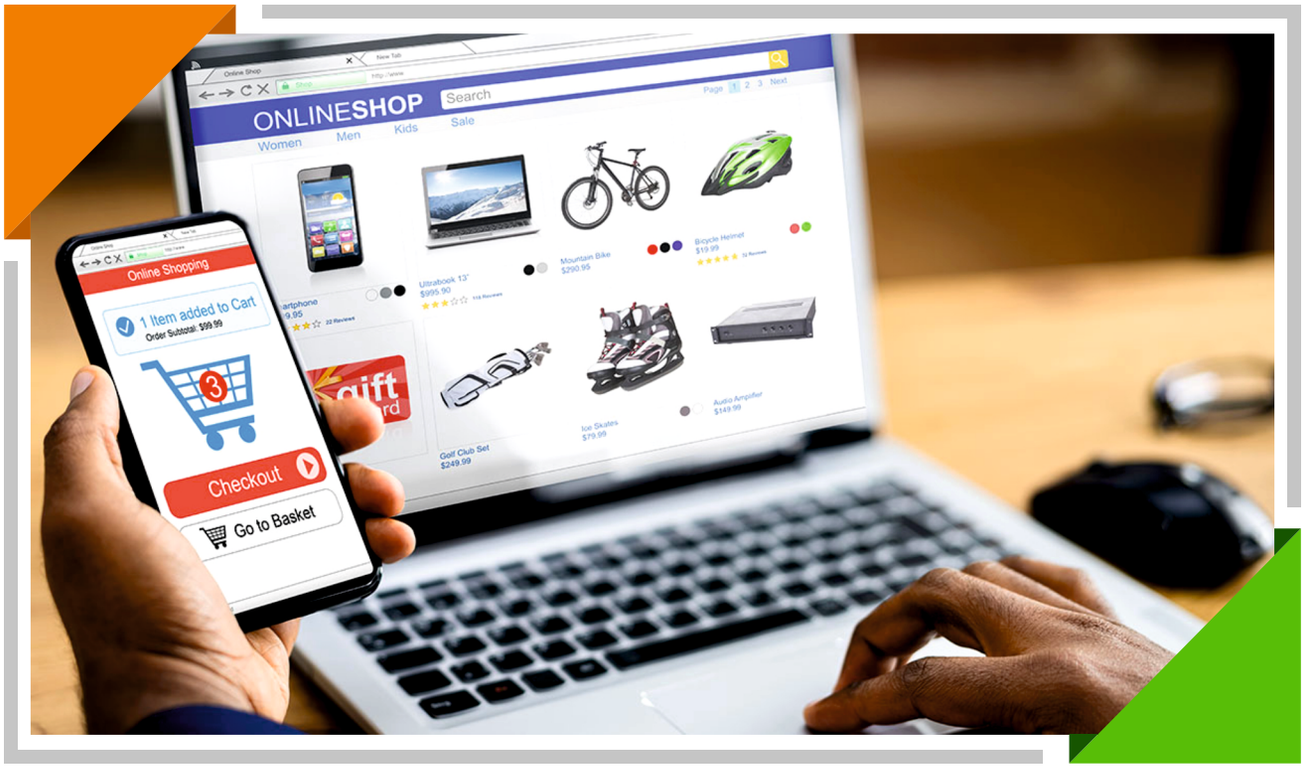
Customer Centric E-commerce in India

Policy Recommendations



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Acknowledgement

We at the Bharti Institute of Public Policy (BIPP) are engaged in research on various areas like agriculture, climate change, open data, sustainability, and technology policy. Areas under technology policy includes the changing landscape in data privacy, artificial intelligence, big data, e-governance platforms, agriculture technology, online gaming, fintech, gig economy, etc. Based on our interest in the broad areas of Technology Policy we embarked upon the work in the field of e-commerce policy landscape in India.

We would like to thank Empower India for their grant for working on India's e-commerce policy landscape. This grant was used for organizing the roundtable discussions, conferences, travel and hiring resources for this project.

We would like to thank Prof Manish Gangwar from ISB Institute of Data Science (IIDS) for collaboration on the topic of business models and for helping us with valuable connections. We would also like to thank Prof Ahmed Timoumi for his valuable comments and feedback in this research. We would also like to thank Prof Ashwini Chhatre and Dr. Aarushi Jain from Bharti Institute of Public Policy (BIPP) for their support and encouragement during this process.

Executive Summary

The Indian retail and e-commerce sector has witnessed phenomenal growth over the last two decades which are due to several factors like economic growth and prosperity of the Indian citizens leading to higher disposable incomes, internet and smartphone penetration combined with great technological innovation in terms of connecting the buyers and sellers thus easing the process of commerce and the innovations in the fintech sector enabling easy modes of payments.

The Bharti Institute of Public Policy (BIPP), Indian School of Business (ISB) has been working on various aspects of technology that affects the lives of citizens towards areas like data privacy, emerging technologies, open data access, edtech, climate technology, etc. In 2021, the school organized the annual conference of Indian Public Policy Network (IPPN) on the theme of "Technology & Policy".

E-commerce is one of the areas of key interest to the school and there are several researchers who are working on different aspects of e-commerce and retail ecosystem in India. This report studies e-commerce policy landscape in India, by exploring the various factors that drive the customer to make purchase decisions like choice, convenience, price and quality. The report analyses the current policies in the e-commerce sector and provide recommendations around improving the same. The report is structured around four broad topics in e-commerce: foreign direct investment, business models, data & search and taxation. For each of the topics, we first carried out desk research followed by roundtable discussions to confer on these policies with experts, government officials, sellers, e-commerce companies, etc. Two roundtables on the topics of FDI and business models were organized online in 2021 due to the travel restrictions and one roundtable for data, e-commerce search and taxation was held earlier this year at ISB Hyderabad campus. Each of the roundtables were attended by about 30 people to collate multiple diverse views on these topics. Based on the research and discussions, policy recommendations have been made across these four topics.

Recommendations from the **Foreign Direct Investment** chapter:

- **Policy Simplification and Clarity:** Recommends the government comes up with simple policies on broad norms for foreign companies or receiving foreign investments in India and provides an easy description of the policies to avoid misinterpretation by parties.
- **Online-Offline Parity:** Common norms can be set by the government for conducting retail business in India, irrespective of the mode of transaction, i.e., online or offline. Matters related to the conduct of business, like discounts, procurement of goods, etc. should also be similar across different modes.
- **Small Indian Retailers:** Capacity building of the smaller retailers and sellers in digital technologies to function their store operations, distributor management, and product marketing along with onboarding an e-commerce platform will make them at par with mainstream retailers and help them take advantage of the digital economy.
- **Alternative Platforms:** Government may explore alternate e-commerce platforms with similar norms for conducting business which would increase competition and benefit both small sellers and end customers. Open Network Digital Commerce (ONDC) and Government e-Marketplace (GeM) are proposed as those alternatives.

Recommendations from the **Business Models** chapter:

- **Apex body to monitor e-commerce advertisements and promotions:** We recommend an apex national statutory body to deal with the monitoring and regulation of all advertisements in India – the scope of the Advertising Standards Council of India (ASCI) may be expanded to cover this responsibility
- **Promoting Rural E-commerce:** The India Post post-offices in rural India in collaboration with the e-commerce players can expand the e-commerce reach in rural areas with Indian Railways helping in logistics and warehouse, thus generating rural jobs as last-mile delivery partners
- **Ecommerce beyond borders:** The report recommends that the Government of India develops a well-defined e-commerce export framework that will provide a platform for Indian MSME and manufacturers to connect with the global supply chain through the various foreign e-commerce platforms which might not even be operating in India.
- **Center for Digital Economy:** Merging technologies like Metaverse, Artificial Intelligence, Blockchain, and drones would play an important role in e-commerce. We recommend setting up a Center for Digital Economy as the nodal agency to deal with all aspects related to Metaverse and other issues emerging in the Digital Economy.

Recommendations from the chapter on **Data and e-commerce search:**

- **Auditing e-commerce search:** The report recommends that search algorithms on e-commerce sites should undergo frequent and random third-party audits to detect any biases in the products shown in the search ranking. The audit results may be submitted to the government or any independent agency.
- **Transparency and explanation of search results:** The e-commerce platform should provide the customer with proper justification of the basis for the product ranking and the default search results with multiple options to change the ranking as per the customer preference. Sponsored products should be displayed in a separate panel on the search page and should not be mixed with the organic search results.
- **Customer Awareness:** The government and civil society may run some customer awareness drives through which the customers would be made aware of the various products listed on the e-commerce platforms like advertisements, private labels, orders fulfilled by the marketplace, exclusive brands, etc.

