products and services to complex design practices of websites and applications, there is a lot that consumers are exposed to nowadays, which consumer laws were not addressing earlier. In this respect, India has taken some important steps in recent years to protect the rights of digital consumers. Some of these steps have been taken in the form of *Consumer Protection (E-Commerce) Rules, 2020*[1], *Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022*[2] and *Guidelines for Prevention and Regulation of Dark Patterns, 2023*[3]. This blog will focus on understanding various aspects of these guidelines and rules which will protect the interests of the common consumers in the digital marketplace.

The *Consumer Protection (E-Commerce) Rules, 2020*[4] were introduced to protect consumers who buy goods and services via online platforms. Online shopping can present issues such as *difficulty with getting refunds or returns*[5], cancellation issues, misleading product information, lack of appropriate seller information, *unfair trade practices*[6] and difficulty making complaints. The rules therefore place a number of responsibilities on e-commerce entities such as clearly displaying their legal name and contact information, providing information on sellers, appointing a grievance officer, *acknowledging consumer complaints within 48 hours and addressing them within one month*[7]. They also require accepted refunds to be processed

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[1] Consumer Protection (E-Commerce) Rules, 2020, r. 5(3) (India).
[2] Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, ¶ 3 (India).
[3] Guidelines for Prevention and Regulation of Dark Patterns, 2023, ¶ 2(1)(e) (India).
[4] Consumer Protection (E-Commerce) Rules, 2020, r. 5(3) (India).
[5] Consumer Protection (E-Commerce) Rules, 2020, r. 5(3) (India).
[6] Consumer Protection Act, 2019, No. 35 of 2019, § 2(6) (India).
Consumer Protection Act, 2019, No. 35 of 2019, § 94 (India).
[7] Consumer Protection (E-Commerce) Rules, 2020, r. 6(4)(b) (India).

within the applicable period, prohibit unfair cancellation charges and require *consumers' consent*[8] to be expressed through clear and affirmative action rather than automatically by pre-ticked boxes. The *Guidelines for Prevention of Misleading Advertisements* and *Endorsements for Misleading Advertisements, 2022*[9] were introduced to prevent advertisements from giving consumers false or misleading information. They require advertisements to be truthful and prohibit misleading claims and exaggeration. The Guidelines apply to advertisements in all forms and also cover endorsers. This is particularly important in the digital age as consumers are frequently influenced by social media influencers, sponsored posts and online promotions. *Endorsements* [10] should reflect the endorser's genuine and reasonably current opinion and should be based on adequate information or experience. Where an endorser has a material connection with a brand which consumers would not reasonably expect, that connection should be disclosed. Finally, the *Guidelines for Prevention and Regulation of Dark Patterns, 2023*[11] address deceptive designs used on websites and apps to manipulate consumers into taking actions which they did not originally intend to take. Dark patterns can undermine consumers' free choice for instance, causing them to buy unwanted products, pay extra amounts, disclose non-essential personal information, or to cancel subscriptions. The Guidelines prohibit dark patterns and identify different practices such as *false urgency, basket sneaking, confirm shaming, forced action, subscription traps, interface interference, bait and switch and drip pricing*[12]. For example, a subscription trap may make cancellation difficult or hide the cancellation option, while drip pricing may reveal additional costs only later in the purchasing process. The Guidelines are an important step towards protecting digital consumers. Their effectiveness also depends on proper enforcement, consumer awareness and the ability of the regulatory framework to keep pace with new and changing digital practices.

The E-Commerce Rules, the Misleading Advertisement Guidelines, and the Dark Patterns Guidelines taken together represent a significant development in the Indian law-making pattern concerned with protecting the rights of digital consumers. By and large, the rules acknowledge that the specific vulnerabilities of the digital marketplace, which can range from

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[8] Consumer Protection (E-Commerce) Rules, 2020, r. 4(8)–(10) (India).
[9] Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, ¶ 3 (India).
[10] Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, ¶ 13(1) (India).
[11] Guidelines for Prevention and Regulation of Dark Patterns, 2023, ¶ 2(1)(e) (India).
[12] Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, ¶ 3 (India).

the lack of transparency about the personal details of the seller to the use of misleading advertising and user interface manipulation, require a set of specific measures. Nevertheless, any legal framework, however comprehensive, is only as good as its capacity to actually protect the rights of the consumers in practice. Therefore, a crucial distinction must be made between the rules on paper and the rules in reality, which will depend on the ability of the authorities to enforce them and the digital literacy of the average consumer. Finally, as the online economy grows more important in the country's economic life and the rules may need to be updated to respond to the ways in which big online players will seek to bend them to their advantage

India has developed a complete set of laws and guidelines but the question is how effective are they in protecting consumers in the digital marketplace? Firstly, there have been rapid changes in the digital practices where technology and online business models change very quickly and new forms of manipulation, advertising techniques and platform practices can emerge faster than regulations can respond. Secondly, the lack of consumer awareness among many consumers who may not know of their rights under the Consumer Protection Act, the E-Commerce Rules and the newer guidelines has been another challenge. They may also not recognise practices such as drip pricing, subscription traps or basket sneaking as unfair practices. Thirdly, effective enforcement remains a major challenge because India has several protections like the *Consumer Protection Act 2019*[13], *E-Commerce Rules, misleading advertisement*[14] guidelines and the *dark pattern*[15] guidelines but their effectiveness depends on the proper implementation and enforcement. Fourthly, the difficulty in regulating the online advertisements and endorsements where digital consumers are exposed to advertisements through influencers, social media posts, sponsored content and online reviews and it can sometimes be difficult for consumers to distinguish between genuine opinions and promotional content. Lastly, the complex nature of online transactions is where the customers have to deal with a lot of lengthy terms and conditions, multiple payment stages, additional charges and complicated cancellation procedures.

India has made significant progress in protecting consumers through the *Consumer Protection Act, 2019*[16] and related rules and guidelines but they need to be implemented

[13] Consumer Protection Act, 2019, No. 35 of 2019, pmbl. (India).
[14] Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022, ¶ 4(1)(d)–(e) (India).
[15] Guidelines for Prevention and Regulation of Dark Patterns, 2023, ¶ 2(1)(e) (India).
[16] Consumer Protection Act, 2019, No. 35 of 2019, pmbl. (India).

effectively and that people should be aware of them in order to get effective remedies against any kind of fraud.