

E-Commerce and Electronic Contracts: A Comparative Study with Special Reference to Indian Law

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Abstract

This essay examines how e-commerce and electronic contracts are developing, paying particular attention to the Indian legal system. E-contracts have proliferated as a result of the quick digitization of commerce and services, and they are increasingly essential to online business transactions. The legal acceptance and implementation of electronic contracts in India is compared to international norms, especially in the US and the EU, in this article. It looks at the clauses included in the Information Technology Act of 2000 and the Indian Contract Act of 1872, which together offer legal backing for the legitimacy of electronic transactions in India. Types of e-contracts, including click-wrap and browse-wrap agreements, as well as the difficulties relating to permission, jurisdiction, and consumer protection are given particular attention. The applicability of classical contract law concepts to digital media is examined through an analysis of judicial interpretations rendered by Indian courts. The current regulatory initiatives under the 2020 Consumer Protection (E-Commerce) Rules are also included in the report. In summary, India has created a fundamental legal framework for e-contracts; nevertheless, more elucidation and standardization are necessary to guarantee enforcement and customer confidence in the digital economy. Suggestions are made to improve legal procedures and conform to international best practices.

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I. Introduction

The formation of contracts has been greatly impacted by e-commerce, which includes the purchase and sale of products and services online. E-commerce includes using the internet to purchase and sell things as well as sending funds and information to execute those transactions. All internet retailers are included in this category. This might include B2B services, food delivery services, and online markets like Amazon and Etsy. E-commerce trends are still expanding and evolving, and technology is drastically altering the way we conduct business. While e-commerce enterprises flourished during the epidemic, physical businesses suffered.

Online grocery purchasing is still growing even if physical stores are still open. Anyone may rapidly set up an e-commerce business using easy-to-use tools and e-commerce platforms like Shopify, Etsy, and eBay. Generally, e-commerce companies may be divided into four categories. The model is contingent upon the seller and the target customer. (i) B2C, or business to consumer: The company sells directly to customers using this e-commerce approach. You are making a business-to-consumer (B2C) transaction when you buy something from a shop such as Amazon. Your online store becomes a business-to-consumer (B2C) entity when you set up a Shopify site to sell your goods to consumers.

Business-to-business (B2B): This business-to-business (B2B) strategy entails selling goods or services to other companies. For instance, a business-to-business (B2B) wholesaler distributes auto components to factories. (iii) Consumer-to-business (C2B): In C2B, people use an internet platform to offer goods or services to businesses. This group includes bloggers and social media influencers who are paid by companies to promote their brands. (iv) Consumer-to-consumer (C2C): C2C e-commerce models usually entail websites where individuals sell products and services to other individuals directly. Etsy, Facebook Marketplace, and eBay are a few examples. Reach, availability, and convenience are just a few of the many advantages that e-commerce provides to both customers and businesses. Other advantages include lower operating expenses, more sales conversions, longer opening hours, and worldwide reach.

Conventional contracts have given way to their digital counterparts, or e-contracts, which are made possible by emails, mobile apps, and websites. Legally enforceable agreements created electronically are known as "e-contracts," and they provide new difficulties and concerns for legislators, particularly with regard to jurisdiction, permission, and authentication.

II. Types of Electronic Contracts involve in E-commerce:

E-contracts differ from traditional contracts in terms of their execution method and media, but they have a comparable legal status. Among the widely accepted forms of e-contracts are:

Click-wrap Agreements: By selecting a "I Agree" button, users must accept the conditions.

Browse-wrap Agreements: Inferred consent obtained by using the website without giving specific permission.

Shrink-wrap Agreements: Usually included in software, these agreements imply approval when the product is opened or utilized.

Cyber Contracts : On the basis of contract performance, the contracts may also be divided into "E-mails" and "EDI." Email uses servers to electronically move messages from one computer system to another. Electronic data exchange, or EDI for short, is the process of moving organized, business-oriented data over a computer network (Sharma, R. 2022).