Recommendations from the **Taxation** chapter:

- **Avoiding double taxation:** The report recommends extending the Foreign Tax Credit (FTC) facility claim to avoid double taxation for e-commerce companies belonging to countries with which India does not have a Double Tax Avoidance Agreement (DTAA)
- **GST based on business size and not the mode of business:** The report suggests the categorization of small food shops/eateries/kiosks based on their annual revenue, and mandatory GST should be implemented with an annual turnover threshold value so that small firms too can avail the benefit of e-commerce operators and grow their business

Report Contributors

AUTHORS

Prof Avik Sarkar
Indian School of Business

Dr Sharique Manazir
Project Specialist
Bharti Institute of Public Policy
Indian School of Business

Akshaya Ramesh
Former Research Associate
Bharti Institute of Public Policy
Indian School of Business

K Jayashree
ISB Institute of Data Sciences (IIDS)
Indian School of Business

Renu Chaturvedi
ISB Institute of Data Sciences (IIDS)
Indian School of Business

Kratika Narain
Former Intern
Bharti Institute of Public Policy
Indian School of Business

REVIEWERS

Prof Manish Gangwar
Indian School of Business

Prof Ahmed Timoumi
Indian School of Business

Dr. Aarushi Jain
Bharti Institute of Public Policy
Indian School of Business

Sonia Chauhan
Consultant
Indian School of Business

Abhinav Gupta
PGP 2023
Indian School of Business

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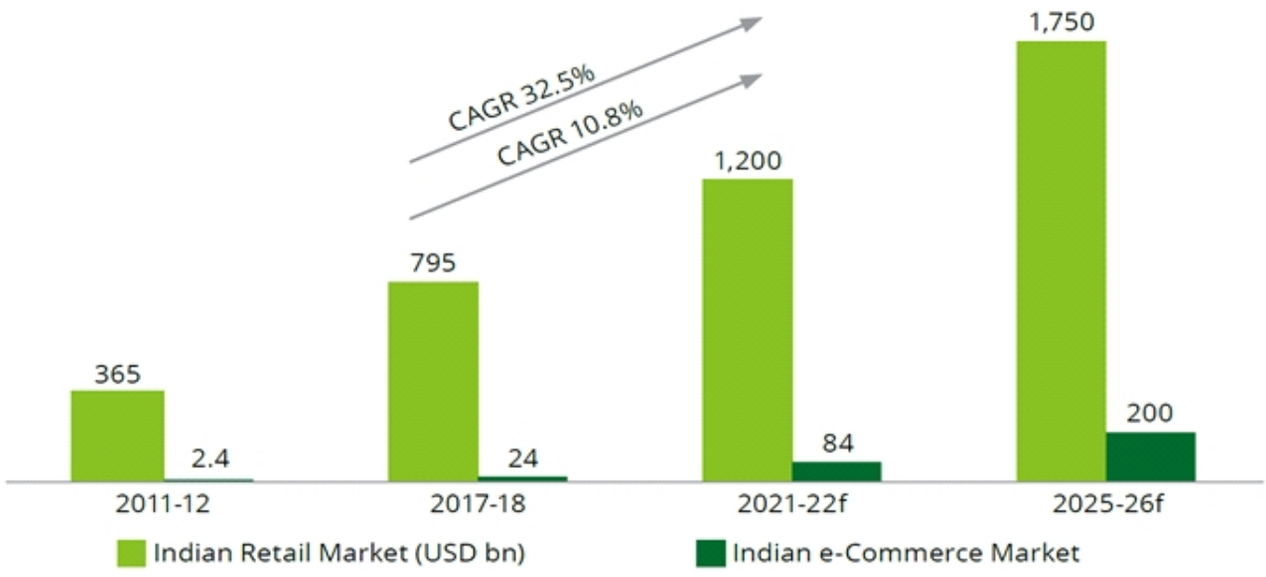
Foreign Direct Investment (FDI)

Introduction

Retail sector has its own prominence in a populous country like India that has a population of close to 1.4 billion people, who require various products and services for their life needs, varying from must-have daily essentials to nice-to-have luxury products. The Oxford English dictionary defines retail as “the sale of goods to the public in relatively small quantities for use or consumption rather than for resale”. India's socio-economic diversity and varying infrastructure facilities require a variety of models to fulfill the country's retail needs, which range from kirana shops (small mom-and-pop stores) to supermarkets to online retail like e-commerce. The huge retail market opportunity lures individuals, small Indian enterprises, large Indian enterprises and even foreign players to this ecosystem.

With the advent of internet, we saw innovations in retail/commerce through online medium started in India in the late 1990s to start with business only transactions and further expanding to other businesses like online travel (MakeMyTrip 2000; Cleartrip 2006), online shopping (Fabmart 2001; Flipkart 2007), etc. in the new millennium. In 2012, Amazon, an established player in the USA market entered the Indian e-commerce ecosystem through Junglee.com and later established itself as an independent entity in India.

Indian retail and e-commerce market (US$ bn)



Source(s): Deloitte analysis, IBEF, and media articles

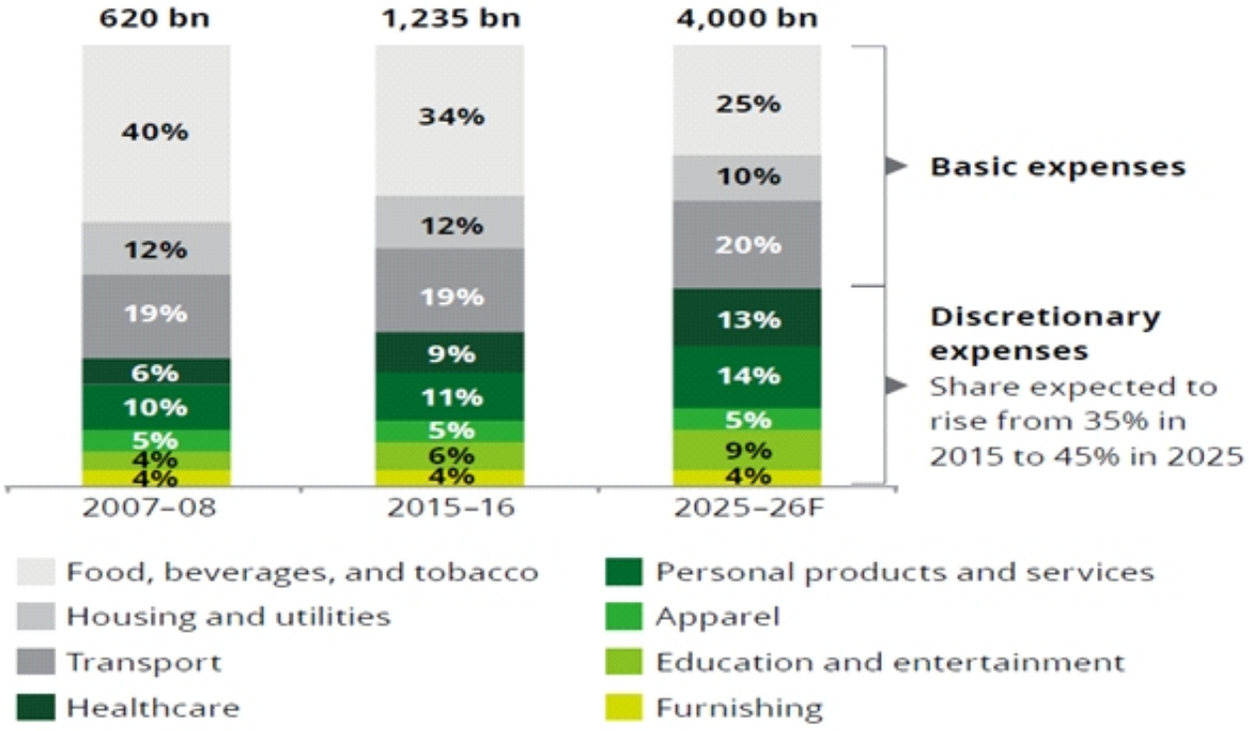
Figure 1 : Indian Retail Market Growth (Source: Retail FDI in India, 2020 by Deloitte)

The vibrancy of the Indian retail sector is evident from the phenomenal growth as seen in the analysis done by Deloitte[1] and India Brand Equity Foundation (IBEF). It is interesting to note that the complete retail sector has seen a Compounded Annual Growth Rate (CAGR) of 10.8% whereas a small section of the same, i.e., e-commerce has experienced a growth of over 30%. Now, let us explore the factors which are driving the growth in this sector in India.

[1] Deloitte Retail FDI in India, Jan 2020; Retrieved from:
https://www2.deloitte.com/content/dam/Deloitte/in/Documents/consumer-business/in-conumser-retail-trade-pov-noexp.pdf

India's strong economic growth, supplemented by higher per capita earning of its citizens, has led to increase in disposable income of the citizens. The Ministry of Statistics (MOSPI), Government of India, carries our consumer expenditure surveys which forms the basis of such analysis. The analysis done by Deloitte[2] based on the data from MOSPI and NITI Aayog shows an increase in disposable income from 29% in 2007-08 to 35% in 2015-16, which is expected to further increase to 45% in 2025-26.

