



## Ethical E-Commerce

This editorial is based on [“A Skewed Playing Field”](#) which was published in The Indian Express on 28/06/2022. It talks about the growth of E-Commerce giants in the market and how they harm the small and medium online businesses in various ways.

**For Prelims:** E-Commerce, Science behind Online Business Platforms, Government’s Rules and Regulations, Regulatory Bodies

**For Mains:** Rise and effect of E-commerce on Indian market, Challenges possessed by E-commerce biasedness, Measures to ensure equality in online market, Government’s Initiatives

As technology flattens the world, the way we operate our daily lives — travel, entertain, educate, shop, communicate and even obtain food — is undergoing a radical change.

This has impacted a variety of stakeholders in the country differently - there are obvious winners and losers.

With the availability of a wide range of e-commerce platforms, life has become more convenient and easier. But looking at the bigger picture depicts that with tactics like huge discounts and cashbacks etc, e-commerce giants have caused significant damage to small and medium online businesses.

In this context, let’s understand more about ‘E-commerce and its Functioning’.

### What Do We Mean by E-commerce?

- The term **electronic commerce (e-commerce)** refers to a business model that allows companies and individuals to buy and sell goods and services over the Internet.
- Nearly every imaginable product and service is available through e-commerce transactions, including books, music, plane tickets, and financial services such as stock investing and online banking. As such, it is considered a very disruptive technology.

### What are the Benefits E-Commerce Provides?

- **Proximity Between Buyer and Seller:**
  - E-commerce enables sellers to come closer to customers that lead to increased productivity and perfect competition.
    - The customer can also choose between different sellers and buy the most relevant products as per requirements.
    - Customers now have access to virtual stores 24/7.
- **Wider Range of Buyers and Sellers:**

- It provides a wider reach and reception across the global market, with minimum investments.
- It enables sellers to sell to a global audience and also customers to make a global choice. Geographical boundaries and challenges are eradicated/drastically reduced.
- **Reduction in Product Distribution Cost:**
  - Through direct interaction with final customers, this e-commerce process cuts the product distribution chain to a significant extent.
    - A direct and transparent channel between the producer or service provider and the final customer is made.
      - This way products and services are created to cater to the individual preferences of the target audience.
- **Other Benefits:**
  - The growth in the e-commerce sector can **boost employment, increase revenues from export, increase tax collection** by ex-chequers, and provide better products and services to customers in the long-term.
  - The e-commerce industry has been directly impacting the **micro, small & medium enterprises (MSME)** in India by providing means of financing, technology and training and has a favorable cascading effect on other industries as well.

## What are the Concerns Relating to E-Commerce Giants?

- **Predatory Pricing:**
  - **Predatory pricing** is a pricing strategy, using the method of undercutting on a larger scale, where a dominant firm in an industry will deliberately reduce the prices of a product or service to loss-making levels in the short-term.
    - These companies resort to predatory pricing to acquire customers even as they suffer persistent financial losses.
    - It can be viewed as an exclusionary practice that eliminates other players from the market. The ultimate loss bearer is the consumer who will have a reduced bargaining position due to less competition and will be subject to the arbitrariness of monopolistic conduct.
- **Affiliated Partner Biasedness:**
  - While neutrality is the fundamental basis of a marketplace, claims of outfits such as Flipkart or Amazon to be a marketplace for a wide variety of sellers can be questioned.
  - Selected affiliated sellers with the platform reap the benefits of greater visibility and better terms of trade — reduced commissions and platform-funded discounts.
    - Zomato, like other food aggregators, is said to run cloud kitchens.
    - Many of them run private-labelled products in categories where other sellers have been successful.
- **Cartelisation:**
  - Cartelisation means forming an association of producers, sellers, distributors, traders or service providers who, by agreement amongst themselves, limit, control or attempt to control the production, distribution, sale or price of, or, trade in goods or provision of services.
    - Online travel aggregators are often accused of cartelisation.
    - **The Competition Commission of India's** investigation in the OYO-MakeMyTrip collusion case resulted in MakeMyTrip being ordered to relist properties of Treebo and FabHotels.
- **Data Security:**
  - While using these platforms, citizens share their data voluntarily and involuntarily.
  - The aggregators gather shopping habits, consumer preferences, and other personal data.
  - The platforms are accused of using this data to create and improve their own products and services, taking away business from other sellers on their platform.
  - This information asymmetry is exploited by the aggregators to devour organisations they promise to support.
- **Lack of Transparent Dispute Redressal Mechanism:**
  - There is a lack of a fair and transparent dispute resolution mechanism for sellers on these platforms.
  - Delayed payments, unreasonable charges, and hidden fees are common occurrences.

