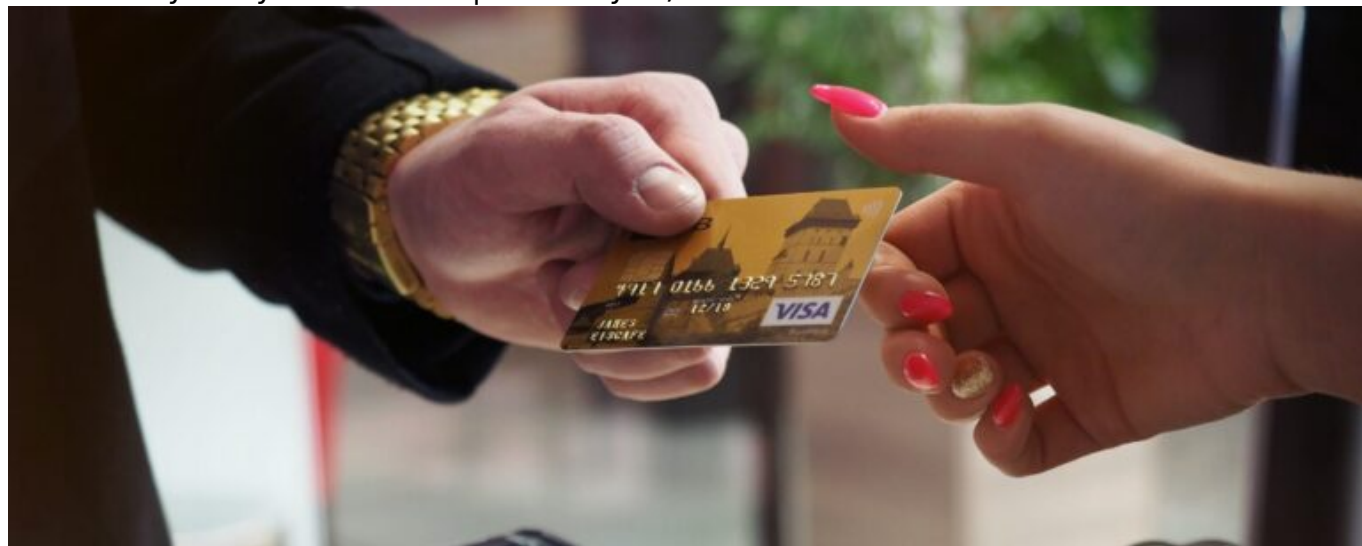


## Cyber Law's Emerging Role In Indian E-Commerce

written by Priyanka Barik | January 4, 2022



### E Commerce Law

Commonly known as IT Law, is the legal framework governing information technology, such as computers and the internet. It regulates the digital circulation of information, software, information security, and e-commerce and is connected to legal informatics. IT law encompasses components of contract, intellectual property, privacy, and data protection laws rather than being a separate field of law.

'E-commerce' is defined by the Organization for Economic Cooperation and Development (OECD) as a new form of doing business that occurs across networks that employ non-proprietary protocols developed through an open standard-setting process such as the Internet. 'E-commerce,' as defined by the FDI Policy<sup>[1]</sup>, includes both digital and physical items as well as services transacted via digital and electronic networks.

E-commerce, to put it more simply, is the practice of conducting business online rather than through traditional physical channels. This includes all retail activities conducted over the internet such as purchasing goods, availing services, delivery, payment facilitation as well as supply chain and services management. Any type of transaction that takes place through the internet is referred to as e-commerce.

### E Commerce Law Under IT

In recent years, the internet's significance in our lives has grown at an extraordinarily rapid pace. Our digital presence online has increased as have our activities with a majority of commercial transactions (buying, selling) taking place daily. New data shows that as of 2021, there are at least 2.41 billion shoppers online. E-commerce is an industry that's expanding so quickly that it's expected to make up a whopping 22.0 per cent of retail sales worldwide by 2023.

This solidifies the internet's presence today as a vast and sprawling marketplace where people are buying and selling products in enormous numbers every day. Buying via the internet can take the form of direct purchases or purchases made through affiliates or agents. Selling on the internet might take the form of selling on your website, auction sites, or social networking sites. In terms of business technology, the expansion of E-commerce has established a platform for the buying and selling of products and services, as well as driving critical business operations within the organisation.<sup>[2]</sup>

Copyright concerns, data protection issues, and completions issues are all inherent to e-commerce. Firstly, one of the most important issues for any organization engaging in an e-contract or e-business, which includes e-commerce transactions, are intellectual property rights. Because the Internet is so immense, complicated to regulate and has such few rules addressing protection and safety, IPR (Intellectual Property Rights) protection is a major concern and a challenge in e-business.

Second, it is quite impossible to conduct an e-commerce transaction without gathering some type of personal information about the user, which is likewise a possible breach of their privacy.

#### Cyber Crime & E-Commerce

As evidenced above, e-commerce is not going anywhere soon. However, it's also an industry that is extremely vulnerable to cybercrime, which is expanding as swiftly as e-commerce. Cybercrime, to put it another way, is the use of computer resources to engage in unauthorised or unlawful activities. Vast amounts of money and information are exchanged through e-commerce platforms daily and require heavy protection since consumer information is critical to the success of organizations.<sup>[3]</sup> Criminals exchange valuable stolen financial information from millions of unwitting internet users in the online black market or deploy malware or malicious software to target computer systems, gaining control of the machine and access to sensitive information stored on it without the users' knowledge.

