

Growth of E-Commerce Laws: A Historical Perspective

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Abstract: *With the emergence of the Internet, many technological developments are taking place. Internet has become, the way of life. The commercial transactions are conducted electronically on internet. The Internet has changed the fundamentals of business. It had evolved the industrial economy into an electronic economy which was later called E-commerce. E-commerce is all about doing business via electronic means. It comprises of all the transactions that are done using the internet. Electronic commerce can be referred to the selling of goods or exchanges among customers, business partners and vendors. It can also be called as sharing of trade data and conducting trade exchanges by implies of media transmission systems. Today E-commerce has become an integral part of our daily life. The Indian E-commerce portals provide facility for purchase of goods and services in different categories. Electronic commerce is the new evolving trend in business strategy. However, it did not just happen in 1998. Various car companies and supermarkets have been doing electronic commerce for many years, their electronic technology is called Electronic Data Interchange (EDI). In e-commerce sector there are mainly five types of transactions. In the view of this unparalleled eruption of E-commerce, the need for appropriate laws to govern transactions relating to e-commerce is there so that any kind of fraud is prohibited and also to defend the interest of customers. There are diverse provisions in the laws governing electronic commerce in India. E.g. Indian Contract Act 1872, Information Technology Act 2000, Consumer Protection Act 1986, Competition Act 2002.*

Keywords: Internet, Information Technology, E-Commerce, Electronic Data Interchange

1. Introduction

Time and space were defined by a single variable by Albert Einstein. The resulting mass equivalence led to great changes in physics, which helped mankind to understand the sub-atomic phenomenon and also relating to origin and development of space. The technology developing out of this science has been used for the betterment of society. The Internet is also another basic redefinition of time and space, which promises to bring unparalleled changes in society. The Internet can be defined as a computer network program, crossing all geographical boundaries consisting of interconnected, networks providing a variety of information and communication facility. At about 462.1 million of internet users, after China at 738.5 million of internet users, India now having the second largest internet user population in the world. [1]

As we approach towards the new era, the internet has revolutionized the society, economy and the technology. No one is sure, how long or in what direction, the internet will grow. No one can underestimate the importance of the internet. The internet has affected our lifestyles in a variety of spheres; internet has redefined methods of commerce, study, communication, work, health, trade, entertainment, etc.; internet has changed everything, the way we practice trade and commerce etc.; internet is a worldwide network that consists millions of computer systems around the globe, all of them are inter-connected to communicate with each other. Individuals pay their bills; book tickets and inn rooms; lease, offer and purchase homes, cars, etc. and do a parcel more online trade. It is not a result of the short time period but a long time has passed to reach this point. It is because of internet only that we are having a full-fledged electronic commerce. The Internet has proved a blessing to the business, taking its power from instantaneous transactions and easy flow of information, worldwide. [2]

2. Meaning of E-Commerce

E-commerce is all about doing business via electronic means. It comprises of all the transactions that are done using the internet. Electronic commerce can be referred to the selling of goods or exchanges among customers, business partners and vendors. It can also be called as sharing of trade data and conducting trade exchanges by implies of media transmission systems. Electronic commerce has surprisingly increased the ease and speed with which businesses can be carried out today, which results in enormous competition among various businesses. Online business is increasing and more and more corporate businesses are joining the arena of electronic transactions. It is human nature that anyone will do something if they are convinced that there is no risk factor or they will be safe while doing it. The mechanism of e-commerce will succeed only if it is safe. This safety was provided by cyber laws and that was the basis responsible for the growth of cyber laws. [3] The use of digital information has established the era of e-commerce and ushered it. Electronic commerce is the new evolving trend in business strategy. However, it did not just happen in 1998. Various car companies and supermarkets have been doing electronic commerce for many years, their electronic technology is called Electronic Data Interchange (EDI). [4]

‘Electronic Data Interchange’ (EDI) is the organized communication of information among associations by automatic technology. EDI was initially created by the car industry within the 1970s. Nowadays, it is broadly utilized in an assortment of businesses. EDI is utilized to exchange electronic reports or trade information from one server to another server, i.e. from one exchanging accomplice to different exchanging accomplice without any human intercession. It is more than simple e-mail e.g. associations may supplant bills of filling and indeed cheques with fitting EDI message. EDI and alternative comparable innovation