Increase in disposable income is increasing consumption, leading to a rising proportion of discretionary spends.



Source(s): NITI Aayog, MOSPI, and Deloitte analysis

Figure 2 : Consumption Patterns (Source: Retail FDI in India, 2020 by Deloitte)

Internet penetration and smartphone usage has increased significantly over the years. The chart below based on research[3] by KANTAR-AIMAI shows the number of Active Internet Users (AIU) in Millions across urban and rural India along with the percentage of internet penetration. This has enabled more Indians to access online retail through mobile applications or websites.

[2] Retail FDI in India, Jan 2020 by Deloitte; Retrieved from:
https://www2.deloitte.com/content/dam/Deloitte/in/Documents/consumer-business/in-conumser-retail-trade-pov-noexp.pdf

[3] Internet Adoption in India, June 2021 by KANTAR

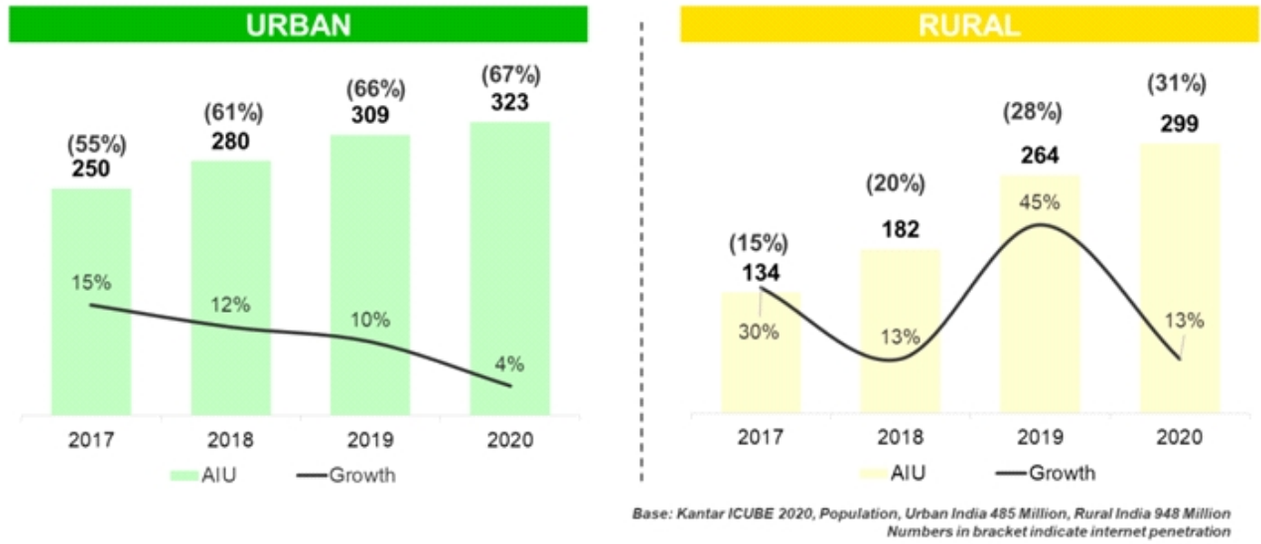


Figure 3 : Urban & Rural Internet Growth 2017 – 2020 (Source: Internet Adoption in India by KANTAR)

Rise in internet connections is one of the key factors driving growth in India's Digital Economy. The other two factors are: Jan Dhan bank accounts and Aadhar unique identification number which together creates the popular JAM Trinity (Jan Dhan Aadhar and Mobile). The JAM trinity has enabled online digital transactions for large number of Indians where were previously not connected to formal banking channels. Other factors driving the retail growth are diverse choices for customers, combined with convenience provided by technology advancement and retail channel options. Constant flow of Foreign Direct Investments (FDI) to India in the physical retail sector (single brand retail, multi brand retail, supermarket, etc.) and in the online e-commerce industry, has been a strong enabler of this growth. These investments have led to the development of physical stores, warehouse infrastructure and strong technology development for e-commerce.

The ongoing Covid-19 pandemic has proved to be another strong factor driving the adoption of online e-commerce in India as several physical retail outlets were closed for months. The pandemic saw an increase in the use of technology by first-time users driving the rise in e-commerce sales[4]. The increase in first-time online users was observed in tier II and tier III cities of India. This was a good opportunity for several start-ups to innovate in this space and small merchants across cities to adopt the digital platforms to drive sales and customer requests.

The rapidly changing nature of retail businesses in India implies that the policies related to funding, conducting business, relationship with customers, cut across multiple ministries in the Government of India. The interdisciplinarity of the e-commerce arises due to multiple reasons like – international companies invest in e-commerce companies in India which come under the purview of Foreign Direct Investment (FDI) for businesses managed by the Department of Industrial Policy & Promotion (DPIIT), that also determines the norms for running e-commerce business in India. There are multiple e-commerce players in India, so the Competition Commission of India (CCI) ensures fair business competition and deters any monopolistic behavior. The e-commerce ecosystem should aim at better choices and options for the customers, which is the responsibility of the *Ministry of Consumer Affairs*, which comes out with the Consumer Protection Act. These e-commerce platforms function as digital marketplace

[4] RedSeer NewsLetters, 'How did COVID-19 impact India Internet and what's the way forward' June 2020 Retrieved from: https://redseer.com/newsletters/how-did-covid-19-impact-india-internet-and-whats-the-way-forward/

which come under the purview of the Information Technology Act and these platforms also generate huge volumes of data which should not be misused, as per the draft Personal Data Protection (PDP) Bill – both these come under the purview of *Ministry of Electronics and Information Technology (MEITY) (withdrawn in 2022 by Government of India).* The aspects related to taxation of digital transactions is dealt by the Ministry of Finance. This aspect of interdisciplinarity in conducting business is not limited to retail sector only, several other sectors face similar challenges and multiple ministries should collaborate to deal with similar scenarios.

Given the interdisciplinary nature of retail and e-commerce, the sector requires clear direction and policy recommendations that considers the interests of the customers, retailers, technology platforms and small traders in the ecosystem. The Bharti Institute of Public Policy (BIPP), Indian School of Business (ISB) is working on policy recommendations for the retail and e-commerce sector in India. The research involves various aspects of the retail and e-commerce ecosystem in India starting with the norms for Foreign Direct Investment (current report) and would be followed by reports on other aspects like business models for retail; data ownership in e-commerce; algorithmic bias impacting the product search ranking; tackling the issue of counterfeit products and support for small sellers and retailers.

Towards the policy recommendations for Foreign Direct Investments (FDI), closed-door roundtable discussions and one-on-one interactions were conducted over the last few months with representatives from government, multinational technology companies, industry bodies, government, research institutions, trader associations, citizens and law firms. The authors of this report would like to thank the participants of those workshops for their time and valuable comments.

Customer Centric Retail

Our policy recommendations are towards a customer-centric retail and e-commerce ecosystem in India. Customers like to have a **choice** of options during the purchase process that they can purchase at their own **convenience** at the best possible **price** ensuring product **quality**. Here we focus on elaborating upon these core elements that drive customer-centric retail.

Choice

Consumers are always attracted to the idea of choice as they have more influence over what they buy, given a larger number of options. Consumers also value the promise of choice: the more possibilities available, the more likely they are to find something that is ideal for them. In other words, they believe that having more choices provides them with more power and satisfaction.



Figure 4 : Retail Evolution (Source: T. Fishburne, 'Evolution of retail[5])

In early days, consumers used to visit the local kirana stores and buy essentials that were available at the store. Later, with the arrival of department stores and supermarkets, consumers were exposed to a wider variety of product choices. The supermarket has multiple products on display that the customer can discover, experience and choose, which contrasts with traditional kirana stores where very few items are on display and other items were provided upon request. Now with the advent of online e-commerce, the aspects of discovery and choices have increased several times for both domestic and international products.

[5] T. Fishburne, 'Evolution of retail' 22 February 2009, marketoonist.com, Available at: https://marketoonist.com/2009/02/evolution-of-retail.html

Consumers now expect to have choice in a market that offers a variety of products and services and choose in accordance with their lifestyle needs or conditions. They will consider a product or service as a best deal for them if its marketing demonstrates that it understands the unique needs or wants of a consumer as an individual and is offering a solution that is customized or tailored to their specific situation. This puts the consumer once again at the center of the purchasing experience. In today's time, with both in-store shopping and e-commerce options at hand, consumers are now more aware about the products and wisely research their options before buying anything. So, retailers are now focusing on providing consumers with customized solutions, ensuring quality and optimum prices.

