



UNFAIR TRADE PRACTICES-CHALLENGES AND PROSPECTS - A CRITICAL LEGAL STUDY WITH REFERENCE TO E-COMMERCE IN INDIA

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1. INTRODUCTION

The changing landscape of commerce in India has been profoundly shaped by the twin forces of liberalization and digitization. While these developments have facilitated efficiency, convenience, and wider consumer choice, they have also generated new domains of vulnerability, particularly in the sphere of unfair trade practices. The notion of unfairness in trade, historically grounded in statutory and judicial recognition of deceptive or restrictive business methods, acquires renewed complexity in the context of e-commerce. Online platforms, with their expansive reach and opacity of transactions, have enabled subtle yet pervasive forms of misrepresentation, predatory pricing, and exploitation of consumer data. Such practices pose acute challenges for the existing regulatory framework, which was originally designed with conventional modes of commerce in mind. Against this backdrop, the Indian legal system finds itself negotiating the tension between fostering innovation in digital markets and ensuring accountability through robust consumer protection. This paper undertakes a critical legal study of unfair trade practices with reference to e-commerce in India, interrogating the adequacy of current mechanisms while assessing the prospects of establishing a more responsive and future-proof regulatory architecture.

India's retail sector has been reshaped in remarkable ways by the digital revolution, with e-commerce now standing as one of its most influential drivers. Current estimates suggest that the sector will witness a compound annual growth rate of around 21.5% between 2025 and 2030, rising to nearly USD 137 billion by 2025 and over USD 363 billion by the end of the decade. Such growth not only opens new avenues for businesses and consumers, but also reduces geographical barriers to access. At the same time, this rapid digital expansion has triggered complex challenges, particularly in the form of novel unfair trade practices that conventional consumer protection mechanisms were not originally designed to tackle¹.

Modern e-commerce transactions are far more intricate than traditional trade, as they often involve several actors spread across different regions and even countries. This complexity has made the online marketplace especially vulnerable to deceptive practices. Tactics such as misleading advertising, fake consumer reviews, manipulative interface designs, and predatory discounting have become increasingly common. Such challenges demand flexible and evolving legal responses, since the earlier consumer protection framework built with physical retail in mind was never fully equipped to deal with the distinctive realities of digital commerce.

Under Indian law, unfair trade practices are generally seen as dishonest or deceptive business methods that not only harm consumers but also disrupt fair competition and erode trust in the marketplace. The enactment of the Consumer Protection Act, 2019 marked a turning point in India's consumer law, as it introduced detailed provisions tailored for the online marketplace and set up the Central Consumer Protection Authority (CCPA) to

¹ ConsumerLawyer, *What Are Unfair Trade Practices in E-Commerce* (ConsumerLawyer, n.d.) <https://consumerlawyer.in/legal-services/chennai/what-are-unfair-trade-practices-in-e-commerce> accessed on 3 October 2025 .



act as a strong regulatory and enforcement body.²

This research sets out to evaluate the legal framework that regulates unfair trade practices in India's e-commerce sector, highlighting not only its achievements but also its shortcomings. By examining statutory provisions, judicial rulings, and enforcement trends, the study aims to pinpoint the major challenges that remain and explore the opportunities for making consumer protection more effective in the digital marketplace.

2. CONCEPTUAL FRAMEWORK AND LEGAL EVOLUTION

2.1 Historical Development of Consumer Protection in India: The roots of consumer protection in India can be traced back to ancient texts like the Arthashastra and Manusmriti, which emphasized ethical trade and fairness in transactions. During the colonial period, statutes such as the Indian Contract Act of 1872 and the Sale of Goods Act of 1930 laid the groundwork for regulating commercial dealings in a more formal legal sense. In the post-independence era, the Monopolistic and Restrictive Trade Practices (MRTP) Act of 1969 marked the beginning of a structured approach to addressing market distortions and unfair practices. This framework was later replaced by the Competition Act, 2002, which aligned with economic liberalization and reflected a more nuanced understanding of anti-competitive conduct.³ The Consumer Protection Act of 1986 introduced a three-tier system of redressal through District Forums, State Commissions, and the National Commission, which became a milestone in strengthening consumer rights. While this framework was effective in many ways, it was not designed to handle the complexities of online trade. To bridge this gap, the Consumer Protection Act of 2019 was enacted, bringing with it broader definitions, stronger enforcement mechanisms, and specific provisions for regulating e-commerce, recognising the distinctive challenges posed by digital transactions.⁴

