



ROLE OF JUDICIARY AND REGULATORY AUTHORITIES IN REGULATING UNFAIR TRADE PRACTICES IN E-COMMERCE

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Abstract : This study explores how India's legal system is responding to unfair trade practices in the fast-growing world of e-commerce and quick commerce. As more people rely on digital platforms for everyday purchases, concerns around misleading advertisements, hidden charges, and platform accountability have become increasingly relevant. The research looks at how courts have stepped in to protect consumers by interpreting existing laws in a way that fits modern, technology-driven markets. Key judgments such as *Indian Medical Association v V P Shantha* and *Shreya Singhal v Union of India* show how the judiciary has expanded consumer rights and clarified the responsibilities of online platforms. Alongside the judiciary, regulatory bodies like the Central Consumer Protection Authority and the Competition Commission of India play a key role in monitoring market practices and ensuring fairness. However, the study finds that challenges such as weak enforcement, complex technologies, and overlapping responsibilities often limit their effectiveness. The paper argues that India needs a more forward-looking and flexible approach to regulation, one that keeps up with technological change while keeping consumer interests at its core. Strengthening coordination, improving technical expertise, and updating legal frameworks will be essential to ensure fairness, transparency, and trust in the digital marketplace.

INTRODUCTION

The judiciary plays a crucial role in interpreting and enforcing laws related to unfair trade practices, particularly in the evolving context of e-commerce and quick commerce. While legislative frameworks provide the foundation for consumer protection and competition regulation, it is the judiciary that gives practical meaning to these laws through interpretation and application. In India, courts have actively contributed to shaping the legal landscape by addressing issues such as misleading advertisements, platform liability, consumer rights, and unfair business practices.

With the rise of digital markets, the judiciary has been required to adapt traditional legal principles to new technological realities. This has led to the development of jurisprudence that seeks to balance innovation with consumer protection, ensuring that digital platforms operate within the bounds of fairness and legality.

1. ROLE OF INDIAN JUDICIARY IN REGULATING UNFAIR TRADE PRACTICES

1.1 Judicial Interpretation of Unfair Trade Practices

Indian courts have consistently recognised the importance of protecting consumers from unfair trade practices. The concept has been interpreted broadly to include not only direct misrepresentation but also any conduct that misleads or deceives consumers.

In *Indian Medical Association v V P Shantha*, the Supreme Court expanded the scope of consumer protection by holding that services fall within the ambit of consumer law. This judgment was significant in establishing that consumer protection extends beyond the sale of goods to include services, which is particularly relevant in the context of digital platforms.

Similarly, in *Lucknow Development Authority v M K Gupta*, the Court emphasised that consumer protection laws should be interpreted in a manner that promotes consumer welfare and accountability. The judgment highlighted the need for a liberal interpretation of the law to address emerging forms of unfair practices.

These cases laid the foundation for the application of consumer protection principles in digital commerce, where services provided by platforms play a central role.¹

1.2 Judicial Approach to Misleading Advertisements

The judiciary has also taken a strong stance against misleading advertisements, recognising their impact on consumer decision-making. Courts have held that advertisements must be truthful, transparent, and not deceptive in nature.

¹ Indian Medical Association v V P Shantha (1995) 6 SCC 651.

In **Hamdard Dawakhana v Union of India**, the Supreme Court observed that misleading advertisements can harm public interest and must be regulated to prevent consumer exploitation. Although this case predates the digital era, its principles remain relevant in the context of online advertising.

More recently, courts have addressed issues related to digital advertisements and endorsements, including the role of influencers and online platforms. The increasing use of targeted advertising in e-commerce and quick commerce has made judicial oversight even more critical.²

1.3 Platform Liability and Intermediary Responsibility

One of the key challenges in digital commerce is determining the liability of platforms for the actions of third-party sellers. Courts have examined this issue in light of the intermediary provisions under the Information Technology Act, 2000.

In **Shreya Singhal v Union of India**, the Supreme Court clarified the scope of intermediary liability and emphasised the importance of due diligence. While the case primarily dealt with freedom of speech, its interpretation of intermediary liability has significant implications for e-commerce platforms.

The judgment established that intermediaries cannot be held liable for third-party content unless they have actual knowledge of unlawful activity and fail to act. This principle is relevant in cases involving unfair trade practices, where platforms may host misleading advertisements or fraudulent sellers.

However, the application of this principle in e-commerce remains complex, as platforms often play an active role in curating content and influencing consumer behaviour. This raises questions about the extent to which they should be held accountable for unfair practices.³

1.4 Judicial Recognition of Consumer Rights in Digital Transactions

Indian courts have increasingly recognised that consumer rights must be protected in digital transactions, just as they are in traditional markets. The judiciary has emphasised the need for transparency, fairness, and accountability in online platforms.