#### Regulatory Framework For E-Commerce In India: Information Technology Act, 2000 (IT Act), E Commerce Law

The Information Technology Act of 2000 was the first e commerce law enacted by the Indian government. The primary objective of this law was to give effect to the UNCITRAL Model Law on Electronic Commerce(E Commerce Law), which was published in 1996.<sup>[4]</sup>

The core objective of this Act was to give legal legitimacy to transactions made over the internet and to allow for the transmission of electronic data through electronic methods of communication (e-commerce). The Act establishes a regulatory framework and specifies penalties for cybercrime and other offences. It allows the Centre to block public access to an intermediary in the interest of sovereignty and integrity of India, defence of India, security of the State.<sup>[5]</sup>

The Information Technology (Reasonable security practises and procedures and sensitive personal data or information) Rules, 2011<sup>[6]</sup>, apply to e-commerce firms. Under the IT Act, the Intermediary Rules 2011<sup>[7]</sup> will control intermediary websites and the material they publish. The IT Act also tackles the key security challenges that are so vital to the success of electronic transactions.

The IT Act 2000 has triggered amendments to existing acts to include IT offence-related provisions. Below is the list of other main Acts which are amended by the IT Act:

- The Indian Penal Code, 1860: - The IT Act of 2000 changed the part of the IPC dealing with records and documents by introducing the word "Electronic" and classifying electronic records and documents the same as physical records and documents.
- The Indian Evidence Act, 1872: - Before the passage of the IT Act, all evidence in a court had to be presented in physical form. With the IT Act, all electronic records and papers are recognised. All papers, including

electronic records, were substituted in the Act's definitions section. Words like "digital signature," "electronic form," "secure electronic record," and "information" were all inserted into the IT Act to make them part of the evidentiary mechanism.

Other Amendments Regarding Cyber Law, E Commerce Law & Consumer Law in Indian E-Commerce Legislation:

- Information Technology (Amendment) Act, 2008: The earlier Information Technology Act of 2000 was amended to make it more technology-neutral and to recognise electronic signatures as superior to restricted digital signatures. The notion of the e-signature was introduced, and the definition of "intermediary" was amended, among other things. To address the issue of privacy, the states established special authority over the website, as well as the abuse that leads to tax evasion. For the first time in India, this Act acknowledged the legal validity and enforceability of digital signatures and electronic records. The goal was to create a secure path for digital records and electronic signatures, which become a major concern as the use of electronic media had increased dramatically.
- Consumer Protection (E Commerce law) Rules, 2020<sup>[8]</sup>: This has been notified under the Consumer Protection Act of 2019, to prohibit unfair trading practices in e-commerce, safeguard consumers' interests, and guarantee that e-commerce platforms are transparent, as well as to further reinforce the legislation that regulates the same.<sup>[9]</sup>

Endnote

Distinct kinds of purposes are included in cyber legislation. Some laws regulate how companies can use internet technology to run their businesses, while others prevent people from becoming victims of crime as a result of unethical online actions.

Cybercrime has surged exponentially over the last decade. As we swerve toward a more digitalised era, there remains a dire need to come up with even more ironclad cybersecurity laws as more and more consumers turn towards the internet for unique commercial solutions.

The e-commerce business has experienced significant development over the years, prompting the creation of a regulatory framework that preserves internet safety and enhance the e-commerce sector as well as existing legal infrastructure. There have been several concerns expressed about India's lacking cybersecurity regulations, and the lack of a supervisory framework as one of the reasons why the e-commerce industry in India suffers from so many obstacles rather than offering a consumer-friendly and business-friendly environment.

The government should enhance its legislative framework to encourage both internal and foreign trade in India to flourish while also preventing fraud, consumer protection difficulties, privacy concerns, intellectual property rights concerns, and other challenges. This measured step towards guiding businesses, customers, and even the courts in a way that allows the rapidly growing trend of e-commerce to develop in a secure and consumer-friendly environment.

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- [1] Foreign Direct Investment Policy
  - [2] Payment and Settlement Act, 2007 and other RBI regulations on payment mechanisms
  - [3] <https://aofund.org/resource/e-commerce-advantages-and-disadvantages/>
  - [4]

[http://www.uncitral.org/uncitral/en/uncitral\\_texts/electronic\\_commerce/1996Model.html](http://www.uncitral.org/uncitral/en/uncitral_texts/electronic_commerce/1996Model.html)

- [5] Section 69 A of Information Technology Act, 2000
- [6] IT (Reasonable security practises and procedures and sensitive personal data or information) Rules, 2011.
- [7] Information Technology (Intermediaries Guidelines) Rules, 2011
- [8] Department of Consumer Affairs made available, in the public domain, the proposed amendments to Consumer Protection (E Commerce law) Rules, 2020.
- [9]  
[https://consumeraffairs.nic.in/sites/default/files/uploads/legal-metrology-acts-rules/8%28xii%29\\_0.pdf](https://consumeraffairs.nic.in/sites/default/files/uploads/legal-metrology-acts-rules/8%28xii%29_0.pdf)

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