

LAW & POLICY UPDATE

CORPORATE & COMMERCIAL



The Consumer Protection (E-commerce) Rules, 2020

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Ministry of Consumer Affairs, Food and Public Distribution notified the provisions of the Consumer Protection (E-commerce) Rules, 2020 (**Rules**) vide notification dated July 23, 2020 under Consumer Protection Act, 2019 (**Act**). The intention of notifying the Rules is to complement the Act by regulating all e-commerce transactions and activities. The primary objective of the Rules is to regulate all e-commerce entities and lay down duties and liabilities of e-commerce entities, marketplace e-commerce entities and sellers selling goods and services on such marketplaces.

■ **Applicability**

The Rules apply to all e-commerce transactions involving goods and services (including digital products), all types of e-commerce models (including marketplace, inventory, single brand retail, multi-channel single brand retail models). The Rules also extend to e-commerce entities that are not established in India, but systematically offers goods and services to consumers in India.

■ **Duties/liabilities of E-commerce entities**

An e-commerce entity is defined as any person who owns, operates, or manages digital or electronic facility or platform for electronic commerce, but does not include a seller offering his goods or services for sale on a marketplace e-commerce entity. An e-commerce entity should be registered as a company in India; or registered as a foreign company under the Companies Act, 2013; or an office, branch, or agency outside India owned or controlled by a person resident in India (as per Section 2(v)(iii) of FEMA). E-commerce entities are required to fulfil certain duties, as provided in Rule 4, which inter alia include the following:

- **Nodal officer:** Every e-commerce entity is required to appoint a nodal person of contact or an alternate senior designated officer, who is an Indian resident, to ensure compliance with the Act and Rules.
- **Display of information:** Every e-commerce entity should, on its platform, display in a clear and accessible manner its legal name, address of its headquarters and branch offices, name and details of its website and contact details of the customer care and grievance officer.
- **Grievance redressal mechanism:** Every e-commerce entity is required to establish an adequate grievance redressal mechanism and appoint a grievance officer, who shall acknowledge all consumer complaints within 48 hours of receipt and redress consumer complaints within 1 month from the date of receipt thereof.
- **Restrictions:** E-commerce entities are prohibited from:
 - Adoption of unfair trade practice, whether in course of business or otherwise
 - Levying cancellation charges on consumers after confirming purchase, unless similar charges are borne by the entity itself, if they cancel orders unilaterally
 - Manipulating the price of the goods or services offered on its platform so as to gain unreasonable profit by imposing any unjustified price on consumers
 - Discriminating between consumers of the same class or make any arbitrary classification of consumers which affects their rights under the Act
 - Recording the consent of its consumers for purchase of goods/services on its platform by automatically including these in the form of pre-ticked boxes

■ **Liabilities of marketplace e-commerce entities**

Marketplace e-commerce entity means an e-commerce entity which provides an information technology platform on a digital or electronic network to facilitate transactions between buyers and sellers. Such entities can reap the benefits of being an intermediary and avail exemptions granted to intermediaries from being liable in certain cases, by complying with the provisions of Section 79 of the Information Technology Act, 2000 and the Information Technology (Intermediary Guidelines) Rules, 2011. Pursuant to Rule 5, marketplace e-commerce entities shall:

- Obtain an undertaking from its sellers to the effect that the descriptions, images, and other content pertaining to goods or services on their platform are accurate and corresponds directly with the appearance, nature, quality, purpose and other general features of such good or service
- Display on its platform, in a clear and accessible manner:
 - Details of the sellers
 - Ticket number for consumer complaints enabling consumers to track the status of such complaints
 - Information on refunds, returns, exchanges, warranty and guarantee, delivery and shipment, modes of payment, and grievance redressal mechanism
 - Information on secured payment methods, applicable fees and charges, procedure to cancel payments, charge back options and contact information of the payment service provider
 - Parameters used to determine the ranking of the goods or sellers on its platform
 - Information required to be provided by the sellers as specified in Duties of sellers
- Take reasonable efforts to maintain a record of relevant information on the identification of all sellers who have repeatedly offered goods or services that have previously been removed or access to which has previously been disabled under the Copyright Act, 1957 (14 of 1957), the Trade Marks Act, 1999 (47 of 1999) or the Information Technology Act, 2000 (21 of 2000).

■ **Liabilities of inventory e-commerce entities**

An inventory e-commerce entity means an e-commerce entity which owns the inventory of goods or services and sells such goods or services directly to the consumers, including single brand retailers and multi-channel single brand retailers. Inventory e-commerce entities are subject to similar duties as that of sellers on marketplaces as set out above under duties of sellers. Additionally, an inventory e-commerce entity which explicitly or implicitly vouches for the authenticity of the goods or services sold by it, or guarantees that such goods or services are authentic, shall bear appropriate liability in any action related to the authenticity of such good or service.

■ **Duties and liabilities of sellers**

As per Rule 6, sellers on marketplaces shall:

- Not adopt any unfair trade practices and
- Not falsely represent themselves as consumers and post reviews or misrepresent the quality or features of any goods and services
- Not refuse to take back goods, or withdraw or discontinue services purchased or agreed to be purchased, or refuse to refund consideration, if paid, in case the goods and services are defective in any manner or if the goods are delivered late (except on account of force majeure events)
- Execute a prior written contract with the e-commerce entity before transacting on its platform
- Appoint a grievance officer and establish a grievance redressal mechanism
- Ensure that advertisements are consistent with actual characteristics of goods and services being sold
- Provide to the e-commerce entity (to be displayed on its platform and website):
 - All contractual information to be disclosed by law
 - Total price of the goods and services, including a break-up of all compulsory and voluntary charges
 - All mandatory notices and information provided by applicable laws
 - Expiry date of the goods and details of guarantees and warranties, wherever applicable
 - All relevant details of the goods including country of origin
 - Name and contact details of the grievance officer
 - Details in relation to the import of goods, guarantee related to the authenticity of the import
 - Accurate details on terms of exchange, returns, shipment, refund and delivery of goods and services