2.2 Consumer Protection Act, 2019: A Paradigm Shift: The Consumer Protection Act of 2019 marked a significant shift in India's regulatory approach by broadening the scope of what qualifies as an unfair trade practice, particularly in the context of digital markets. Under Section 2(47)⁵, the definition now covers practices such as the sale of counterfeit products, provision of substandard services, denial of refunds, unauthorized sharing of consumer data, and deceptive advertising thereby creating a wide legal framework for present-day enforcement. A major innovation of the Act was the creation of the Central Consumer Protection Authority (CCPA), empowered to investigate violations, mandate product recalls, and initiate class action proceedings. In addition, the law introduced a dedicated product liability regime, enabling consumers to seek compensation directly from manufacturers, sellers, or service providers for harm caused by defective goods, including those obtained through online platforms.

The Consumer Protection (E-Commerce) Rules, 2020 impose specific obligations on online platforms, including the disclosure of seller details, accuracy in product information, functional grievance redressal systems, and the requirement of clear and affirmative consumer consent for transactions. These rules reflect an effort by the legislature to align consumer safeguards with the fast-changing and technology-driven realities of digital trade.

3. E-COMMERCE AND UNFAIR TRADE PRACTICES: CONTEMPORARY CHALLENGES

3.1 Dark Patterns: Digital Manipulation: "Dark patterns" describe deceptive interface designs that steer or

² Ministry of Consumer Affairs, Food & Public Distribution, *Centre safeguards consumer rights via various provisions under Consumer Protection Act, 2019* (Press Information Bureau, 25 March 2025) <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2114829> accessed on 4 October 2025.

³ *A Study on Unfair Trade Practices in India* (The Amikus Qriae, published 4 months ago) <https://theamikusqriae.com/a-study-on-unfair-trade-practices-in-india/> accessed on 3 October 2025.

⁴ *Dark Patterns: An Un-Fair Trade Practice* (Cyril Amarchand Mangaldas Blog, 15 August 2023) <https://corporate.cyrilamarchandblogs.com/2023/08/dark-patterns-an-un-fair-trade-practice/> accessed on 4 October 2025.

⁵ *Consumer Protection Act, 2019* (Central Act) (Bare Act PDF, NCDRC) https://ncdrc.nic.in/bare_acts/CPA2019.pdf accessed on 4 October 2025.



pressure consumers into choices they might not have made freely for instance, adding hidden costs, seeking consent through pre-ticked boxes, using confusing language, or creating false urgency. Acknowledging the scale of the problem, the Central Consumer Protection Authority (CCPA) issued guidelines in 2023 that formally classified thirteen such practices, including basket sneaking, confirm-shaming, bait-and-switch tactics, drip pricing, and misleading advertisements. These guidelines have already led to enforcement: one notable case involved FirstCry, which was fined ₹2,00,000 for advertising products as “MRP inclusive of all taxes” but later adding GST at checkout, a textbook example of drip pricing combined with deceptive marketing.⁶ Judicial attention toward manipulative online interfaces has been steadily increasing. In *Delhi Vyapar Mahasangh v. Flipkart Internet Private Limited* (2020), the Competition Commission of India highlighted concerns over search bias and design manipulation, reflecting a growing recognition within the legal system of the seriousness of such practices.⁷