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spares company's cash by giving interchange to or supplanting, data streams that incorporates managing with mortal interaction and things, such as paper archives, gatherings, fax, etc. One preeminent well-being of EDI over the paper archive is the velocity with which the exchanging accomplice gets and acclimatizes the data into their framework; hence, significantly decreasing cycle times. [5]

There was electronic technology that was called electronic market, under which airline tickets have been sold using electronic commerce. In France, electronic commerce has begun since 1983, but they use the system called Teletel. [6] Teletel was a Videotex online benefit open through phone lines and is considered one of the world's most effective pre-World Wide Web online administrations. [7] In the present scenario, the e-commerce revolution has started with 'dot.com' companies and large corporations are employing new personals for newly developed departments relating to e-commerce. The estimated value of e-commerce on a world scale was US\$3.14 trillion in 2004 according to report of International Data Corporation (IDC). [8]

3. Advantages and Disadvantages of E-Commerce

Because of increase in the technology and software programs e-commerce have expanded rapidly. E-commerce proves a blessing for the mankind which helps to shorten the distance of the world and makes it as a village. The attribute of e-commerce is multi-disciplinary. Various disciplines like computer science, consumer behaviour, marketing, finance, consumer psychology, information system, management, banking, business law and many other fields are the part of e-commerce. There are many advantages as well as disadvantages of e-commerce. As we say that positive and negative are the two sides of the same coin and every aspect which has positives can also have its negatives.

Advantages:

It overcomes geographical limitations which means that a person can buy anything with no boundaries and have ample of choices with the expansion of the e-commerce business or websites. E-commerce enhanced the quality of personal choice by giving them so many substitutes for the same product at the same time. It enables faster purchasing and selling procedure and easy to find the product and gain new customers with search engine visibility. In e-commerce websites, the cost of the products may be lower than the physical market. A Person can locate the products quickly via e-commerce websites than the physical search. E-commerce can eliminate travel time and cost and nowadays with the help of e-commerce person can visit the store virtually and purchase the product. E-commerce facilitates comparison shopping and finds the best price for the same product. E-commerce can enable deals, discount coupons and sale. E-commerce makes it more convenient to know the product information and also provides the abundant information easily. E-commerce is available at any time and provides the services 24/7. It also facilitates delivery of public services and many other facilities like cash on delivery (COD) etc.

Disadvantages:

E-commerce is not possible in the places where there is lack of internet connectivity and knowledge of it is less. Any person good or bad can open the website and start their business electronically, and there are numerous awful locales that can eat up the customer's cash and do online extortion. It is not suitable for perishable commodities. The Customer can't try or experience the product before they buy. There is no guaranty of the product quality. As there is the minimum chance of the interaction between the company and the customer, customer's right is always at stake. There is the chance that the product which is ordered by the customer can be varied. There are numerous programmers who hunt for the openings, and hence an e-commerce location, benefit, instalment doors, all are continuously inclined to assault. While providing the personal information and credit cards details for the purchase it can lead to credit card fraud or even worse identity theft.

4. Types of E-Commerce Transactions

In Electronic commerce sector, there are five types of arrangements -

- Business to Customer (B2C)
- Business to Government (B2G)
- Business to Business (B2B)
- M-commerce
- Customer to Customer (C2C)

Business to Business: It is one of the basic and important models of E-commerce. In this model, the electronic business takes place between two different businesses. It is also known as E-biz, i.e., it includes the exchange of services, products and information among businesses rather than consumers and businesses; thus, it plays a noteworthy part in creating and transforming the relationship between and among various businesses. Under B2B model, one company communicates with other companies through an electronic medium. E.g. amazon.com, SHOP2gether.com, MetalSite.com, etc. [9]

Business to Customer: It includes selling of products or services from businesses to general public or customers. B2C electronic businesses include retail sales, often called E-retail (or e-mail) [10]. These products can be anything ranging from jewellery, clothing, flowers, and products which are intangible, such as online banking, airline tickets, the share of stocks etc. B2C could be a concept of online showcasing and conveyance of services and items on the web. [11]

Customer to Customer: It is a business model, whereby the transactions and services take place between customers. Customers can purchase or sell their used product electronically and make money from the non-used item. It also includes negotiated price, e.g., OLX.com, elanic.com, eBay.com, etc. [12]