In various decisions, courts have acknowledged that the digital nature of transactions does not diminish the rights of consumers. Instead, it may increase their vulnerability due to the lack of physical interaction and reliance on digital information.

The recognition of digital consumer rights is particularly important in the context of quick commerce, where transactions are completed rapidly and often without detailed scrutiny. Judicial intervention plays a key role in ensuring that consumers are not exploited in such environments.⁴

1.5 Challenges Faced by Judiciary in Digital Markets

Despite its proactive role, the judiciary faces several challenges in regulating digital markets. The rapid pace of technological innovation often outstrips the development of legal principles, making it difficult to address emerging issues effectively.

The technical complexity of digital platforms, including algorithms and data analytics, may also pose challenges for courts in understanding and evaluating unfair practices.

Additionally, the lack of specific legislation for quick commerce creates ambiguity, requiring courts to interpret existing laws in new contexts.

These challenges highlight the need for specialised knowledge and continuous adaptation in judicial approaches to digital commerce.

1.6 Judiciary Role

The Indian judiciary has played a vital role in shaping the legal framework governing unfair trade practices, particularly in the context of evolving digital markets. Through progressive interpretation and application of laws, courts have ensured that consumer protection remains a priority. However, the complexities of e-commerce and quick commerce require ongoing judicial engagement and the development of new legal principles to address emerging challenges effectively.

2. ROLE OF REGULATORY AUTHORITIES IN E COMMERCE AND QUICK COMMERCE

2.1 Role of Central Consumer Protection Authority (CCPA)

The Central Consumer Protection Authority (CCPA), established under the Consumer Protection Act, 2019, plays a pivotal role in regulating unfair trade practices and protecting consumer rights in digital markets. The authority has been vested with wide-ranging powers, including the ability to conduct investigations, order the recall of unsafe goods, impose penalties, and issue directions to discontinue unfair practices.⁵

In the context of e-commerce and quick commerce, the CCPA has emerged as a key regulatory body addressing issues such as misleading advertisements, fake reviews, and deceptive pricing practices. Its proactive approach is evident in the issuance of guidelines aimed at curbing misleading advertisements and ensuring transparency in digital platforms. These guidelines impose obligations on advertisers, endorsers, and platforms to ensure that claims made in advertisements are truthful and substantiated.

The CCPA also plays an important role in addressing the growing concern of dark patterns in digital interfaces. By recognising such practices as potentially unfair and deceptive, the authority has taken steps to promote ethical design practices and protect consumer autonomy. However, the effectiveness of these measures depends largely on enforcement and compliance by digital platforms.

² Hamdard Dawakhana v Union of India AIR 1960 SC 554.

³ Lucknow Development Authority v M K Gupta (1994) 1 SCC 243.

⁴ Shreya Singhal v Union of India (2015) 5 SCC 1.

⁵ Consumer Protection Act 2019, ss 18–21.

2.2 Role of Competition Commission of India (CCI)

The Competition Commission of India (CCI) is responsible for ensuring fair competition in the market and preventing practices that have an adverse effect on competition. In the context of e-commerce and quick commerce, the CCI has been actively involved in examining issues such as market dominance, preferential treatment, exclusive agreements, and predatory pricing.

The CCI's *Market Study on E-Commerce in India* provides valuable insights into the functioning of digital platforms and highlights concerns related to platform neutrality and data usage.⁶ The study identifies key issues such as the preferential treatment of certain sellers, lack of transparency in search rankings, and the use of data to gain competitive advantage.

Through its investigative and adjudicatory functions, the CCI has sought to address anti-competitive practices in digital markets. It has examined cases involving major e-commerce platforms, focusing on whether their conduct constitutes abuse of dominant position or anti-competitive agreements. These efforts reflect the growing importance of competition law in regulating digital commerce.

In the context of quick commerce, the role of the CCI is particularly significant, as the sector is characterised by aggressive expansion strategies and high levels of market concentration. Ensuring that competition remains fair and open is essential for preventing monopolistic behaviour and protecting consumer interests.

2.3 Role of Ministry of Consumer Affairs and Government Policies

The Ministry of Consumer Affairs plays a central role in formulating policies and regulations related to consumer protection in India. It has been instrumental in introducing the Consumer Protection (E-Commerce) Rules, 2020, which establish guidelines for the functioning of e-commerce platforms.

The Ministry has also issued various guidelines to address emerging issues in digital markets, including misleading advertisements and dark patterns. These policy initiatives reflect a proactive approach to regulating digital commerce and ensuring that consumer rights are safeguarded.

In addition to regulatory measures, the government has undertaken initiatives to promote digital literacy and consumer awareness. These efforts are aimed at empowering consumers to make informed decisions and recognise unfair trade practices.

