

PROTECTING THE DIGITAL CONSUMERS: CHALLENGES AND POSSIBLE SOLUTION

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I. INTRODUCTION

Innovation and technology have taken over the future of marketing and are becoming more global in dimension. Consumers across the globe are increasingly relying on the technology to buy and sell products and services. Such rapidly changing, increasingly complex and information intensive markets for goods and services do pose new challenges to regulators and consumers. While such challenges are common across various countries, it is worst in a country like India where the consumer market largely comprises of a huge middle class, relatively large affluent class and equally disadvantaged class.

At present, India is one of the largest and fastest growing markets for digital consumers, with 560 million internet subscribers,¹ second only to China. Out of 560.01 million internet subscribers, wired internet subscribers are 21.25 million and wireless internet subscribers are 537.92 million. The country has 366 million internet subscribers in urban locations and 194 million in rural areas. Out of total internet subscribers, 96.06 percent subscribers are using mobile device for access of internet service.²

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¹ Telecom Regulatory Authority of India, Press Release No. 40/2019.

² The Indian Telecom Services Performance Indicators: July–September 2018, Telecom Regulatory Authority of India (New Delhi, 2019) <<https://main.trai.gov.in/sites/default/files/PIR08012019.pdf>> accessed 9 September 2019.

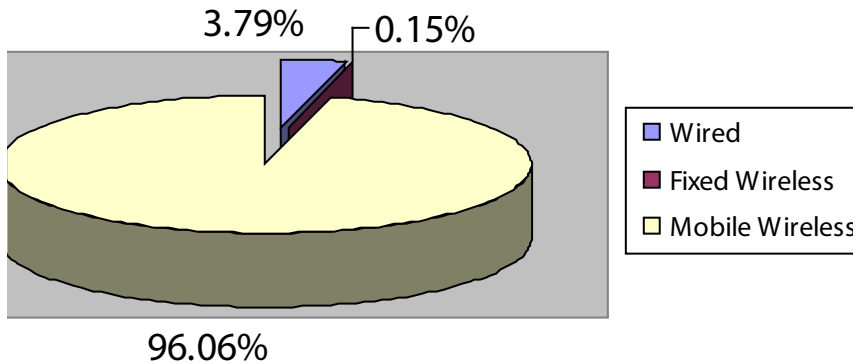


Fig 1: Composition of Internet Subscription; Source: TRAI

Improved availability of bandwidth than a few years before, cheaper data plans, easy availability of low cost mobiles coupled with increasing influence of the peer group seem to have rapidly bridged the digital gap between urban and rural India.

II. DIGITAL CONSUMERS IN E-COMMERCE

The increase in usage of internet has significantly contributed to the rise in electronic commerce (e-commerce) market. As per the Economic Survey 2017-18,³ the e-commerce market in India is estimated at USD 33 billion, with a 19.1 percent growth rate in 2016-17. As per the National Association of Software and Services Companies (NASSCOM) Strategic Review 2018, the Indian e-commerce market reached USD 38.5 billion, growing at a rate of about 17 percent in the financial year 2018-19. In 2018, the sale of physical goods via digital channels in India amounted to USD 22 billion in revenues.⁴

The above numbers are certainly to swell in the coming years and more consumers would rely on the internet either to make or to guide their purchases. Even if the consumers do not make a digital purchase, online information's can significantly influence a consumer's purchasing decisions. Thus the internet has facilitated easy access to various goods and services that

³ "E-Commerce Market growing at a rate of about 17% in 2018-19" (Press Information Bureau Government of India Ministry of Commerce & Industry, 17 December 2018) <<https://pib.gov.in/newsite/PrintRelease.aspx?relid=186472>> accessed 9 September 2019.

⁴ "Retail E-Commerce Sales in BRIC Countries in from 2016 to 2023" (Statista, 1 April 2019) <www.statista.com/statistics/255268/bric-b2c-e-commerce-sales> accessed 9 September 2019.

were otherwise not available locally. Affordability, convenience, availability and wider choice are therefore the prime reason for wider acceptance of online purchase. Consumers are now flooded with various goods online, with freedom to choose.

A. Concerns

While online consumer marketplace grows at a rapid rate and offers considerable potential economic and consumer benefits, disruptive technologies continue to evolve. Majority of the consumers are sceptical about timely delivery of goods purchased, after sales services, impartial redressal mechanisms, counterfeit products and the reliability about the description of goods offered. Likewise, lack of trust between consumer and supplier or retailer is a bigger issue online than it is offline.

Online identity theft and phishing is also a growing concern among consumers. Stealing and using a person's banking information and using it to purchase goods or transfer money to another bank account is becoming a common norm. Online medium easily allow perpetrators to impersonate lawful business activities far more convincingly and trap potential victims. Often, even before the victims realise being cheated the perpetrators get away from detection by maintaining anonymity. They become untraceable as they keep relocating when detected. Beside e-commerce have no defined borders, so cooperation and coordination at international level, particularly when there are hardly any domestic legislations for protection often becomes difficult.