3.2 Predatory Pricing on Digital Platforms: Predatory pricing refers to the strategy of selling products at a loss in order to eliminate competitors, with the intention of later raising prices once a dominant position is secured. Such conduct is expressly prohibited under Section 4(2)(a)(ii) of the Competition Act, 2002.⁸ Demonstrating predatory pricing in the context of e-commerce, however, is often challenging. In *Vaibhav Mishra v. Sppin India Pvt. Ltd.* (2022), the Competition Commission of India clarified that merely showing below-cost pricing is not sufficient; evidence of market dominance is also required. Similarly, in *Fast Track Call Cab Pvt. Ltd. v. ANI Technologies Pvt. Ltd.* (2015), the Commission concluded that the existence of several players in the market meant that no abuse of dominance could be established.⁹

Regulators have begun to adopt a sharper stance toward pricing practices in online markets. In a recent statement, India's Commerce Minister criticized Amazon and other major e-commerce companies for using predatory pricing strategies that threaten traditional retail, highlighting the government's growing emphasis on protecting market fairness.

3.3 Misleading Advertisements and False Representations: Under Section 2(28) of the Consumer Protection Act, 2019, a misleading advertisement is one that gives a false description of a product, exaggerates its qualities, or withholds important information in a way that misguides consumers. To deter such practices, the Central Consumer Protection Authority (CCPA) has introduced strict penalties up to ₹10 lakh for a first violation and as high as ₹50 lakh for repeat offenses. The law also restricts celebrity endorsers, barring them from promoting non-

⁶ Ms. Diwanshi Rohatgi & Ms. Tuhina Sinha, *The Dark Side of Marketing: Unmasking Misleading Advertisements to Empower Indian Consumers* (PDF, Chanakya National Law University, 2024) <https://cnlu.ac.in/wp-content/uploads/2025/05/The-Dark-Side-Of-Marketing-Unmasking-Misleading-Advertisements-To-Empower-Indian-Consumers-by-Ms.-Diwanshi-Rohatgi-Ms.-Tuhina-Sinha.pdf> accessed on 4 October 2025.

⁷ *Misleading Advertisements in India: A Legal and Ethical Overview* (TaxTMI) <https://www.taxtmi.com/article/detailed?id=14226> accessed on 4 October 2025.

⁸ *FDI Policy Amendment to Tackle Predatory Pricing in E-Commerce* (Invest India, n.d.) <https://www.investindia.gov.in/team-india-blogs/fdi-policy-amendment-tackle-predatory-pricing-e-commerce> accessed on 4 October 2025.

⁹ *CCPA, ASCI Align on Better Advertising Regulation* (Law.asia, 8 May 2024) <https://law.asia/advertising-regulations-enforcement/> accessed on 4 October 2025.



compliant products for as long as three years.¹⁰

To make enforcement more effective, the Central Consumer Protection Authority (CCPA) has collaborated with the Advertising Standards Council of India (ASCI). Under this arrangement, advertisements found to violate ASCI's code are referred directly to the CCPA for legal action under the Act. This joint mechanism brings together the strengths of self-regulation and statutory oversight, creating a more comprehensive system of accountability.

3.4 Product Liability in E-Commerce: The Consumer Protection Act, 2019 introduced a product liability framework that allows consumers to seek compensation for harm caused by defective goods or poor-quality services, making not only manufacturers and sellers but, in some cases, even online platforms accountable. Determining liability for marketplace operators, however, is more complex. Since these platforms usually act as intermediaries, they are protected unless they take an active role in the sale process or have prior knowledge of defects. The issue becomes even more complicated in cross-border e-commerce, where international transactions raise enforcement difficulties and highlight the need for global cooperation and harmonized standards.¹¹

4 REGULATORY FRAMEWORK AND ENFORCEMENT MECHANISMS

4.1 The Consumer Protection (E-Commerce) Rules, 2020: The Consumer Protection (E-Commerce) Rules, 2020 lay down a comprehensive framework aimed at ensuring fairness, transparency, and accountability in online marketplaces. These rules obligate e-commerce platforms to refrain from adopting unfair trade practices and to create interfaces that genuinely safeguard consumer interests. To this end, platforms must make seller details easily accessible, present product information in an accurate and complete manner, and clearly display the total cost payable, including all taxes, fees, and incidental charges, so that buyers are not misled by hidden costs.

