

**ATHENA LEGAL UPDATE ON  
CONSUMER PROTECTION (E-COMMERCE) RULES, 2020**



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**ATHENA LEGAL UPDATE NOTE ON  
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❖ **Introduction:-**

The Consumer Protection (E-commerce) Rules, 2020 (“**Rules**”) were notified by the Government of India on 20.07.2020. The Rules are intended to complement the Consumer Protection Act, 2020 (“**Act**”) to by regulating all e-commerce activities and transactions. The Rules have sought to govern all such e-commerce activities by laying down duties and liabilities to be adhered by e-commerce entities, marketplace e-commerce entities, sellers on marketplace, and inventory e-commerce entities. The Act defines ‘e-commerce’ under Section 2(16), as *“buying or selling of goods or services including digital products over digital or electronic network”*.

❖ **Scope of Rules**

The Rules apply to:

- a) All goods and services bought or sold over digital or electronic network including digital products;
- b) All models of e-commerce, including marketplace and inventory models of e-commerce;
- c) All e-commerce retails, including multi-channel single brand retailers and single brand retailers in single or multiple formats; and
- d) All forms of unfair trade practices across all models of e-commerce

However, the Rules except activities carried out by a natural person in personal capacity not being part of any professional or commercial activity undertaken on a regular or systematic basis.

## ❖ **Definitions**

Some of the important definitions under the Rules are:-

- A. **Rule 3(b)** defines “**e-commerce entity**” to mean any person who owns, operates or manages digital or electronic facility or platform for electronic commerce, but does not include a seller offering his goods or services for sale on a marketplace e-commerce entity.
- B. **Rule 3(f)** defines “**inventory e-commerce entity**” to mean an e-commerce entity which owns the inventory of goods or services and sells such goods or services directly to the consumers and shall include single brand retailers and multi-channel single brand retailers.
- C. **Rule 3(g)** defines “**marketplace e-commerce entity**” to mean an e-commerce entity which provides an information technology platform on a digital or electronic network to facilitate transactions between buyers and sellers.
- D. **Rule 3(i)** defines “**platform**” to mean an online interface in the form of any software including a website or a part thereof and applications including mobile applications;
- E. **Rule 3(l)** defines “**user**” to mean any person who accesses or avails any computer resource of an e-commerce entity.

These definitions effectively include all stakeholders in the e-commerce sector from marketplaces to aggregators and inventory led models where the retailers own the stocks, are taken within the purview of the Rules. Apart from these definitions, the Rules integrate with the Information Technology Act, 2000 (“**IT Act**”) for any word or expression that has not been expressly defined in the Rules.

## ❖ **Duties of E-Commerce Entities**

The Rules mandate the e-commerce entities to be one of the following types of registered entity:

- Company incorporated under Companies Act, 1956 or Companies Act, 2013
- Foreign company covered under Section 2(42) of Companies Act, 2013
- Office, branch or agency outside India owned or controlled by person resident in India under Section 3(v)(iii) of the Foreign Exchange Management Act, 1999.

The aforementioned entities have the following duties to be undertaken under the Rules:

- i. Provide the following information in a clear and accessible manner on its platform which shall be displayed to its users:
  - Legal name of the e-commerce entity
  - Principal address of its headquarters and all branches
  - Name and details of its website; and
  - Contact details for customer care and grievance officer
- ii. Should not adopt any unfair trade practice, whether in course of business or otherwise
- iii. Establish an adequate grievance redressal mechanism and appoint a grievance officer for the same who shall acknowledge receipt of any complaint within 48 hours and redress the same within one month. Contact information for such grievance officer is to be displayed on the platform.
- iv. In case of the entity offering imported goods and services, mention the name and details of any importer from whom it has purchased such goods or services
- v. Make every endeavour on best effort basis, to become a partner in the convergence process of the National Consumer Helpline of the Central Government
- vi. Should not impose cancellation charges on users unless the e-commerce entity itself has to bear the same.
- vii. Should effect all payments towards accepted refund requests of the consumers as prescribed by the Reserve Bank of India or any other competent authority under any law
- viii. Should not manipulate prices of goods or services offered on its platform to gain unreasonable profit or discriminate between consumers of the same class or make any arbitrary classification of consumers affecting their rights under the Act.