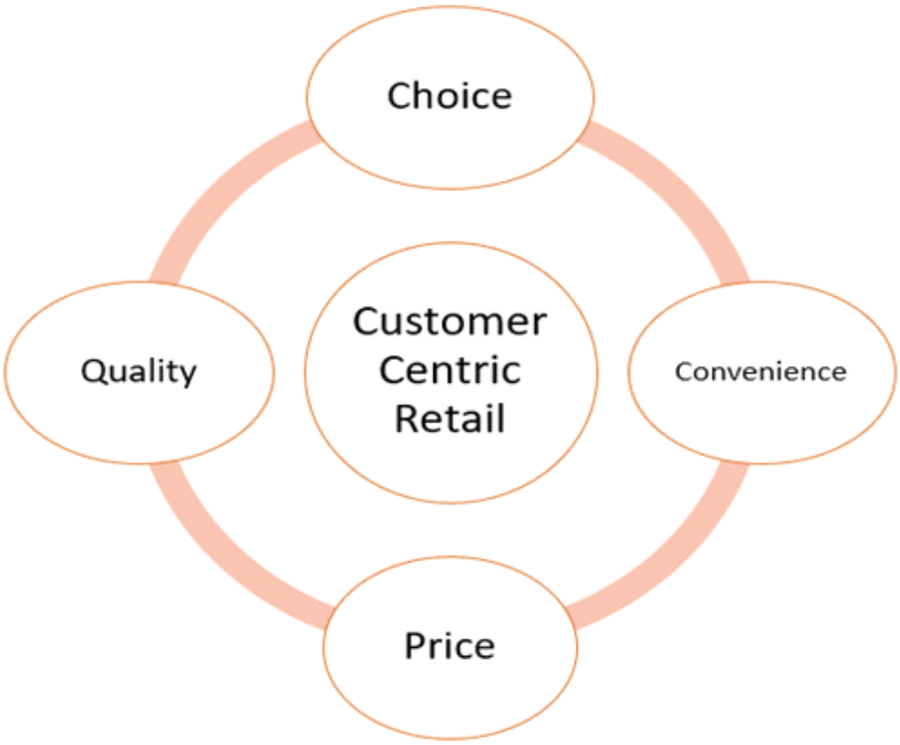


Figure 5 : Customer Centric Retail

Nowadays, important aspects of the purchase process for consumers are product comparison while shopping, availability of multiple brands at one stop and user-friendly services that ease the shopping processes e-commerce provides many of choices to the customers. Customer service after the product purchase plays a very important role. Managing customer queries, product replacement, tracking the movement of goods ordered and ensuring timely delivery in the online industry are important aspects in e-commerce business. Providing excellent customer service allows businesses to achieve elevated levels of customer satisfaction, thereby ensuring customer loyalty and positive outreach.

Convenience

The retailing environment is evolving with technology and innovations. These innovations are driven by consumer demand and advancement in technology. Along with the retail industry, consumers too have undergone significant changes in their lifestyles, spending and shopping habits, along with usage of technology. From the perspective of a consumer, the ease of availing

goods and services is a major deciding factor before buying. The idea of what constitutes convenience differs for every consumer depending on how they are shopping, what they are buying, or where they are in their purchase process and what they prefer personally.

For example, a supermarket offers the convenience of purchasing a variety of items under a single roof. A supermarket or a department store also allows the convenience to explore multiple leading brands without the hassle of travelling to multiple places. A store that is open all 24 hours provides the convenience of shopping at any time like the online e-commerce portals. With the advent of mobile applications, shopping online has now become an anytime activity with no bars with respect to location and time further increasing the convenience of the customers.

Especially during the pandemic, people wanted to shop ensuring safety and having the products delivered at their doorstep. Here, convenience of purchasing is incredibly significant. Convenience comes in many forms; it can be free or fast shipping, time flexibility, online buying with in-store pickup, local delivery, or location-based incentives etc. and it depends upon what consumers consider most convenient for them.

E-commerce delivery ecosystem constantly keeps updating to keep up with consumer needs, with the convenience to shop anytime, anywhere or on the move. Consumers now often enjoy product deliveries on the same day of order placement and delivery at the convenience of their place and time. Traceability of their ordered products in logistics is also a benefit that attracts consumers to online shopping. The ease of returns on the products which are not satisfactory is also one the most appealing aspects.

Price

Customers like to purchase products from stores that offer the best prices. It is common for supermarkets in India and across the globe to provide lower prices than smaller retail sellers which is often possible due to the preferential rates they receive from suppliers or manufacturers due to bulk orders, or due to large warehouses which help in bringing down the storage costs.

With the emergence of e-commerce, the retail market has become more competitive as many of the consumers are purchasing products online due to more choice and better convenience. Thus, to attract and retain a loyal consumer base, retail businesses (both online and offline) provide numerous incentives like festive sales, discounts, coupons, cashback, credit points etc. to make products and services available to consumer at the best price. Among all the product choices being offered, it is important for the consumers to understand the differences between competing products, as to believe that they have a best deal. They choose the best approach to leverage their purchasing power to achieve maximum satisfaction at a reduced price. When customers are aware of the features, perks, guarantees, upgrades, and other aspects that give them advantages, they will regard products or services as best compared to others. E-commerce platforms using technology and dealing in bulk procurement can minimize several costs related to logistics, warehousing, etc. which are further passed on as benefits to the customers.

Quality

The quality of a product or service can be defined based on consumers' satisfaction with it. A good quality product for a consumer comprises various characteristics such as, need fulfilment (whether the product or service quality meets the consumer's required needs or is tailored to their requirements); durability (how long the product will last); efficiency and the ease of use also matters the most.

Quality is often more important than price to many consumers and they frequently find quality aspects in brands. Consumers pay high prices for brands because they have gained a reputation for quality, consistency, and trust over time. In the era of choices, branding helps identify what makes a product different and more appealing than comparable products, as it provides safety and minimum risk of disappointment. A high-quality product inspires unwavering consumer loyalty which makes them return to make repeat purchases.

Quality of a product can be evaluated only after use of the product by some customer. This information about the feedback on the product is not available to a new customer during the time of purchase either in a small retail store or in a large supermarket – here the customer has to rely solely on the words of the seller or agents selling the product. In contrast, feedback on the quality and durability of a product by past customers are available in most e-commerce platforms through which new customers can easily read the feedback while making the purchase decisions. There are several standalone portals and user groups providing reviews or feedback on products which the user may research while making the purchase decisions, but an e-commerce platform offers transparency to the user by integrating the feedback and making them available to the customer at the point of decision making.

The Retail Ecosystem

As a customer, one either visits a physical store to buy the product or orders the product online on an e-commerce platform which gets delivered at the doorstep and other players in the ecosystem are not visible to the customer. Before we delve into the recommendations of the retail ecosystem it will be good to have a common understanding of the various core components and players of the retail ecosystem.

Manufacturer

A manufacturer is a person or a registered company which makes finished products from raw materials in a bid to make a profit[6]. The goods are later distributed to wholesalers and retailers who then sell to customers, but the manufacturer hardly interacts with the customer during the process. A manufacturing business optimizes the procurement of raw materials for manufacturing the product or parts for the assembly of the final product. The manufacturing business focuses on maintaining low production cost ensuring a good product quality. The manufacturer markets the product and has tie-ups with distributor networks for further sale of the product. Manufacturing or assembling products in India is the focus of India's “Make in India” program, which would reduce the import of goods, possibly bringing down the prices and providing delight to the end consumer.

[6] Derived from Cambridge Dictionary. Available at: https://dictionary.cambridge.org/dictionary/english/manufacturer

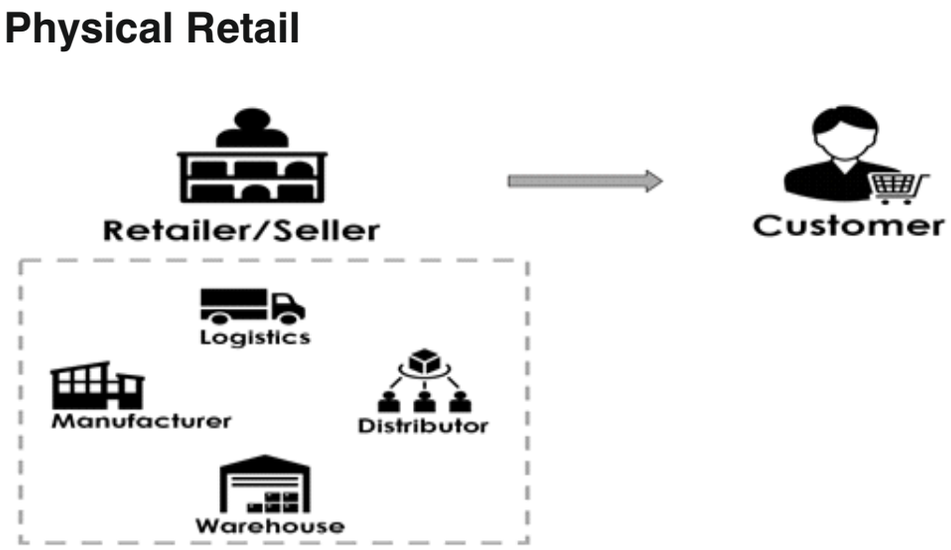


Figure 6 : Physical Retail

Distributor

A distributor is an entity that buys (or procures on credit) noncompeting products or product lines and makes them available to the retailers/sellers to be sold to the end users or customers[7]. Distributors are essential in helping manufacturers access the markets which they could not otherwise target. Distributors know the local culture and business practices, therefore, they become a direct point of contact for the manufacturer to reach prospective buyers.