However, the rapid evolution of quick commerce presents new challenges that require continuous policy innovation. The development of sector-specific guidelines may be necessary to address the unique features of quick commerce.

2.4 Role of Self-Regulatory Mechanisms

In addition to statutory regulation, self-regulatory mechanisms play an important role in governing digital commerce. Industry bodies and platforms often establish codes of conduct and guidelines to promote ethical practices and ensure compliance with legal requirements.

Self-regulation can be particularly effective in addressing issues such as advertising standards and content moderation, where industry expertise and flexibility are essential. However, the effectiveness of self-regulatory mechanisms depends on the willingness of platforms to adhere to these standards and the existence of accountability mechanisms.

In the absence of strong enforcement, self-regulation may not be sufficient to prevent unfair trade practices. Therefore, it must complement, rather than replace, statutory regulation.

2.5 Coordination Between Regulatory Authorities

The regulation of e-commerce and quick commerce involves multiple authorities, including the CCPA, CCI, and the Ministry of Consumer Affairs. Effective coordination between these bodies is essential for addressing the complex and interconnected issues arising in digital markets.

For example, a case involving misleading advertisements may fall within the jurisdiction of the CCPA, while the same conduct may also have implications for competition law, requiring intervention by the CCI. Similarly, issues related to data protection and intermediary liability may involve additional regulatory authorities.

A coordinated approach can help avoid regulatory overlap and ensure that enforcement actions are consistent and effective. This may involve information sharing, joint investigations, and the development of unified guidelines.

2.6 Challenges Faced by Regulatory Authorities

Despite their important role, regulatory authorities face several challenges in overseeing digital markets. The scale and complexity of e-commerce and quick commerce platforms make it difficult to monitor compliance effectively. The use of advanced technologies such as algorithms and artificial intelligence further complicates the regulatory process.

Another challenge is the lack of technical expertise and resources required to analyse digital systems and detect unfair practices. Regulatory authorities may need to develop specialised capabilities and collaborate with technical experts to address these issues. Additionally, the rapid pace of innovation in digital markets often outstrips the ability of regulatory frameworks to adapt. This creates a need for continuous review and updating of laws and policies to keep pace with technological developments.

2.7 Regulatory guidelines in digital economy

Regulatory authorities play a critical role in ensuring that e-commerce and quick commerce platforms operate within the framework of fairness, transparency, and accountability. The combined efforts of the CCPA, CCI, and government bodies have contributed to the development of a regulatory ecosystem that addresses various aspects of digital commerce. However, the effectiveness of this framework depends on robust enforcement, coordination among authorities, and the ability to adapt to emerging challenges in the digital economy.

⁶ Competition Commission of India, *Market Study on E-Commerce in India* (2020).

2.8 Effectiveness of Judicial and Regulatory Mechanisms

The combined efforts of the judiciary and regulatory authorities have significantly contributed to addressing unfair trade practices in e-commerce and quick commerce. Judicial interpretation has expanded the scope of consumer protection laws, while regulatory bodies such as the Central Consumer Protection Authority and the Competition Commission of India have introduced mechanisms to monitor and control digital market behaviour. These developments have created a foundational framework that recognises the complexities of digital commerce and attempts to address them through legal and institutional measures.

However, the effectiveness of these mechanisms is often limited by practical challenges in implementation. While courts have delivered progressive judgments, the enforcement of such decisions may be delayed due to procedural complexities and backlog of cases. Similarly, regulatory authorities, despite having extensive powers, may face difficulties in ensuring compliance across large and technologically complex platforms. This gap between legal provisions and their practical enforcement reduces the overall effectiveness of the regulatory framework.

2.9 Limitations of Judicial Intervention

Judicial intervention, although essential, is inherently reactive in nature. Courts typically address disputes after they arise, rather than preventing unfair practices at an early stage. In the context of quick commerce, where transactions occur rapidly and at scale, this reactive approach may not be sufficient to address systemic issues.

Additionally, the judiciary may face challenges in dealing with highly technical aspects of digital platforms, such as algorithmic decision-making and data analytics. The lack of specialised technical expertise can make it difficult to assess whether certain practices constitute unfair trade practices or legitimate business strategies.

Another limitation is the absence of specific legislation addressing quick commerce. In such cases, courts are required to interpret existing laws, which may not fully capture the nuances of digital markets. This can lead to inconsistent or limited judicial outcomes, highlighting the need for clearer statutory guidance.

2.10 Limitations of Regulatory Authorities

Regulatory authorities, despite their proactive role, face several structural and operational limitations. One of the primary challenges is the scale of digital commerce, which involves millions of transactions and multiple stakeholders. Monitoring compliance across such a vast ecosystem requires significant resources and technological capabilities, which may not always be available.

