

Chapter 3

E-Retailing Laws and Regulations in India

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ABSTRACT

Cross-border boundaries have changed the way business is being conducted. From time-consuming strenuous manual transactions, consumers have walked a long way to instant e-commerce transactions pushed across by ease and digitization of financial services. Thus rules and regulations are required for setting-up web sites, conducting of business, providing of financial services, digitizing of all commerce-related activities and services, protection of IPR, protecting against all risks and losses, all legal aspects including terms and conditions/conduct of trade/provision of after-sales service/security/entry and exit of start-ups/protection of consumer rights/crypto currency/virtual banks/legally acceptable unsigned documents/mobile commerce, and all other related aspects. These laws cannot be country specific but have to be framed with global outlook since transaction can happen from any place to any other place worldwide.

INTRODUCTION

As per recently published information, after the Demonetization of November 08, 2016, digital transactions have gained momentum with the Government actively promoting digital transactions with the aim of reaching the target of 25 billion during 2017-18. As per Reserve Bank of India, the volume of digital transactions increased from 671.5 million as of November 2016 aggregating Rs94 Lac crore to 844.7 million as at the end of June 2017 worth Rs113.75 Lac crore. National Payments Corporation of India has estimated that during July 2017 itself the monthly electronic transactions have crossed 1 billion of which Unified Payment Interface

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transactions alone accounted for 11.63 million transaction during the same period – an increase by over 10%.

Thus it is little wonder that eCommerce has got that fillip which has seen consumers moving away from physical activity to online activity be it shopping, banking, consuming service and much more compared to what it was a decade before in 2007 when eCommerce was born in India. While online businesses like eBay existed even before this, but 2007 is regarded the beginning of eCommerce wave in India.

Though there exists no standard definition for the term e-commerce, it is generally used in the sense of denoting a method of conducting business through electronic means rather than through conventional physical means. Such electronic means include ‘click & buy’ methods using computers as well as ‘mobile commerce’ that make use of various mobile devices or smartphones. This term takes into account not just the act of purchasing goods and /or availing services through an online platform but also all other activities which are associated with any transaction such as delivery, payment facilitation, supply chain and service management.

Today the quantity of web clients is near 3 billion. Out of this, India has a sum of 259.14 Million web and broadband subscribers. This infiltration of web combined with the expanding certainty of the web clients to buy on the web, has prompted a gigantic development in the web based business space, with an expanding number of clients enlisting on online business sites and, what’s more, buying items using mobile phones. It is not astounding; hence, that India is in a prime position for the development and improvement of the internet business area. Specifically, internet business presents one of the best open doors in the retail area since it gives an emotional change from physical foundations to virtual shops that could work for a small amount of the cost. There still exists a type of ‘advanced gap’ in India where the advantages of web have not completely permeated to non-urban regions. In this situation, versatile associations would assume a critical part. India has near 914.92 Million remote subscribers. Mobiles have been and will be a key apparatus in helping client associates in a market where general web infiltration may be low.

Yet despite all this, there still are no set of Laws for the Indian e-Commerce transactions making this as one of the biggest unregulated industry. However, an effort has been made in this Chapter to project the implication of various existing Indian Laws on e-Commerce activities.

Law of Contracts

First and foremost is Law of Contract which forms the crux of any transaction whether online or offline. Contract has to exist between transacting parties that needs to be valid, binding and enforceable. While in offline it is a written and signed

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