

Government of India
Ministry of Consumer Affairs, Food and Public Distribution
(Department of Consumer Affairs)

The Department of Consumer Affairs extends the receipt of comments from the stakeholders on the draft guidelines on e-commerce, available in the website of the Department, from 16th September, 2019 to 31st October, 2019.

2. The views /comments /suggestions on the draft guidelines may be sent by e-mail to dscpu-ca@nic.in.



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Draft

Advisory to State Governments / Union Territories: Model Framework for Guidelines on e-Commerce for consumer protection

These guidelines, may be called the e-Commerce Guidelines for consumer protection 2019. These are issued as guiding principles for e commerce business for preventing fraud, unfair trade practices and protecting the legitimate rights and interests of consumers.

These Guidelines apply to the Business-to-Consumer e-Commerce, including goods and services, which also include digital contents products (hereafter “goods and services”).

1. Short Title & Commencement –

(1) These Guidelines may be called the Consumer Protection (e-Commerce) Guidelines, 2018.

(2) They shall come into force on the date of their publication in the official Gazette.

2. Definitions –

(1) In these Guidelines unless the context otherwise requires, -

a. **"Act"** means the Consumer Protection Act, 1986 (68 of 1986)

b. **“Consumer”** shall have the same meaning as provided under the Consumer Protection Act, 1986 (68 of 1986)

c. **“E-Commerce entity”** means a company incorporated under the Companies Act, 1956 or the Companies Act, 2013 or a foreign company covered under section 2 (42) of the Companies Act, 2013 or an office, branch or agency in India as provided in Section 2 (v) (iii) of FEMA 1999, owned or controlled by a person resident outside India and includes an electronic service provider or a partnership or proprietary firm, whether inventory or market place model or both and conducting the e-Commerce business;

Provided that “e-Commerce Entity” does not include any entity or business notified otherwise by the Government for the said purpose from time to time.

d. **“Electronic Record”** means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche; (as per Information Technology Act);

- e. **“Electronic Service Provider”** means a person who provides technologies or processes to enable a product seller to engage in advertising or selling of goods or services to a consumer and includes any online market place or online auction sites;
- f. **“Goods”** means goods as defined in the Sale of Goods Act, 1930
- g. **“Inventory based model of e-Commerce”** means an e-Commerce activity where inventory of goods and services is owned by e-Commerce entity and is sold to the consumers directly;
- h. **“Information”** includes data, message, text, images, sound, voice, codes, computer programmes, software and databases or micro film or computer generated micro fiche; (as per Information Technology Act);
- i. **“Market place model of e-Commerce”** means providing of an information technology platform by an e-Commerce entity on a digital & electronic network to act as a facilitator between buyer and seller;
- k. **“Seller”** means product seller as defined in the Sale of Goods Act 1930 and includes a Service Provider;
- l. **“Service”** means Service as defined in the Consumer Protection Act, 1986;

(2) Words and expressions used in these guidelines and not defined but defined in the CP Act shall have the meanings respectively assigned to them in the Act.

3. General Conditions for carrying out e-Commerce business

(a) Every e-Commerce entity carrying out or intending to carry out e-Commerce business in India subsequent to the publication of this notification in the Gazette, shall within 90 days comply with the following set of conditions for the conduct of e-Commerce business:

- i. It shall be a registered legal entity under the laws of India;
- ii. It shall submit a self-declaration to this Department stating that it is in compliance with these Guidelines;
- iii. The promoter or key management personnel should not have been convicted of any criminal offence punishable with imprisonment in last 5 years by any Court of competent jurisdiction;
- iv. It shall comply with the provisions of Information Technology (Intermediaries guidelines) Rules, 2011.
- v. Payments for sale may be facilitated by the e-Commerce entity in conformity with the guidelines of the Reserve Bank of India.
- vi. Details about the sellers supplying the goods and services, including identity of their business, legal name, principal geographic address, name of website, e-mail address,

contact details, including clarification of their business identity, the products they sell, and how they can be contacted by customers shall be displayed in the web site.

4. Liabilities of E Commerce entity

An E- commerce Entity shall not,

- i. directly or indirectly influence the price of the goods or services and shall maintain a level playing field;
- ii. adopt any trade practice which for the purpose of promoting the sale, use or supply of any goods or for the provision of any service, or composite supply, adopts any unfair methods or unfair or deceptive practice that may influence transactional decisions of consumers in relation to products and services;
- iii. falsely represent themselves as consumers or post reviews about goods and services in their name; or misrepresent or exaggerate the quality or the features of goods and services.

An E-Commerce Entity shall,

- i. display terms of contract between e-Commerce entity and the seller relating to return, refund, exchange, warranty / guarantee, delivery / shipment, mode of payments, grievance redressal mechanism etc. to enable consumers to make informed decisions.
- ii. ensure that the advertisements for marketing of goods or services are consistent with the actual characteristics, access and usage conditions of such of goods or services;
- iii) mention safety and health care information of the goods and service advertised for sale;
- iv) provide information on available payment methods; the security of those payment methods, how to use those methods; how to cancel regular payments under those methods; charge back options and any costs applicable to those payment methods;
- vi) Ensure that personally identifiable information of customers are protected, and that such data collection and storage and use comply with provisions of the Information Technology (Amendment) Act, 2008.

- vii) Accept return of goods if delivered late from the stated delivery schedule or delivery of defective, wrong or spurious products, and/or not of the characteristics/features as advertised;
- viii) Effect all payments towards accepted refund requests of the customers within a period of maximum of 14 days.
- ix) if the ecommerce entity is informed by the consumer or comes to know by itself or through another source about any counterfeit product being sold on its platform, and is satisfied after due diligence, it shall notify the seller and if the seller is unable to provide any evidence that the product is genuine, it shall take down the said listing and notify the consumers of the same
- x) be held guilty of contributory or secondary liability if it makes an assurance vouching for the authenticity of the goods sold on its market place – or if it guarantees that goods are authentic.

5. Liabilities of Sellers–

Any seller selling or advertising his products or services through an e-Commerce platform shall, -

- a) have prior written contract with the respective e-Commerce entity in order to undertake or solicit such sale or offer;
- b) provide all information required to be provided either by law or by any other mandatory regime for disclosing contractual information and compliance with that regime will be treated as sufficient;
- c) display single-figure total and break up price for the goods or service, that includes all compulsory charges such as delivery, postage, taxes and handling and conveyance charges;
- d) comply with mandatory display requirements as per Legal Metrology (amendment) rules 2017 for pre-packaged commodities;
- e) provide mandatory safety and health care warnings and shelf life that a consumer would get at any physical point of sale;
- f) Provide fair and reasonable, delivery terms, or to directly reference the shipping policy.
- g) Be responsible for any warranty/guarantee obligation of goods and services sold.
- h) Be upfront about how exchange, returns and refund process works, and who bears the costs of return shipping.

6. Consumer grievance redress procedure–

Every e-Commerce entity shall,-

- i) Publish on its website the name of the Grievance Officer and his contact details as well as mechanism by which users can notify their complaints about products and services availed through their web site.
- ii) The Grievance Officer shall redress the complaints within one month from the date of receipt of complaint
- iii) provide facility to consumers to register their complaints over phone, email or website and shall provide complaint number for tracking the complaint;
- iv) Provide consumers with transparent and effective consumer protection that is not less than the level of protection offered in other forms of commerce;
- v) Provide mechanism/system to converge with NCH in grievance redress process