Equally important is the requirement that consumer consent for a purchase be obtained through explicit and affirmative action. This means that agreements must result from deliberate consumer choices, not from manipulative design features. Practices such as using pre-ticked checkboxes, vague or misleading buttons, or default opt-ins that trick users into unintended commitments are strictly prohibited.¹² By embedding these provisions, the 2020 Rules seek to strengthen consumer confidence in digital transactions and ensure that online platforms operate with the same degree of fairness expected in traditional marketplaces.

4.2 CCPA: Powers and Impact: The Central Consumer Protection Authority (CCPA), set up in 2020 under the Consumer Protection Act, functions as a dedicated body to safeguard consumer rights in both traditional and digital markets. It has been vested with wide-ranging powers, including the ability to act on individual complaints as well as initiate suo moto proceedings. Its authority extends to imposing monetary penalties, directing the recall of unsafe or defective products, issuing public safety advisories, and even filing class action suits in instances of large-scale consumer harm.

In practice, the CCPA has already demonstrated an active enforcement role. Recent actions include imposing fines for misleading advertisements, penalising platforms for deploying manipulative dark patterns, and addressing improper price disclosures that mislead consumers at checkout. To strengthen this framework further,

¹⁰ India minister accuses Amazon, e-commerce firms of predatory pricing," *Reuters* (21 August 2024) <https://www.reuters.com/world/india/india-minister-accuses-amazon-e-commerce-firms-predatory-pricing-2024-08-21/> accessed on 5 October 2025.

¹¹ *Predatory Pricing Regulations for E-Commerce Platforms: Critical Analysis & Experts' Opinion* (Taxmann Research) <https://www.taxmann.com/research/competition-law/top-story/10501000000016373/predatory-pricing-regulations-for-e-commerce-platforms-critical-analysis-experts-opinion> accessed on 1 October 2025.

¹² *India's Quick Commerce Firms Under CCI Scrutiny for Predatory Pricing* (Medianama, 21 August 2025) <https://www.medianama.com/2025/08/223-india-quick-commerce-predatory-pricing-cci/> accessed on 6 October 2025.



a Joint Working Group has been created, bringing together representatives from government departments, academic experts, and consumer advocacy groups. This collaborative approach ensures that regulatory responses evolve in step with emerging business practices and technological developments.

4.3 Judicial Response and Precedents: Judicial rulings have played a crucial role in shaping how liability and enforcement are understood in the context of e-commerce. In *Christian Louboutin SAS v. Nakul Bajaj* (2018), the Delhi High Court made it clear that online platforms could be held accountable when they are knowingly involved, or negligent, in facilitating the sale of counterfeit goods. Similarly, in *Kent RO Systems Ltd. v. Amit Kotak* (2020), the Court stressed the responsibility of intermediaries, holding that a failure to act after receiving notice of infringement could expose them to liability. An earlier decision in *Yahoo! Inc. v. Akash Arora* (1999) extended trademark protection to internet domain names, signalling the judiciary's readiness to adapt established legal principles to the realities of the digital marketplace.¹³

5 DATA PROTECTION AND PRIVACY CONCERNs

5.3 The Digital Personal Data Protection Framework: Safeguarding consumer data has become a cornerstone of e-commerce regulation, as online platforms routinely collect and process vast amounts of personal and transactional information. The Digital Personal Data Protection Act, 2023 (DPDP Act) creates a comprehensive legal framework aimed at protecting privacy by giving individuals referred to as data principals broad rights over their information, including the ability to access, correct, and erase it. The law also obliges e-commerce companies to handle data in a transparent manner and to adopt stringent technical as well as organizational safeguards to ensure that consumer information is not misused or accessed without authorization.¹⁴

The transfer of consumer data across borders is subject to strict regulation, with foreign jurisdictions required to maintain protection standards equivalent to those in India, ensuring both privacy and sovereignty concerns are addressed. The Digital Personal Data Protection (DPDP) Rules, 2025, further refine these safeguards for the e-commerce sector by introducing mandatory grievance redressal systems and data protection impact assessments. Together, these measures align commercial practices with privacy obligations and reflect a significant shift toward a more consumer-oriented model of data governance within India's rapidly expanding digital economy.