A wholesaler[8] is an intermediary between the retailer and distributor. In an ideal scenario, the distributor works with the manufacturer. A wholesaler deals in bulk-buying of the goods, which are sold to the distributor who is purchasing the large quantities of goods for a single retailer or multiple retailers.

Logistics

As seen above, the goods or products are not consumed in the close vicinity of the area where they are produced, so logistics in terms of transport of the goods and products, become an important component. 'Logistics'[9] often refers to how resources are obtained, stored and then shipped to the destination. Therefore, logistics is also responsible for the safety, safe delivery and security of the product. In large organizations, the logistics' team also take on the added measure of insuring the products.

Aspects of material handling, warehousing, transportations, packaging of goods, inventory of goods and control of inventory also comes under logistics. At times, it also deals with finished and unfinished goods. Therefore, management of logistics deals with the right quantity of resource/s, at the appropriate time, to the right location in perfect condition and delivering the product to the correct person. A robust logistics network would enable quicker delivery of goods even beyond tier III cities and into the rural areas of India.

[7] Derived from Cambridge Dictionary. Available at: https://dictionary.cambridge.org/dictionary/english/distributor
[8] Derived from Cambridge Dictionary. Available at: https://dictionary.cambridge.org/dictionary/english/wholesaler
[9] Derived from Cambridge Dictionary. Available at: https://dictionary.cambridge.org/dictionary/english/logistics

Warehouse

Warehousing[10] involves storing products or goods to be distributed later. Any large spacious place which is used to store or accumulate goods, products or items is called a warehouse. While it simply means storing goods, a warehouse plays an extremely important role in a logistics system. It has a fundamental role in the supply chain management. Since consumption and production do not take place at the same time, there is a gap. Warehousing or a warehouse helps to bridge this gap by storing goods, products etc. Each warehouse would have its own catchment area for delivering products to nearby cities or adjoining areas. Building a warehouse involves high expenses, so deciding on the optimal number and location of warehouses to deliver goods in reasonable time is a continuous challenge.

Retailer or Seller

A retailer, or merchant, is an entity that sells goods such as clothing, groceries, or cars directly to consumers through various distribution channels with the goal of earning a profit. Retailers typically buy goods from a manufacturer, wholesaler, or distributor and then resell them to the public. Large retailers such as Walmart and Target in USA and Big Bazar in India often purchase goods in huge volumes from manufacturers or wholesalers, thus receiving preferential discount rates for the products. The difference between retailers and wholesalers is that while retailers sell directly to consumers, wholesalers sell their goods to other businesses (including retailers).

Retailers are the direct entities which interact with customers and based on the choice and convenience aspects of the customer, a range of retailers have evolved over time which involves small kirana stores, Single Brand Retail Stores (SBRT), Multi Brand Retail Stores (MBRT) focusing on single items (mobile phones) or vertical (sports or electronics) to supermarkets catering to multiple products, multiple brands and multiple product lines.

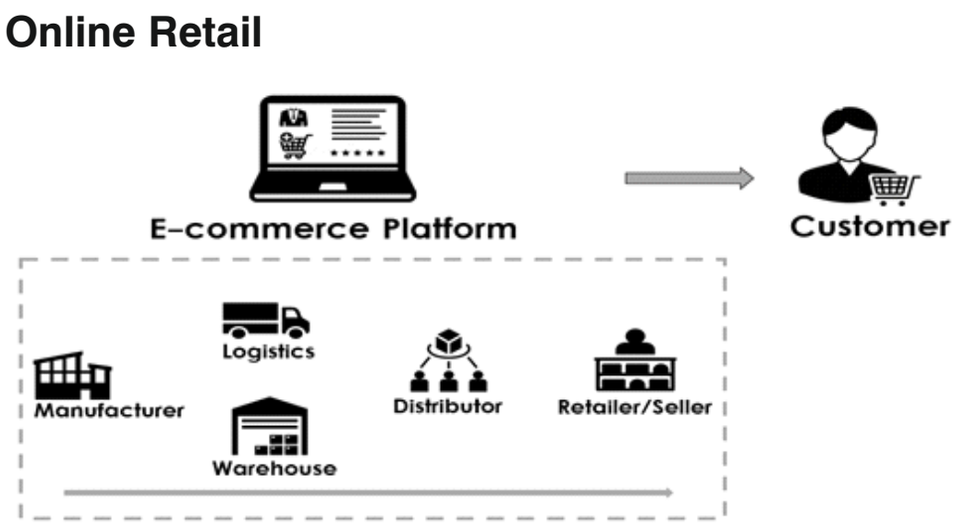


Figure 7 : Online Retail

[10] Derived from Cambridge Dictionary. Available at: https://dictionary.cambridge.org/dictionary/english/warehousing

Physical vs. Online Retail

In physical retail, the customer visits the retail outlet to buy the product and it is the responsibility of the retailer to store the product once received from the distributor. Retailers must maintain a physical store to display and store the products along with the operational expenses of running the store in the locality of the customer. Large retailers have the flexibility and space for storing large amounts of goods. The retailer must continuously keep track of the stock of products in the store and must order fresh stock from the distributor when the existing stocks are about to replenish. The retailer and/or the distributor also manages the delivery of the stock from warehouses through their logistics partners. Various aspects like upkeep of the store, warehousing of the products and logistics, all add up to the product cost, ranging between 15 – 30% of the actual product price paid by the customer.

With the advent of technology, online electronic commerce has evolved which allows customers to directly choose and order products online. The ordered products are delivered directly by the logistics partner from the seller or distributor to the customer's doorstep within a reasonable agreed time frame. In online delivery, as the product is not delivered instantaneously (unlike food delivery), it provides the flexibility of warehousing the product outside the city limits that has less price overheads. The expenses incurred from upkeep of physical stores and its employees can thus be avoided in the online e-commerce route which is often passed on to customers in terms of discounts.

E-commerce Fulfilment models

In online e-commerce, the customer always places the order online through the website or mobile application but the way the order is fulfilled by the e-commerce platform might vary. There are primarily two prominent fulfillment models which are considered.

Marketplace Model

A marketplace model connects and facilitates buyers (customers) and sellers (retailers, distributors who fulfil the orders) on e-commerce platforms. The sellers can list their products on the marketplace platform providing details of the product, its features, specifications, manufacturing details, price and delivery details. Prospective buyers can view these details of products listed by multiple sellers in the single marketplace interface, i.e., the portal or mobile application of the e-commerce platform. The marketplace provides an interface for payments and transactions between sellers and buyers, in return for the services the marketplace platform provides. The platform charges a commission for facilitating the successful transaction - the commission charged by the platform can range from 5% to 30% depending on class and category of the seller.

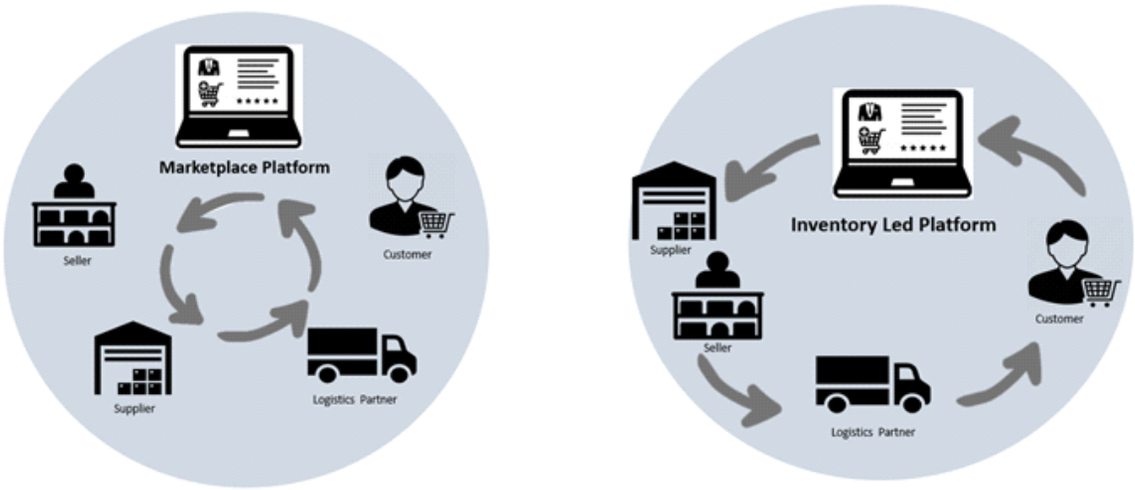


Figure 8 : E-Commerce Fulfillment Models

In this model, the inventory rests with various sellers who advertise the products on the platform. In this model, the ownership and management of the inventory is the responsibility of the various sellers who list and advertise their products on the e-commerce platform and are the ultimate sellers of goods or services. The “Market Place”, thus, works as a facilitator of e-commerce. The platform does not aid the seller in any sort of retail functions on the type of items to be sold, pricing of those items, etc.