❖ **Liabilities of Marketplace E-Commerce Entities**

All such entities are required to get an undertaking from the sellers that the descriptions, images and other content pertaining to the goods or services on their platform is accurate and corresponds directly with the appearance, nature, quality, purpose and other general features of such good or service.

Apart from the above, the marketplace e-commerce entity is also required to provide the following information on its platform in a clear and accessible manner:

- i. Details about the sellers, including name of business (whether registered or not, address, customer care number, any rating or feedback and any other information necessary for enabling consumers to make informed decision at purchase stage
- ii. Ticket number for each complaint lodged for tracking the status
- iii. Information relating to return, refund, exchange, warranty and guarantee, delivery and shipment, modes of payment, and grievance redressal mechanism
- iv. Information on available payment methods, security of those methods, any fees or charges payable by users, procedure to cancel regular payments, charge-back options and contact information of the relevant payment service provider

In case the entity gives any differentiated treatment between goods or services or sellers of same category, the same should be mentioned in the terms and conditions governing relationship with sellers on platform. Further, the marketplace e-commerce entity is required to maintain a record of all relevant information allowing for identification of all sellers who have repeatedly offered goods or services that have been removed or access to which has been disabled under Copyright Act, Trademark Act or Information Technology Act.

#### ❖ **Duties of Sellers on Marketplace**

The Rules provide for an elaborate list of duties that sellers are required to undertake or follow, some of the important ones are as follows:

- Not to adopt any unfair trade practice whether during offer on e-commerce platform or otherwise
- Not to refuse to take back goods or withdraw or discontinue services purchased or agreed to be purchased or refuse to refund consideration if such goods or services are defective, deficient or spurious or if such goods or services are delivered late from the stated delivery schedule.
- Form a written contract with respective marketplace e-commerce entities on whose platform they propose to undertake or solicit sale or offer their goods or services
- Ensure that advertisements for marketing are consistent with the actual characteristics of the goods or services

- Provide the e-commerce entity with legal name, address of headquarter and branches, name and detail of website, email address, customer care details, GSTIN and PAN details.

#### ❖ **Duties and Liabilities of E-Commerce Entities**

All e-commerce entities are to mandatorily provide, in a clear and accessible manner, the information regarding return, refund, exchange, warranty and guarantee, delivery and shipment, modes of payment, and grievance redressal mechanism. They should also provide other information relating to notices under applicable laws, payment methods and security, contractual information required to be disclosed by law, total price in single figure with breakup price, and ticket number for all complaints for tracking.

Further, all such inventory based e-commerce entities should ensure that no false representation of itself as a consumer is made on its platform and it should not post review about goods and services itself or misrepresent the quality or features of the goods or services. The advertisements should be consistent with actual characteristics, access and usage conditions of such goods or services.

The entity should not to refuse to take back goods or withdraw or discontinue services purchased or agreed to be purchased or refuse to refund consideration if such goods or services are defective, deficient or spurious or if such goods or services are delivered late from the stated delivery schedule. However in case the late delivery is due to force majeure, an exception can be made.

Finally, if the entity in any manner vouches for the authenticity of goods or services, it shall bear the liability in any action related to the authenticity of such goods or services.

#### ❖ **Conclusion**

To sum up it can be said that E-commerce rules aim to bring transparency in provision of information and disclosure by the e-commerce platforms to the consumers. Rules also seek to put check on the practice of preferential treatment being accorded to some sellers. This provides space and equitable treatment for individual and small sellers on such platforms

and also rules out possibility of unfair trade practices by large sellers. In addition to regulating the Indian origin e-commerce platforms, the E-commerce Rules also regulate foreign based e-commerce platforms under Rule 4(1)(a). Overall with increase in e-commerce activity especially in present times, E-Commerce Rules are a step to provide redressal to consumer grievances against e-commerce platforms and also prescribe certain best practices to be followed by e-commerce platforms for benefit of consumers.

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