III. Legal Recognition and Framework in India

Electronic contracts are legally recognized in India under the Information Technology Act, 2000 (IT Act), which gives digital signatures and electronic records legal validity (Sections 4–10) (Kolekar, Y., 2015). The 1872 Indian Contract Act: pertains to electronic contracts as long as the four necessary components of a legal contract—offer, acceptance, consideration, and consent—are fulfilled. Electronic recordings are recognized as acceptable evidence in courts by the Evidence Act of 1872 (as modified). A contract's legal effect cannot be rejected based only on its electronic format, according to Section 10A of the IT Act.

IV. Comparative Legal Position

Although Indian legislation is developing, problems with infrastructure, consumer knowledge, and enforcement mechanisms persist. In contrast, it is widely accepted and well-developed in wealthy nations. In the United States, electronic signatures and records are fully recognized by law thanks to the Uniform Electronic Transactions Act (UETA) and the Electronic Signatures in Global and National Commerce Act (E-SIGN). The European Union's electronic identity and trust services are standardized under the eIDAS Regulation (EU Regulation No. 910/2014). Additionally, the UK is governed by common law principles and the Electronic Communications Act of 2000 (Kumar, S. 2021)

V. Jurisdictional and Enforcement Issues

Determining jurisdiction is a significant legal issue with e-contracts, particularly when the parties are located in separate nations or jurisdictions. Indian courts have adopted a cautious but forward-thinking stance, frequently depending on the following: the location of the acceptance's communication, the contract's performance location, and the terms specified in the contract. Order registration, delivery planning, and payment processing are the core functions of the company. When problems arise in these kinds of transactions, the repercussions may be irreversible and need to be resolved right away.

Particularly in the B2C market, dispute resolution is challenging. Since the parties enter into the contract online and the internet is global, the first question that emerges in these conflicts is where the contract is concluded. Some of the primary legal concerns that arise in a borderless setting are as follows:

Where should I act?

Who Has Jurisdiction?

Which nation's regulations are relevant to a particular online purchase?

Which nation's courts ought to be contacted in order to enforce rights?

Which laws and tests need to be followed?

When a question is raised, the legislation is silent, and the parties are geographically separated, it becomes extremely difficult to ascertain the contract's territorial jurisdiction and to settle such issues. Because it is a central and essential question in issues pertaining to dispute resolution, consumer protection, data protection, and the enforcement of the parties' rights, the decision of jurisdiction is crucial to comprehend for transactions. Jurisprudence regarding jurisdiction and enforcement issues in e-commerce is still in its infancy in India. Important rulings such as *Banyan Tree Holding (P) Ltd. v. A. Murali Krishna Reddy* have made it clear that jurisdiction is not implied by a website's accessibility in India alone, unless there is targeting or a particular engagement.

VI. Challenges in India

One of the biggest issues facing e-commerce in India is a lack of knowledge and literacy about digital legislation. Among the several additional issues facing India are (i) worries about cybersecurity and data privacy. (ii) Difficulties with enforcement of cross-border contracts and inconsistent court interpretations. India is still in need of a solid, cohesive legal system that addresses cross-border e-contracts in particular and has more effective consumer protection laws.

VII. Conclusion and Suggestions

Commercial transactions are now speedier and more efficient because to e-commerce and e-contracts. Although electronic contracts are recognized and upheld by Indian law, there is still room for development in a number of areas, including: a specific legal framework for online sales. improved infrastructure for verifying digital signatures. more precise jurisdictional and conflict resolution guidelines. increased knowledge and protection for consumers.

Apart from the IT Act, India does not yet have any appropriate e-commerce regulations. Because of this, people and the e-commerce sector have several challenges in establishing an environment that is both business- and consumer-friendly. Consumers must also be made aware of the law in order to prevent them from becoming victims of the basic regulations governing e-commerce websites. Until it is agreed that a specialized law to control and regulate some aspects of e-commerce is absolutely necessary, it should guarantee that the advantages of technology be fully realized without being constrained by the prudent development of law through expert judicial interpretation.

There is an urgent need for particular laws to govern the jurisdictional concerns of e-commerce disputes due to the industry's explosive expansion. Additionally, it is essential to the prosperity of Indian e-commerce. In order to prevent unauthorized transactions, it is also necessary that all e-commerce websites include product-specific information, such as the type of products or service they provide. India's regulatory structure has to be strengthened to meet international standards and promote trust in digital transactions, according to a comparative analysis with worldwide norms.

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