The advantages of the marketplace model are that it is highly scalable as it can cater to a wide product portfolio and many sellers. Since the e-commerce platform does not have direct ownership of the products, it is difficult to conduct quality checks. Items might be delivered from different locations leading to higher logistics costs and it takes a longer time to build customer trust and loyalty. After sales aspects of the product are not handled by the marketplace platform which are very crucial aspects related to the usage of the product like product returns, warranty, after sales services, etc.

Inventory Model

In Inventory Model, the ownership of goods and services rests with the e-commerce platform. Here, the platform is directly engaged in e-commerce activities ranging from listing the products to the post-ordering processes of procuring the product from manufacturer, warehousing and dispatching the product for final delivery to the customer.

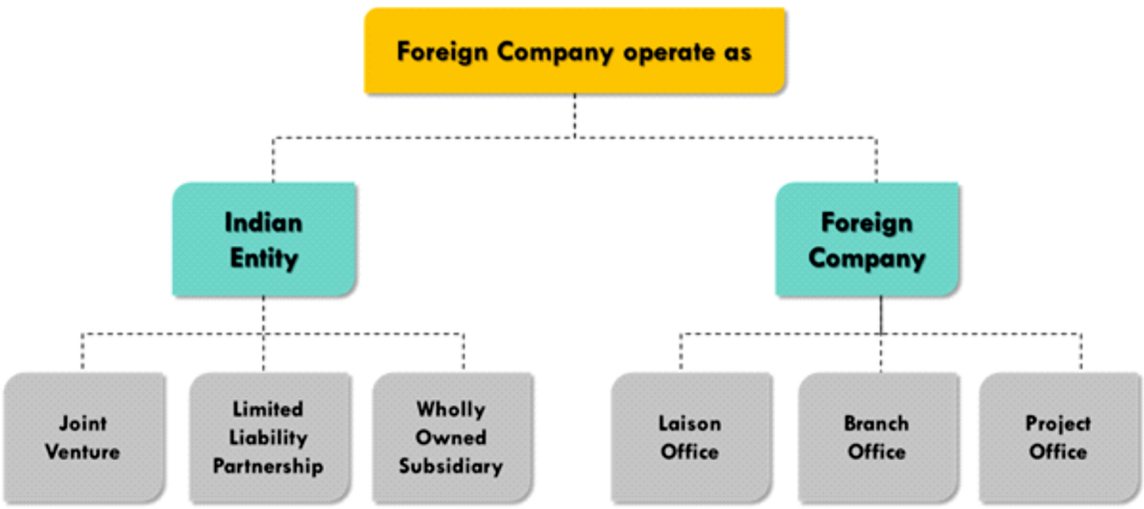
If the e-commerce entity maintains a distribution center to stock-and-store inventory and dispatch customer orders, it is called 'warehousing model' or 'inventory-led fulfillment model'. At times the organization ends up partnering with third-party providers for logistics and warehousing activities.

This third-party collaboration ensures a speedier delivery and control over quality which helps to enhance the shopping experience of the customer and helps in improving customer trust. Given the high, fixed capital costs involved, the inventory-led model can be difficult to scale as it requires high amounts of investments.

Foreign Direct Investment (FDI)

A Foreign Direct Investment (FDI) indicates a purchase of interest in a company or individual investor in a different country. The Indian economy is on a constant growth, and this entices foreign businesses to operate in the Indian market based on the FDI norms and regulations of the country. FDI can take on many forms – opening an Indian subsidiary, a joint venture with an Indian and foreign entity or company or even acquiring a controlling interest in an Indian company by a merger.

With FDI, foreign companies get directly involved in the regular business operations of Indian entity/entities. The companies coming with FDI bring with them the global expertise of retail and e-commerce operations, in terms of managing the distributor network, managing the supply chain, technology expertise in developing the e-commerce platform and customer management aspects. These global players have operated similar businesses in different ecosystems and hence have an additional advantage which is a major reason for the rapid technological enhancement and growth of the sector in India.



Source(s): Adopted from Deloitte report 2020

Figure 9 : Foreign company Operating models

Foreign direct investment in India is sector specific, where the FDI in some sectors can be made through automatic route without specific approvals from the government or Indian central bank. Some of these sectors are agriculture, petroleum and natural gas exploration, and telecom. In some other sectors, FDI is permitted through approval route and the foreign entity needs to take prior government approval for making the investment. Some example sectors are broadcasting content services, print media, satellite operations, etc. FDI in the retail sector in India first started in wholesale cash-and-carry through the approval route in 1997 and then changed to the automated route in 2006. FDI is completely prohibited in few select sectors like atomic energy, chit funds, gambling, lotteries, etc. The route of FDI has implications on the ease of entry of foreign companies into specific sectors.

FDI Norms in Retail & E-commerce

The FDI norms related to the retail sector and e-commerce sector in India have undergone a series of changes over the last couple of decades. Summary of FDI Policy Recommendations is listed below.

YEAR	MINISTRY	INTERVENTION
1997	DPIIT	• 100% FDI in cash-and-carry wholesale trading with prior government approvals
2000-2010	DPIIT	• Automated 100% FDI approval in wholesale cash-and-carry • 51% FDI in Single Brand Retail Trade with prior government approvals
2010-2015	DPIIT	• Allowed 100% FDI in SBRT through the automated route • Business to customer (B2C) ban irrespective of Single Brand Retail Trading [SBRT] or Multi Brand Retail Trading [MBRT] (2012) • FDI permits SBRT for e-commerce which have physical stores (2015) • SBRT allowed to sell online if 30% goods value sourced from Indian cos.
2016-2017	DPIIT	• 100% FDI in marketplace e-commerce model • Defined marketplace & inventory models • FDI in inventory model not allowed
2018-2019	DPIIT & Consumer Affairs	The policy can be summarized as: • **Marketplace** restriction extended to both 'ownership' & 'control' of goods and inventory • Sellers listing on the e-commerce platform cannot have **equity or investment** from the platform or their group companies. No threshold on equity and silent on indirect equity participation • No **Exclusivity** arrangement of the platform with the seller/brand allowed • **Impartiality** to be maintained for all sellers and level playing field while offering any discounts. • E-commerce platform to provide evidence of **compliance**
2020-2021	Consumer Affairs	• Prevent foreign marketplaces from selling products through sellers in which they have indirect equity stakes • Restrict a marketplace's relationship with its associated parties[11]

From the above changes in the FDI policy regulations, it is difficult to interpret the objectives that lead to each of these new norms every few years. In 1997, India first opened its doors for FDI in the bulk cash-and-carry retail sector with a very **cautious** approach, ensuring that deals went through government's approvals and scrutiny. Such investments led to the development of the warehouse and logistics backbone for higher retail penetration.

During the next decade between 2000 – 2010, the government allowed 100% FDI in business only (B2B) transactions, with a focus on **national interest** – with the company receiving the investment had to divest at least 26% of their equity to be invested in India within 5 years. The government continued its focus on using foreign investment in infrastructure development both in terms of warehouse and logistics supply chain and in terms of technology. Complying with such policies seemed quite challenging for the e-commerce companies and by 2005, several of them approached the Foreign Investment Promotion Board (FIPB) to seek exemption[12] leading to the relaxation of these rules.