Thus in this digital age, authorities around the world are concerned with new challenges in consumer protection. The government therefore have a significant role to update, adapt and maintain a stronger consumer protection framework that is efficient and reactive to the interconnected nature of e-commerce. This would aid the growth of a digital economy and protect consumers' digital rights, like in most developed countries wherein their governments have enacted laws that are facilitative of such interactions.

B. Legal System

Law regulating e-commerce in India is yet to be evolved. At present there is no law to protect consumers if they lose money during online purchases. Regardless of the lack of any such legal framework to regulate such transactions, quite a remarkable number of marketing interactions happens

daily through online. Even the absence of basic privacy and security laws pertaining to digital payments in India therefore puts the onus on consumers who use such services.

Various other legislations, like the Legal Metrology Act 2009, the Packaged and Commodities Rules 2011, the Indian Contract Act 1872, Information Technology Act 2000, the Food Safety and Standards Act 2006 and Drugs and Cosmetics Act 1940 all in their own way help a bit in protecting consumers from online purchases but is never a complete solution. These legislations fall short to address the intricacies and technicalities involved in digital transactions.

Many hopes are therefore placed on the proposed Consumer Protection Bill 2018 which defines the term e-commerce as buying or selling of goods or services including digital products over digital or electronic network. This draft legislation gives central government the power to take required measures to prevent unfair trade practices in e-commerce.

III. DIGITAL CONSUMERS IN FINANCIAL SERVICES

It's not just the e-commerce; the digital revolution radically changed the way the customers and financial institutions interact. An increasing number of financial entities and technological firms are constantly together testing out various technological and financial solutions to make their business far more innovative, reachable and acceptable. To a considerable extent such revolutionary changes were successful in attracting digital financial consumers as it has now become a norm among people, especially in urban areas, to access financial services with the aid of technology.

Digital in financial services refers to use of an electronic device or system to access financial services such as storing funds, making and receiving payments, applying for credit or for insurance. Nowadays a broad range of financial services are accessed and delivered to customers through digital channels, including payments, credits, savings, remittances and insurance. Growth of internet, availability of low-cost data plans; customer convenience and time saving are the prime factors for such wide acceptance. Today most of the digital consumers pay their utility bills, transfer cash and access their bank statements readily using internet.

Digital payments are not one instrument. It is an umbrella term applied to a range of different instruments used in different ways. Such payments are initiated by the person by way of an instruction, authorisation or by

ordering his bank to debit or credit an account through electronic means. Over the past two years, digital payment transactions have registered tremendous growth in India. According to Reserve Bank of India, the number of digital payment transactions in the year 2015-16 was 292.8 crores. This has increased to 921.7 crores in 2017-18. Consumer behaviour has been driving growth of digital payment systems as more and more consumers are embracing mobile technology.

New payment modes like Bharat Interface for Money-Unified Payments Interface (BHIM-UPI), Aadhaar enabled Payment System (AePS) and National Electronic Toll Collection (NETC) have transformed digital payment ecosystem by increasing Person to Person (P2P) as well as Person to Merchant (P2M) payments. At the same time existing payment modes such as debit cards, credit cards, Immediate Payment Service (IMPS) and Pre-Paid Instruments (PPI) have registered substantial growth. With exponential growth, new payment modes have also emerged as a convenient alternative to existing payment modes like debit cards, credit cards, IMPS and PPI.⁵ While such a growth in digital financial services has ensured the inclusion of millions of more consumers, rapid development of technology and constant changes have forced some of the consumers to stay out or get more vulnerable.

A. Concerns

Till date, majority of the Indian rural population are unfamiliar with formal financial services, let alone technology based financial products and services. Their poor levels of literacy, including financial literacy act as a main barrier. They hardly understand even a simple text message on their phone and often perceive financial service and products complex and difficult to understand. Besides those who understand and show willingness to do digital transactions are often marred with poor network coverage, insufficient infrastructures and other new types of risks including denial of service attacks, fraudulent money transfers, identity theft and data breaches. Therefore, most of the customers do not feel confident to conduct transactions safely and efficiently, when needed.