- The power of these platforms is at the cost of small hardworking businesses:
  - Small restaurants complain that food-service aggregators' inability to service a customer request is attributed to the restaurant's inability.
  - Hotels listed on these platforms are blamed for customer grievances arising from over-committing.
  - In some cases, restaurants and hotels are arbitrarily shown as closed.

## What Steps have We Taken Regarding E-Commerce?

### ▪ Draft E-Commerce Rules 2021:

#### ◦ Mandatory Registration:

- Mandatory registration for e-commerce entities with the [Department of Promotion for Industry and Internal Trade \(DPIIT\)](#), Ministry of Commerce and Industry.
  - E-commerce entity means persons who own, operate or manage a digital or electronic facility or platform for electronic commerce.

#### ◦ Limiting Flash Sales:

- Conventional e-commerce [flash sales](#) are not banned. Only specific flash sales or back-to-back sales which limit customer choice, increase prices and prevent a level playing field are not allowed.

#### ◦ Compliance Officer:

- The e-commerce sites need to ensure appointment of Chief Compliance Officer (CCO) and a nodal contact person for 24x7 coordination with law enforcement agencies.

#### ◦ Restricting Related Parties:

- To tackle growing concerns of preferential treatment, the new rules propose to ensure none of the related parties are allowed to use any consumer information (from the online platform) for 'unfair advantage'.

#### ◦ Clause of Country of Origin:

- The entities will also have to identify goods based on their country of origin and provide a filter mechanism at a pre-purchase stage for customers.
  - They will also have to offer alternatives to these imported goods to provide a "fair opportunity" to domestic sellers.

#### ◦ Reporting Cybersecurity Issues:

- All e-commerce entities must provide information within 72 hours on any request made by an authorized government agency, probing any breach of the law including cybersecurity issues.

### ▪ Consumer Protection (E-Commerce) Rules, 2020

#### ◦ Grievance Redressal Mechanism:

- [Marketplaces](#), as well as sellers, need to appoint a grievance officer.

#### ◦ Restriction on Unfair Trade Practice, Manipulation and Discrimination:

- No e-commerce entity shall manipulate the price of goods or services to gain unreasonable profit or discriminate between consumers of the same class or make any arbitrary classification of consumers affecting their rights.

#### ◦ Should not Post Fake Reviews or Mislead:

- No seller or inventory e-commerce entity shall falsely represent itself as a consumer and post reviews about goods or services or misrepresent the quality or the features of any goods or services.

#### ◦ Record Information of Sellers Selling Counterfeit Products:

- E-commerce entities need to maintain a record of information for the identification of all sellers who have repeatedly offered goods or services that have previously been removed or restricted under the [Copyright Act, 1957](#), the Trade Marks Act, 1999 or the [Information Technology Act, 2000](#).

### ▪ Open Network for Digital Commerce (ONDC):

- [ONDC](#) is a freely accessible government-backed platform that aims to democratise e-commerce by moving it from a platform-centric model to an open network for buying and selling of goods and services.

- Thus creating a platform that can be utilized by all online retailers.

## How can We Improve E-commerce Functioning?

- A parliamentary panel on the [Consumer Protection \(E-Commerce\) Rules, 2020](#) has recommended that the government should amend the rules to provide better protection to consumers rights and stop unfair practices. Key recommendations are:
  - **Clear Definition:**
    - There should be a more clear-cut definition of what constitutes Unfair Trade Practice and practical legal remedy to tackle such circumventing practices by e-commerce entities
    - Clearly define 'drip pricing' wherein the final cost of the product goes up due to additional charges, and provide for protecting consumers against this by including penal provisions for violation.
  - **Categorization of Personal Data:**
    - For protection of privacy of users and security of their data, the panel has recommended that users' [personal data](#) may be categorised as per the level of sensitivity and appropriate protection may be assigned for each level.
  - **Customer Care:**
    - E-commerce entities should provide a dedicated customer care number as well as a mechanism to monitor the time taken by customer care executives to resolve an issue.
  - **Discourage Deceptive Technique:**
    - Some corrective mechanisms to discourage deceptive tactics including manipulation of algorithms, fake product reviews & ratings must be created so that the consumer interest is not harmed in any way.
- There is a lot to learn from the [Digital Markets Act of the EU](#) that seeks to address unfair practices by these gatekeepers.
- Market dominance and subsequent invoking of fair competition rules should be triggered at the level of micro-markets and for product segments.
  - The rules should allow for punitive penalties for unfair practices.

### ***Drishti Mains Question***

The online marketplace is skewed in favour of big players and hurts small businesses and consumers. Comment.