5.4 Intellectual Property Rights and E-commerce: The growth of e-commerce has significantly amplified challenges surrounding intellectual property (IP) protection. Online platforms have become hotspots for the sale of counterfeit branded products, the circulation of pirated digital content, and the misuse of patented technologies. Typical instances of infringement range from the unauthorized distribution of books, movies, and software to the sale of imitation goods that unlawfully use established trademarks. Patent violations are also common, with sellers marketing products that incorporate protected designs or technological innovations without approval.

The sheer scale and anonymity of digital marketplaces make such violations harder to detect and regulate compared to traditional retail channels. In many cases, consumers may not even realize they are purchasing counterfeit or infringing goods until after the transaction, which undermines both brand credibility and consumer trust. As a result, intellectual property enforcement in the digital space has become an essential part of ensuring fair competition and protecting consumer interests, calling for stronger monitoring, stricter liability standards for platforms, and closer cooperation with rights holders.

India's framework for intellectual property protection rests on several key statutes, including the Copyright Act, 1957, the Trade Marks Act, 1999, the Patents Act, 1970, and the Designs Act, 2000. Complementing these, Section 79 of the Information Technology Act, 2000 outlines the liability of online intermediaries, generally

¹³ *Challenges of E-Commerce and Trademarks in the Indian Retail Industry* (Sanda Law Offices) <https://sandalawoffices.com/challenges-of-e-commerce-and-trademarks-in-the-indian-retail-industry/> accessed on 1 October 2025.

¹⁴ *E-Commerce Laws in India 2025: A Consumer Guide* (Lloyd Law College Blog) <https://www.lloydlawcollege.edu.in/blog/ecommerce-laws-india-2025-consumer-guide.html> accessed on 2 October 2025.



granting them safe harbour unless they neglect to act after being informed of infringing activity. Recent scholarship and enforcement trends reveal a growing shift toward holding e-commerce platforms more directly responsible for IP violations taking place on their sites, underscoring the importance of proactive monitoring and preventive mechanisms in safeguarding rights holders.¹⁵

6. CHALLENGES AND LIMITATIONS

6.1 Enforcement Challenges: Even with a well-developed legal framework, India continues to face major challenges in enforcing e-commerce regulation. Cross-border trade makes it difficult to establish jurisdiction, especially when sellers or platforms operate from outside the country. Regulatory bodies are further constrained by limited technical expertise and resources, which hampers their ability to oversee the vast and complex online marketplace. The speed of digital innovation frequently surpasses the pace at which laws and policies can evolve, creating gaps in protection. Moreover, the sheer volume of daily transactions renders manual monitoring ineffective, underscoring the need for advanced technological tools to strengthen enforcement and oversight.

6.2 Regulatory Gaps: Consumer protection in the e-commerce sector still suffers from notable legal and procedural shortcomings that reduce its overall effectiveness. One persistent issue lies in the lack of clarity over how responsibility should be divided between marketplace operators and the individual sellers who use their platforms, leading to uncertainty in attributing liability when disputes arise. Efforts at international cooperation on consumer protection are still in their early stages, which makes resolving cross-border grievances especially difficult.

The rapid rise of new technologies including blockchain, artificial intelligence, and augmented reality adds another layer of complexity. While these tools create novel opportunities for commerce, they also open the door to unfair practices that existing regulations have not yet anticipated. Smaller e-commerce businesses, meanwhile, struggle to meet compliance requirements due to cost and procedural burdens, while larger players often dominate conversations with regulators and shape the pace and direction of policy. This uneven balance of influence further underscores the need for more inclusive, adaptive, and forward-looking consumer protection frameworks that can address both current challenges and those yet to emerge.