Business to Government: It is by and large characterized as the commerce between companies and the open division. This kind of e-commerce has two highlights: to begin with, the open division plays a driving part to set up e-commerce; and moment, it is accepted that the open segment has the

most prominent require for making its obtainment framework more compelling. It implies the use of the web for public obtainment, licensing strategies, and other government-related functions. A web-based buy approach upgrades the straightforwardness of obtainment prepare and decreases the chance of inconsistencies. In any case, the measure of B2G E-commerce advertise as a constituent of add up to E-commerce is immaterial. [13]

M-Commerce: M-Commerce or portable commerce is the purchasing and offering of merchandise via mobiles or remote innovation. It makes the life as well as utilize of innovation exceptionally simple so that anybody can utilize it with no intrusion. M-commerce demonstrates as an insurgency within the field of e-commerce. As conveyance of substance over remote innovation gotten to be speedier, more secure and adaptable, a few accepted that M-commerce will supersede land-line e-commerce, as a strategy of preference for advanced exchanges. This may be perfect for Asia-Pacific where there are more clients of mobile than wire-line clients. [14]

According to KPMG professional service company report on E-commerce retail logistics India, the electronic commerce retail showcase is evaluated to be worth the US \$12 billion. With a share of 47% gadgets is right now the biggest section of e-commerce in India. As of now, there are '1-1.2 million' exchanges every day in e-commerce market. [15]

In the view of this unparalleled eruption of E-commerce, the need for appropriate laws to govern transactions relating to e-commerce is there so that any kind of fraud is prohibited and also to defend the interest of customers. There are diverse provisions in the laws governing electronic commerce in India. E.g. Indian Contract Act 1872, Information Technology Act 2000, Consumer Protection Act 1986, Competition Act 2002.

“Uncitral Model Law on E-Commerce”

Universal law is the primary major center of the United Nations. The command for the exercises in this field risen from the Constitution of United Nations which, in its Preface, settled the objective 'to set up conditions beneath which equity and regard for the commitments emerging from arrangements and other sources of universal law can be maintained'. The International court of justice found within The Hague (Netherlands) is one of the six major organs of the United Nations. The Court, in presence since 1946, serves as the descendent to the Permanent Court of International Justice set up by the Association of Countries and determines its specialist from the statute which shapes a characteristic portion of the constitution of the United Nations. The Court has two capacities: to grant judgments on disputes submitted to it by states and to supply admonitory suppositions on questions alluded to it by approved bodies. [16]

“United Nation General Assembly” established “The International Law Commission” as a result of a resolution passed on November 21, 1947. [17] The primary objective of International law commission was the systematization and promotion of international law. [18] The General Assembly

has amended the statute a lot of times and the updated version of which is available online. The Commission meets annually in Geneva and reports to the General Assembly.

“The United Nation Commission on International Trade Law” (UNCITRAL) was built up by the Common Gathering Determination. On December 17, 1966. [19] Section- I and II of the determination characterize the control and work of the commission. Its essential objective is the advancement of the dynamic harmonization and unification of the law of the worldwide exchange. [20] The commission meets yearly in Vienna and New York on the other hand and reports to the General Assembly.

Among the developing concern for the control of electronic commerce and to create benchmarks which can be taken after as rules by the states concerned in surrounding their national law on the subject, UNCITRAL embraced a determination on “Legal Esteem of Computer Records”, which was endorsed through a determination on December 11, 1985 by the United Nations General Assembly. [21] This was taken after by the ‘Model Law on Electronic Commerce’ which was acknowledged by the United Nations General Assembly through a determination on 30th January 1997. [22] The determination ties the part states to allow legitimate consideration to the arrangements of the Model Law whereas surrounding or revising their law with a view to accomplishing consistency of law on electronic commerce around the world. [23] Further, the UNCITRAL received a “Model Law on Electronic Signature” through a determination by the United Nations General Assembly on December 12, 2001. [24] With the worldwide integration and improvement of exchange and commerce, the worldwide commerce contracts ended up exceptionally simple. In any case, it may not be completed electronically until the offer, acknowledgment and the communication between the parties through electronic implies has lawfully agreed. To create this simple, another UN activity was taken within the year 2005 within the shape of United Nations Convention on the Use of Electronic communications within the universal contract.

