

Bill No. LIX of 2019

THE E-COMMERCE (REGULATION) BILL, 2019

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BILL

to provide for protection of rights of consumers against marketing of products and services through e-commerce and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the E-Commerce (Regulation) Act, 2019.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification
5 in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "e-commerce" means buying or selling of products or services by digital or electronic network;

(b) "observation period" means a fixed time period given to a consumer to examine the products or services availed by him through e-commerce without inviting any liabilities; and

(c) words and expressions, used but not defined under this Act, shall have the same meaning as assigned to them under the Consumer Protection Act, 2019. 5 35 of 2019.

Right of consumer to return the product or service purchased through e-commerce.

3. (1) Every consumer who buys or sells any product or opts for any service through e-commerce shall have an observation period of fifteen days from the date of buying or selling of such product or service.

(2) The consumer shall have the right to return the product or the service to the company offering the same within the observation period if he is not satisfied with the quality and performance of the product or service, without giving any reason for returning the product or refusing the service. 10

(3) The company which has offered the products or services shall refund the full amount, if any, charged for the same within seven working days from the date of return of product or refusal of service by the consumer within the observation period. 15

Explanation.—For the purpose of this sub-section "full amount" includes the packaging cost, delivery cost and the cost of returning the product.

(4) Every consumer shall have the right to get a full refund of money including the delivery charges, the cost of return or the installation charges, if the product or services purchased are found to be faulty. 20

Companies to give full and clear information to consumer regarding products and services.

4. (1) Every company shall give full and clear information including manufacturing date, expiry or best before date, about the product and services being offered through e-commerce.

(2) Any condition, agreement or contract whatsoever, shall not be enforceable by the company unless it gives the required information to the consumer, prior to purchase of the products or services. 25

Penalty.

5. (1) Whoever contravenes the provisions of this Act and the rules made thereunder shall be punishable with imprisonment for a term, which may extend upto one year or with fine, which may extend upto five lakh rupees or with both.

(2) Where a person committing a contravention of any of the provisions of this Act or of any rule, made thereunder is a company, every person who, at the time the contravention was committed, was in-charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: 30

Provided that nothing contained in this section shall render any such person liable to punishment, if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention. 35

Explanation.—for the purpose of this section:—

(i) "company" means anybody corporate and include a firm or other association of individuals; and 40

(ii) "director", in relation to a firm, means a partner in the firm.

Power to remove difficulties.

6. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty: 45

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

7. The provisions of this Act shall be in addition to, and not in derogation of the provisions in any other law, for the time being in force, relating to e-commerce selling.

Act not in derogation of other laws.

8. (1) The Central Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

Power to make rules.

5 (2) Every rule made under this Act by the Central Government shall be laid, as soon as
may be after it is made, before each House of Parliament, while it is in session, for a total
period of thirty days which may be comprised in one session or in two or more successive
sessions, and if, before the expiry of the session immediately following the session or the
successive sessions aforesaid, both Houses agree in making any modification in the rule or
10 both the Houses agree that the rule should not be made, the rule shall thereafter have effect
only in such modified form or be of no effect, as the case may be; so, however, that any such
modification or annulment shall be without prejudice to the validity of anything previously
done under that rule.

STATEMENT OF OBJECTS AND REASONS

Indian is the fastest growing market for e-commerce sector. The e-commerce has transformed the way the business is done in India. The Indian e-commerce market is expected to grow to US \$ 200 billion by 2026 from the current US \$39 billion. Much growth of the industry has been triggered by increasing internet and smart phone penetration. The ongoing digital transformation in the country is expected to increase India's total internet users based to 829 million by 2021 from 604 million as of 2018. India's e-commerce revenue is expected to increase to US \$120 billion in 2020 from the present US \$ 39 billion, growing at an annual rate of 51 per cent, the highest in the world. The Government has announced various timely initiatives namely, digital India, make in India, Start up India, Skill India and Innovation Fund to support the e-commerce growth industry including increased participation of foreign players in the e-commerce field and other policy initiatives.

The emergence of supply chain, rise in trade and development in e-commerce have led to a new delivery system for goods and services and have provided opportunities for the customers. Equally the person who is buying goods or services through this e-commerce selling does not get any chance of a face to face contact with the person selling the goods and the opportunity to feel or examine it, hence there are chances that he may fall into a false trap. Many cases have been reported of this nature where the goods and services purchased by an individual do not match in quality and appearance with those displayed on television, magazines, hoarding, etc. This unfair trade and unethical business practice, misleading advertisement, telemarketing, direct selling and e-commerce pose new challenges to consumers rights and protection in our country. The Bill therefore, seeks to provide for the rights of the customer to return the goods or services purchased through e-commerce within the observation period of fifteen days without incurring any liabilities and imposing duties on the companies to provide full, fair and complete information to the customer while selling goods and services through e-commerce selling.

Hence this Bill.

SHANTA CHHETRI

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill. As the rules will relate to matters of details only, the delegation of legislative power is of a normal character.

RAJYA SABHA

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(Shrimati Shanta Chhetri, M.P.)