[11] S. Chengappa, ' Draft e-commerce policy could add to compliance burden of stakeholders' The Hindu Business Line, 16 March, 2021, Available at: https://www.thehindubusinessline.com/news/draft-e-commerce-policy-could-add-to-compliance-burden-of-stakeholders/article34085913.ece

[12] Gaurav Malani, FDI in B2B e-comm, petro marketing, tea to get a boost, Economic Times, Nov. 14, 2005. Available at: https://economictimes.indiatimes.com/fdi-in-b2b-e-comm-petro-marketing-tea-to-get-a-boost/articleshow/1294024.cms

The FDI policies for Single Brand Retail Trade (SBRT) also demonstrated a swift policy change – the government allowed 51% FDI investment in SBRT through approval route in 2006, and then in just six years in 2012, the government allowed 100% FDI in SBRT through automated route. There was an additional policy requirement for those SBRT having more than 51% FDI of sourcing minimum 30% of the goods from the Indian artisan and cottage industry. Around the same time, the government also allowed 51% FDI investments in Multi Brand Retail Trade (MBRT) with prior approval from the states, along with the policy of sourcing 30% of products from the local produce. The intention for such policies is not quite clear, ranging from a sense of **national interest** focusing on Indian enterprises, and **restrictions** for e-commerce entities. The government on this front possibly intended at capturing various aspects like the focus on the manufacturing sector by ensuring most of the manufactured goods are utilized in India. This would also enable the development of the physical infrastructure and technology backbone for enabling electronic commerce in India.

As e-commerce by foreign platforms was allowed in India, accelerated technology development took place leading to large number of e-commerce players in the country. The government allowed 100% FDI in only the marketplace model, making clear definitions of the marketplace and inventory models. The Indian FDI policies allow e-commerce companies to operate through the marketplace model, but by creating tie-ups with group companies, the e-commerce companies were practicing the inventory model in practice, but the marketplace model on paper. Many e-commerce companies used similar complex business structures to circumvent the FDI restrictions on B2C e-commerce. Such business practices would be considered as a violation of the FDI policies of the countries and involved judicial intervention[13]. Putting conditions on the source of procurement for goods by a retailer means interfering with core business decisions which would in turn impact the quality or price for customers. This was seen as a **protectionist** approach targeted towards smaller retailers and kirana stores who have not embarked yet on the digital economy.

There was a fear amongst smaller retailers that the e-commerce platforms would come up with their own products or enter exclusive arrangements with some traders which would affect their businesses and hence lead to the collapse of smaller retailers in the ecosystem. Similar apprehensions were observed when supermarkets entered India and customers were attracted towards them as they offered multiple choices, convenience to compare products along with attractive price discounts. A study by ICRIER commissioned by DIPP[14] around 2008 showed that the closure of small retailers was hardly attributed to the opening of supermarkets in the vicinity and rather on other external factors. To counter these aspects, the government came up with regulations that e-commerce platform companies must operate in marketplace models only and cannot have ownership of products sold and further cannot have equity participation in linked companies – sellers or logistics partners. Several prominent e-commerce platforms worldwide operate as inventory model which allows them better control and optimization of the supply chain leading to cost savings which can be passed on to customers in the form of discounts. This is quite a challenging requirement for the e-commerce platforms and ensuring compliance of the same is a larger challenge, which again is the liability of the e-commerce platform. Here, instead of going deeper into the root cause of the issue, the government came up with some **superficial**

[13] Mihir Dalal & Shrutika Verma, Amazon's stake in seller may come under scrutiny, Livemint, 06 Oct. 2014: https://www.livemint.com/Companies/5rcMyyEJgbQzZUnkJ9dRjJ/Amazon-stake-in-seller-may-come-under-scrutiny.html

[14] ICRIER, 'Impact of Organized Retailing on Unorganized Sector' May 2008, Available at: https://dpiit.gov.in/sites/default/files/icrier_report_27052008_0.pdf

policies which would in turn impact both platform companies, retailers and customers. To circumvent these policies, the large e-commerce platforms in India created multiple foreign firms with their subsidiaries in India, leading to an increase in **corrupt practices**, increase in **business expenses** and moving away from the **ease of doing business** in India's retail sector.

Continuing along similar lines, on the so-called complaints by smaller retailers, the Ministry of Consumer Affairs and DPIIT banned flash sales on online e-commerce platforms and the e-commerce platform cannot have "related parties and associated enterprises" listed as sellers on their shopping websites. While the government's concern for this matter and intention for such measures are rightly justified, such regulations would make it **difficult for business entities** to operate in India. The innovative e-commerce model that leads to cost savings by managing the supply chain and deterring the platforms to pass on those discounts to the customer, is not in the best interest of the customers. The ministry dealing with consumer affairs is possibly not the appropriate body to make decisions that overlap with the nature of investment of the firms and calls for **greater co-ordination** between the ministries. Further, there needs to be common rules for the entire retail ecosystem irrespective of the mode of transaction (online or physical).

Policy Recommendations

Based on the discussion on the policies governing the e-commerce ecosystem in India, we recommend some policy interventions to promote better customer centric retail in India. The recommendations are grouped into five broad areas – the first two revolve around simplification of policies and bringing in policies into areas where these are required. Policy directives at every step of the process will reduce the ease of doing business in this sector. The next section talks about the relationship between online and offline retail and recommendations for bringing parity between the two forms of retail. The third section provides recommendations with a focus on the smaller retailers and sellers. Options for providing alternate e-commerce platforms are discussed and recommended in the final section.

Policy Simplification

The objective of any business entity is to cater to the needs of customers by identification of the market need, offer the appropriate product based on that market need and gain profit in the process. The policies around e-commerce in the country cover a large gamut of elements, including the nature of business transactions (B2B vs. B2C), brands on offer (single brand vs. multi brand), relationship with the sellers on the platform (independent vs. allied), etc. E-commerce as nascent sector will experience several innovation and changes over the years and over-regulation might hamper the growth of the sector.

The organizations which are a part of the e-commerce business process, would often need to explore options within the broad business rules in India. Broad policies and rules would give the entities a clear direction for conducting business and the rest of the intrinsic matters can be left to the market dynamics. The Central government believes in the notion of “Minimum government and maximum governance” which suggest reduction in the government intervention leading to better governance and welfare of the citizens and business entities – this can be achieved by the process of policy simplification. Borrowing on the same philosophy, we recommend that policy interventions in the booming sector of retail and e-commerce be minimized such that more players (both Indian and foreign) can enter the ecosystem and innovate for ease of conducting business leading to customer centric retail.

Recommendation: There are many policies released by the government over the last two decades which cover various areas and are often found confusing and overlapping – no further policies are required in the immediate future. It would be recommended that the **government comes up with broad policies to promote the e-commerce and retail ecosystem in the country** – this would provide a clear direction for companies working in this space.

The government needs to have adequate trust in the market forces that are the main players in the e-commerce ecosystem, be it sellers, platform owners, logistics or warehouse partners. Businesses work towards providing the best product/service, minimizing their operational costs, so they can maximize the profit. Extending to the retail sector, the retailer aims to procure best quality goods from the one producing at the lowest costs. The government, as part of FDI policy, dictate criteria for local product procurement, which might not be the one of best quality or lowest price and in some cases local producers might not have adequate know-how or technology to develop the product. These would not be in-line with the aims of the business and in turn the customer (Indian citizens) would have to compromise on lower quality product or pay higher price for the product. Such decisions on type of products, means of sourcing should not be part of an FDI policy. As a market opportunity for sourcing local products emerge, the retailers or e-commerce platforms would be the first to identify the opportunity and source more products from them. As the government is not involved in day-to-day functioning of these various entities, it is best left to the market entities to innovate, based on the market opportunities.

Recommendation: Simplification of norms for conducting business in the retail and e-commerce sector should be formed by a single ministry in consultation with other related government and non-government bodies. It would be good to articulate broad business norms at the time of starting the business (Indian companies) or while entering India (foreign companies) along with a **reasonable time duration for the validity of these business norms** so the companies can focus on the core business aspects rather get tied in multiple policies. The companies would continue to operate under the other norms for doing business in India.

The policies related to FDI in the e-commerce sector in India have changed multiple times over the last two decades creating a lack of clarity and confusion, which impacts future planning activities for the e-commerce business and other business entities. A company might have entered India adhering to policies at that time, which constantly keep changing every few years, leading to constant challenges for the company for coping up to these changing norms. Frequent changes to the regulations impacts the business environment and development of the industry, is not a step in the right direction and would adversely impact investor sentiment. There is need for a stable policy. There is no requirement for any additional policy or changes to the existing policies, the existing policy is comprehensive, clear and robust, and is appropriate for the regulation of e-commerce marketplaces.

Although it is understandable that this an evolving sector and policies will be required with growing complexities, but the need is of far sightedness and simplification of policies. Companies would need to spend a significant amount of their time and resources towards the understanding of these changes and aligning the businesses to the new norms. All these aspects would make it complex and difficult for entities to operate and carry out business in India. Such constantly changing policy norms, in the long run, can lead to many foreign investors leaving India and would hurt the customer's interest at large. Given the complex nature of e-commerce

business, multiple ministries and government bodies get involved in aspects of the policy making which makes it complicated for businesses to interpret and operate. It would be recommended that a Central ministry, DPIIT, holds consultation with other government entities and comes up with policies, rather than multiple government bodies like the Department of Consumer Affairs, Competition Commission of India, etc. coming up with overlapping policies. For the ease of businesses operating in this space, the government can provide easy interpretation of the policies to avoid any issues related to interpretation of the same.