While government has introduced Jan Dhan Yojana, Bhamashah Yojana etc. to enhance financial inclusion of citizens, more efforts should be taken

⁵ “Digital Transactions Registered Tremendous Growth” (Press Information Bureau, Government of India, Ministry of Electronics & IT, 9 November 2018) <<http://pib.nic.in/newsite/PrintRelease.aspx?relid=184668>> accessed 7 September 2019.

to enhance the capacity of financial consumers, particularly women towards financial literacy and consumer awareness. At present the approach taken by financial sector in India is largely based on the doctrine of *caveat emptor* (i.e. 'let the buyer beware'). Other than providing protection from fraud and provisions to ensure full disclosure, consumers are generally left on their own. Thus the vulnerability of consumers coupled with inadequate financial literacy is hovering over the financial regulation space in India. So the situation gets even worst when the financial services are carried out with the aid of technology. According to the Reserve Bank of India (RBI), during the year 2015-16, 2016-17, 2017-18, the number of registered cases of fraud involving ATM/debit cards, credit cards and internet banking stood at 1,191, 1,372 and 2,059 respectively.

Moreover, the financial system in India has many regulators, each having a separate mandate. Policy related frictions therefore keep arising from the diversity of different legislations and the overlapping of the regulatory jurisdictions. Such confusions coupled with absence of timely and accessible complaint and dispute resolution mechanisms shackle the very trust of the consumers. The usual 'buyer beware' approach is not adequate in this sector and the regulators must place the burden upon financial firms of doing more in the pursuit of consumer protection.

Likewise, though mobile internet speed and connectivity issues remain unresolved in most part of the country. United States data speed tester Ookla has ranked India 121st, almost at the bottom in its list of 138 nations, on overall mobile internet speeds. The data speed is much lower than most of our neighbours, including China, Sri Lanka and Pakistan. With a rank of 108 at the beginning of 2019, it has fallen to 121, while China is at the 51, Sri Lanka at 63 and Pakistan at 110.

B. Legal system

There are over sixty plus legislations and multiple rules and regulations that govern the financial sector.⁶ However, many of them are outdated and

⁶ Some of the legislations are: The Chit Funds Act, 1982; National Housing Bank Act, 1987, Banking Regulation Act, 1949, Deposit Insurance and Credit Guarantee Corporation Act, 1961, Reserve Bank of India Act, 1934, Securities and Exchange Board of India Act, 1992, Recovery of Debts Due to Banks and Financial Institutions Act, 1993, Foreign Exchange Management Act, 1999, Banking Ombudsman Scheme, 2006 (governs resolution of consumer disputes); Insurance Act, 1938, The Public Liability Insurance Act, 1991, The Insurance Regulatory and Development Authority Act, 1999, Consumer Protection Act, 1986, Competition Act, 2002, etc.

date back several decades, when the financial landscape was very different from that seen today. For instance, the Reserve Bank of India (RBI) Act was enacted in early 1930s while the Insurance Act enacted in the year 1938. While these regulations and laws are continuously evolving, more needs to be done to protect digital consumers. The outdated Consumer Protection Act of 1986 serves little or no purpose and it urgently needs to be replaced with the proposed Consumer Protection Bill 2018. A stronger consumer protection framework in this sector is vital to build the consumers trust and confidence.

IV. CONCLUSION AND WAY FORWARD

It is a fact that there is an amount of risk involved while using internet for purchasing goods and doing financial transactions. Only a stronger consumer protection framework in line with the recommendations of various national experts and international bodies can ensure security and reliability. Towards achieving this, the best and successful practices from other countries can become a guiding light. Along with, there is also a need to boost international coordination in e-commerce to avoid unilateral actions as that could stifle trade and lead to uncompetitive practices. Systems like online dispute resolution will certainly be a good initiative to address cross border e-commerce transactions.

Digital technologies and market evolutions are often expeditious and random; any rules framed to protect the consumers therefore need to be flexible and adaptive enough to the changing scenario and its objectives. Besides, effective coordination among various agencies is vital for stricter monitoring and enforcement of consumer protection provisions related to digital crimes that are currently scattered across various legislations. The consumer protection of digital value chain cannot be regulated alone by any single agencies. Various agencies need to intervene, such as the competition authorities, financial regulators, the network security agencies and even agencies like the telecom, but hardly this happens.

Likewise, other than strengthening the law relating to digital crimes, consumer education and financial literacy need to be twined with consumer protection, as consumers themselves, are the best guardians of the consumer's rights and interest. Adequate importance should be given to empower consumers to make the right choices for themselves, in particular by ensuring that they have the right information and the possibility to switch or refund when needed. Financial inclusion schemes become oblivious if

consumers remain poorly informed on how to encounter a problem while using digital services. They need to be aware of various grievances redressal mechanisms available to them. Such an increase in awareness would act as bridge towards building consumer trust in the services, thereby prompting them to use digital services. Above all enact the draft Consumer Protection Bill 2018.

However, government alone cannot adequately address several of these challenges whether from the perspective of the market or that of the consumer. There is a need, for all stakeholders – the government, regulators, business institutions, voluntary consumer organisations and elected representatives to work together to gain consumer trust and confidence in this digital world.