With the view to smoothen the method of worldwide exchange and to advance it through electronic implies, UNCITRAL came out with the report in 2007. This report was distributed in 2009 with the title “Promoting Confidence in Electronic Commerce: Legal Issues on International Use of Authentication and Signature Methods”. It comes within the shape of the standalone distribution and could be a reference report. It is in turn anticipated to assist UNCITRAL and distinguish the ranges where it may seek after harmonization movement in future.

The Draft of Electronic Commerce Act, 1998:

In reaction to the UNCITRAL model law, India drafted its first law on electronic commerce i.e. “the Electronic Commerce act 1998 with Electronic Commerce Support act, 1998”. It led to a revolution in the business practices and fast development of information and communication technologies. These transactions which were achieved through electronic means- all together was termed as ‘Electronic Commerce’ which led to the creation of new legal issues and there was a move from paper-based

transactions to electronic exchanges. Because of this shift, a lot of questions were about like authenticity and enforceability of electronic documents as well as electronic signature. This put a challenge for the lawmakers to create a balance between promoting technological development and safeguarding e-commerce. The Electronic Commerce Act of 1998 points to encourage the advancement of a secure administrative environment for electronic commerce by giving a legitimate framework administering electronic contracting, security and integrity of electronic exchanges, the use of digital signatures and other issues related to electronic commerce. [25]

The bill of Electronic commerce Act 1998 and Electronic Commerce Support Act has been arranged by the Minister of commerce additionally by the Office of Electronics to encourage a secure administrative environment for Electronic Commerce. Both these draft bills have been sent to Law Ministry for appropriation and it is caught on that a comprehensive single act is being worked out by them joining the inputs of both the drafts. The changed document set before the parliament for endorsement. [26]

In any case, with the birth of Ministry of Information Technology, the work was attempted by it, and what came forward was The Information technology Bill, 1999. The Charge was presented within the Parliament in December 1999, was passed in May 2000. It came into impact from October 23, 2000.

“The Information Technology Act 2000”

The objective of The Information Technology Act, 2000 is to supply lawful acknowledgment for the exchanges carried out by implies of electronic information compatibility and other implies of electronic communication, commonly alluded to as "**Electronic Commerce**". It includes the use of choices to paper-based strategies of communication and capacity of data and encourages electronic filings of documents with the Government organizations. To attain this objective Indian Penal Code, 1860; Indian Evidence Act, 1872; The Bankers' Books Evidence Act, 1891; and the Reserve Bank of India Act, 1934; were to be revised as well to form them in compliance with the modern technologies. And aligned these provisions for regulating electronic commerce. The Information Technology Act, 2000 originally had 13 chapters which includes 94 sections and 4 schedules. This is the basic law which deals with Cybercrime and Electronic commerce. The Information Technology amendment bill was passed in the year 2006 which was introduced in December 15, in Lower House of Parliament. The Amendment Bill of 2006 was further amended by the Bill of 2008 and the same act was named as 'Information Technology Amendment Act', 2008 (ITAA, 2008). [27]

5. Conclusion

As in the era of information technology, the laws relating to e-commerce is developing on a rapid basis. Every person in the society has to contribute to the advancement of the e-commerce laws and only with the help of the consumers the laws can be developed. There should be proper law implementation machinery with the help of which law can

be enforced. There is the need for complimenting and supplementing the e-commerce laws in India. The government of India must start the awareness programs regarding the e-commerce and the e-commerce laws by which the interest of the consumers can be protected. There are so many problems faced by the consumers while using e-commerce and sometimes because of their negligence and unawareness the e-commerce platform will be publicized badly and the fraudster will get the advantage of the innocence of the people. The laws on e-commerce should keep on pace with the emerging trend and the proper or faster machinery for the settlement of the dispute must be established. The better way to curb the e-commerce problem is the establishment of online complaint mechanism and helpline number by which people with the problem regarding e-commerce can register their complaints and know about the existing laws regarding the solution of their problem. By the speedier problem-solving mechanism, the number of cases can be increased, which previously get neglected by the consumers by acquiring information or knowledge about the e-commerce laws.

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