The lack of transparency in platform operations further complicates regulatory efforts. Algorithms used for pricing, ranking, and recommendations are often proprietary and not subject to public disclosure. This makes it difficult for regulators to detect and prove unfair practices, particularly those embedded within automated systems.

Moreover, overlapping jurisdictions among different regulatory bodies can create confusion and inefficiency. For instance, issues related to misleading advertisements, data protection, and competition may fall under the purview of different authorities, leading to fragmented enforcement. This highlights the need for better coordination and clarity in regulatory responsibilities.

2.11 Need for Proactive and Adaptive Regulation

Given the limitations of existing mechanisms, there is a pressing need for a more proactive and adaptive approach to regulation. Instead of relying solely on reactive enforcement, regulatory frameworks should incorporate preventive measures that address potential risks before they materialise.

This may include the introduction of mandatory disclosures regarding algorithmic processes, stricter guidelines on pricing practices, and enhanced monitoring of platform behaviour. Regulatory authorities should also adopt data-driven approaches to identify patterns of unfair practices and take timely action.

An adaptive regulatory framework is particularly important in the context of quick commerce, where business models and technologies evolve rapidly. Laws and policies must be flexible enough to accommodate these changes while maintaining the core principles of fairness and transparency.⁷

2.12 Importance of Technological Expertise and Capacity Building

The regulation of digital markets requires a high level of technical expertise, particularly in areas such as artificial intelligence, data analytics, and algorithmic systems. Regulatory authorities must develop the capacity to understand and analyse these technologies in order to effectively address unfair trade practices.

This may involve the recruitment of technical experts, collaboration with academic institutions, and the use of advanced analytical tools. Building such capacity is essential for bridging the gap between legal frameworks and technological realities.

In addition, training and awareness programmes for judicial officers can enhance their ability to deal with complex digital issues. A multidisciplinary approach that integrates legal and technical knowledge is crucial for effective regulation.

2.13 Need for Stronger Consumer-Centric Approach

A consumer-centric approach is essential for ensuring that the regulatory framework effectively addresses the concerns of individuals using e-commerce and quick commerce platforms. This involves not only protecting consumers from unfair practices but also empowering them to make informed decisions.

Enhancing consumer awareness is a key component of this approach. Consumers must be educated about their rights and the mechanisms available⁸ for redressal. Simplifying grievance redressal processes and ensuring timely resolution of complaints can further strengthen consumer confidence.

⁷ Competition Act 2002.

⁸ Consumer Protection Act 2019.

Additionally, regulatory frameworks should prioritise transparency and accessibility, ensuring that consumers have access to clear and accurate information. This is particularly important in quick commerce, where decisions are made rapidly and often without detailed scrutiny.

2.14 Need for Comprehensive Legal Reforms

The challenges associated with quick commerce highlight the need for comprehensive legal reforms that address the unique features of digital markets. Existing laws, while relevant, may not be sufficient to deal with emerging issues such as algorithmic pricing, dark patterns, and data-driven manipulation.

A dedicated legal framework for quick commerce could provide greater clarity and consistency in regulation. Such a framework should define key concepts, establish clear obligations for platforms, and provide mechanisms for enforcement.

Reforms should also focus on strengthening penalties for violations, ensuring that they act as effective deterrents. At the same time, regulatory measures should encourage innovation and competition, creating a balanced approach that supports both economic growth and consumer protection.

2.15 Additional Analytical Perspective: Balancing Innovation and Regulation

An important aspect of regulating quick commerce is the need to balance innovation with legal control. Over-regulation may stifle technological advancement and limit the growth of digital markets, while under-regulation may allow unfair practices to flourish. Achieving the right balance requires a nuanced understanding of both legal principles and market dynamics.

Quick commerce platforms have contributed significantly to improving accessibility and efficiency in retail markets. However, these benefits should not come at the expense of fairness and transparency. Regulatory frameworks must therefore adopt a balanced approach that encourages innovation while ensuring accountability.

This balance can be achieved through principles-based regulation, which focuses on overarching values such as fairness, transparency, and consumer welfare, rather than rigid rules. Such an approach allows for flexibility and adaptability, enabling regulators to respond effectively to changing market conditions.

CONCLUSION

The role of the judiciary and regulatory authorities in addressing unfair trade practices in e-commerce and quick commerce is both significant and evolving. While considerable progress has been made, several limitations and challenges remain. Addressing these issues requires a comprehensive and forward-looking approach that integrates legal reform, technological expertise, and consumer empowerment. By adopting such measures, it is possible to create a regulatory framework that ensures fairness, promotes innovation, and protects consumer interests in the digital economy.