6.3 Industry Compliance Barriers: For businesses, keeping pace with the overlapping web of regulations on consumer protection, data privacy, intellectual property, and competition law has become both complex and costly. Meeting compliance standards often demands heavy investment in legal expertise, technological infrastructure, and trained personnel—resources that smaller enterprises frequently struggle to afford. Constant changes and updates in regulatory requirements add another layer of uncertainty, making it difficult for companies to design stable, long-term compliance strategies. The challenge is even greater for firms engaged in cross-border e-commerce, where operating across multiple jurisdictions multiplies the obligations and creates significant compliance burdens.

7. FUTURE PROSPECTS AND RECOMMENDATIONS

7.1 Regulatory Strengthening: Strengthening the enforcement of consumer protection in India's digital marketplace requires a more integrated and forward-looking regulatory strategy. Greater coordination among key authorities—the Central Consumer Protection Authority (CCPA), the Competition Commission of India, and the Data Protection Authority—would help close existing gaps and avoid overlapping mandates. At the same time, the adoption of advanced technologies such as artificial intelligence and machine learning in regulatory monitoring could facilitate early detection of deceptive practices and improve the efficiency of oversight.

Given the global nature of e-commerce, expanding treaty-based cooperation and developing shared enforcement mechanisms with foreign regulators is essential for addressing cross-border disputes. In addition, the formulation of sector-specific guidelines for sensitive areas like pharmaceuticals, electronics, and cosmetics would provide businesses with clearer compliance benchmarks while ensuring stronger protection for consumers in high-risk

¹⁵ *Product Liability Laws and Regulations: India* (ICLG) <https://iclg.com/practice-areas/product-liability-laws-and-regulations/india> accessed on 8 October 2025.



domains. Collectively, these measures would align regulatory practices with the dynamic realities of e-commerce and foster a more accountable digital economy.

7.2 Consumer Awareness: Building consumer awareness and digital literacy is essential for strengthening protection against unfair trade practices. Public education initiatives and targeted campaigns can help users recognize risks such as manipulative design patterns or misleading advertising. In addition, the creation of simple and accessible mobile applications for lodging complaints and tracking grievance redressal would make the enforcement process more responsive and consumer-friendly.

7.3 Industry Self-Regulation: Statutory measures can be complemented by structured self-regulation within the industry. Large e-commerce platforms could be required to carry out regular self-audits and submit compliance reports, thereby reinforcing accountability. At the same time, the adoption of voluntary codes of conduct developed in collaboration with industry associations would cultivate a culture of shared responsibility. Multi-stakeholder platforms, bringing together regulators, businesses, and consumer groups, could further serve as forums for identifying emerging challenges and coordinating timely responses.

7.4 Technological Innovations: Emerging technologies offer new possibilities for strengthening consumer protection. Blockchain applications can be used to ensure supply chain transparency and verify product authenticity. Artificial intelligence has the capacity to process large volumes of data to uncover patterns of fraud and abusive practices. Automated monitoring tools could also provide real-time alerts to both regulators and consumers regarding misleading advertising or manipulative digital interfaces, thereby enabling quicker intervention and deterrence.

8. CONCLUSION

India has taken meaningful steps toward regulating unfair trade practices in the digital marketplace, most notably through the Consumer Protection Act, 2019, along with its allied rules and subsequent regulatory initiatives. The creation of the Central Consumer Protection Authority (CCPA) has provided a dedicated institutional framework for enforcement, and its recent interventions demonstrate a growing commitment to protecting consumer interests in the online economy.

That said, substantial hurdles remain. Regulatory agencies continue to face difficulties in keeping pace with technological change, ensuring consistent enforcement, and addressing the compliance burdens posed by complex business models. The effectiveness of India's consumer protection regime will ultimately hinge on its ability to remain agile through stronger coordination among domestic regulators, closer collaboration with international counterparts, and the adoption of advanced monitoring technologies.

Equally vital is the active participation of both consumers and industry in building a fairer digital marketplace. If these stakeholders work collectively with regulators, India has the potential to create a resilient e-commerce ecosystem that encourages innovation while embedding robust safeguards for consumer rights.