Online-Offline Parity

In India, people believe in guided buying as they rely on recommendations by and trust on the seller they are buying from, making it a very social experience. In addition, reasons that are unique to in-store shopping is the ability to see, touch and try the product and being sure about the fit or suitability of the product. Also, consumers can immediately avail themselves of the product when shopping offline. To attract customers, offline retailers spend on the look and feel of their stores and shops and do one-to-one customer engagement to ensure they shop from them. They also provide deals and offers as a value-added service[15].

In the retail industry, to attract customers and boost sales, discounts and offers play a significant role. In India, discounts and sales are an integral part of festive seasons and consumers spend on luxury items, apart from necessities during this time. Adopting to this strategy, both online and offline retail players offer discounts and sales to retain a large customer base. There are several domestic sellers with significant foreign capital, that engage in MBRT including through online e-commerce. Such entities (being recipients of monies invested by foreign investors) also offer discounts. There is no justification for these industry players to benefit from foreign capital and give discounts to customers, whereas FDI funded marketplaces are prohibited from allowing sellers despite minimal economic participation by entities related to the marketplaces. If any kind of foreign participation is not permitted, the position should be consistent for offline / physical retail businesses, without any sort of preferential treatment to domestically funded marketplaces.

Recommendation: Common policies and rules for the entire retail sector both online and offline retail are recommended which would allow customers to choose from any means for purchase based on their current needs. The customer often has multiple touchpoints as they move through the retail journey, like choice of the product, product comparison, needs assessment, and finding the best price to make the final purchase. Hence, business practices for the retail sector should not be based on the mode of the final transaction, i.e., online vs. offline.

Presence of multiple players in e-commerce and supermarkets has given rise to a competitive environment. Both online platforms and supermarkets have been doling out high levels of discounts, flash sales and creative advertisements to bring in customers. The discounts and

[15] Total Retail 2015: Retailers and the age of disruption, available at: https://www.pwc.in/assets/pdfs/publications/2015/retailers-and-the-age-disruption.pdf

sales are not limited to festive seasons, but have become common all-round the year, like during month-ends and holidays. With more consumers preferring online purchasing to in-store shopping, many sellers have started forming exclusive selling arrangements with online retailers across all product categories. Through these exclusive arrangements, both Indian and international brands have started leveraging the reach of e-commerce, which has made consumers shop frequently and get attractive price deals on niche brands/products. Under FDI laws, the pricing of products is under exclusive control of the seller and a marketplace is prohibited from exercising any influence on pricing. In view of the above condition, the offer or discount on products is a seller's discretion. The marketplace only advertises the offers or discounts offered by the seller on its products. Hence, there is no reason for introducing restriction on discounts on the marketplace.

Recommendation: Sales and discounts are used as a marketing tool across all sectors even in offline stores. Discounts & flash sales are one of the major reasons that attract consumers to e-commerce platforms and enable them to buy exclusive and high-priced products at the best price. A prohibition on such sales events will stifle competition and deprive consumers of the best price which may impact consumer behavior in a negative way. **Thus, banning of discounts and flash sales should be reconsidered.**

Offline traders have complained that e-commerce platforms give deep discounts and offer sales to customers which they cannot match, and that affects their business negatively. It is difficult for offline stores to offer sales and discounts throughout the year to compete with online platforms, since they have additional expenses like store rent and maintenance which is not an issue for online platforms. Emphasizing that the tactic of sales and discounts is discriminatory towards offline sellers, the government have put a ban on flash sales, and discounts on online platforms as a measure to create a level playing field for offline sellers.

Small Indian Retailers

E-commerce companies through their marketplace platforms have helped create opportunities for craftsmen, micro-entrepreneurs, and other small businesses. They have digitally enabled them to attract customers from all over the country and sustain their businesses as well as contribute to the economy. Many offline stores are adopting e-commerce to leverage these opportunities. This has helped both e-commerce companies and sellers in attracting a larger customer base and sales. The well-established e-commerce players in India have already started capacity building initiatives for smaller retailers and kirana stores with the sole objective of onboarding them onto the seller network of the large platform players. Small retailers who have embarked on these digital platforms benefit from the multiple outlets for selling their products and have also formalized their businesses, leading to transparency and improved government revenue collection. Small number of sellers have benefited from these efforts and many more are yet to embark on that journey which will enable these small sellers to reap the benefits of digital technology and e-commerce platforms. Interventions from the government would be a great help for the smaller retailers, in this regard.

With the current pandemic situation, buyers and sellers have adopted digital channels more quickly, in both metro and non-metro cities. Consumer preferences have shifted to online shopping due to safety concerns. This has largely affected the small-scale offline businesses and stores. With little to no sales it is difficult for them to sustain on their own. This pushes offline stores to evolve with the changing market and shift to online channels. Even if offline sellers are ready to transit to the online channel there are many aspects that they struggle with, like branding and marketing of products, packaging, logistics and delivery to customers, and customer service. This understanding and adoption of online channel poses a challenge which discourages small scale offline sellers to easily adopt to e-commerce.

Recommendation: The government should start a dedicated program for capacity building of small retailers and sellers for onboarding them to online channels and help them transforming their businesses into digital formats. **Provide training and build capacity of small retailers and sellers in product packaging, marketing, logistics and delivery aspects, and slowly ease them into leveraging online business.** The Ministry of Commerce in collaboration with Ministry of Micro, Small and Medium Enterprises and National Skills Development Corporation (NSDC) can develop self-paced learning courses on technology, marketing, branding, taxation, etc.

In the current scenario, the offline small retailers operate in a different business model and are not taking full advantage of the digital economy that is driving massive growth in the ecosystem. These small traders need to embark on the digital ecosystem which involves digitizing their entire supply chain – ordering of products, keeping track of in-store stocks, warehousing, display, to the final product sale. Once this is established, the smaller retailers can operate digitally on their own terms – either independently via platforms like Facebook, WhatsApp, independent mobile application or website, or by tying up with large retail platforms in India. The small retailers do not have the adequate skills or resources to embark on this journey.

Recommendation: Ministry of Commerce in collaboration with the National Informatics Center (NIC) can develop an **open-source software** that can be used by **small retailers for managing various aspects of their retail operations.**

Provision of financial aid or loans at very low interest rates to small businesses and retailers, to cover operational costs related to digitization of the business, can prove beneficial. Such financial aid from the government would also encourage businesses to embark upon the digital economy and reap rewards for the same in the long run.

Digitization of the entire supply chain can often be time-consuming and requires investment of time and resources. The retailer store would need to transform all elements of the supply chain in a process flow software or application which would involve costs related to the procurement of such a software application and then entering details related to every product into the system, which might require several man hours of work depending on the size of the business. These transformations will lead to several benefits in terms of efficiency in tax compliance and financial auditing, the flexibility to operate as online business through tie-ups or independently. But several retailers might be deterred by the prospect of additional investment incurred for such activities and some sort of financial aid from the government would be a great step in this direction.

Alternative Platforms

Large number of online e-commerce players operating in India have some foreign entity as the majority fund supplier or as majority stake. Hence the initiatives of these large e-commerce players often seem anti-national as per the general narrative. It would be good to have more e-commerce platforms backed by Indian promoters or Indian government which will lead to enhanced competition providing multiple options for both sellers and customers.

Over the last decade, venture capital-backed aggregators have dangled online demand as bait in front of traders. These online aggregators offer lucrative commission to the sellers during the initial acquisition phase, but then during the growth phase the sellers find their commissions eroding with very few alternative options. So, a seller-first platform focused on consumer choice could redraw the rules around competition, capital, and scale in India.

Recommendation: Promote and launch the Open Network for Digital Commerce (ONDC) on priority basis as a Mission Mode project under the government's Digital India program. ONDC would be focused on the interest of sellers and ensure fair trade and competition in the ecosystem. Customers will have another choice to reach out to multiple small retailers and sellers through the ONDC platform.

Sensing the growth of the online commerce, Department for Promotion of Industry and Internal Trade (DPIIT) has taken an initiative to create an Open Network for Digital Commerce (ONDC), where buyers can access products of sellers across platforms without having to switch between multiple platforms creating an open network model from a platform-centric model. Having an interoperable system will help streamline the onboarding of retailers and establish a cataloguing, vendor and price discovery method – thereby making the customer shopping journey fuss free. The idea is that this will be a new digital infrastructure on which all e-commerce will be built, connecting sellers and buyers, like creating a Unified Payment Interface (UPI) of commerce.

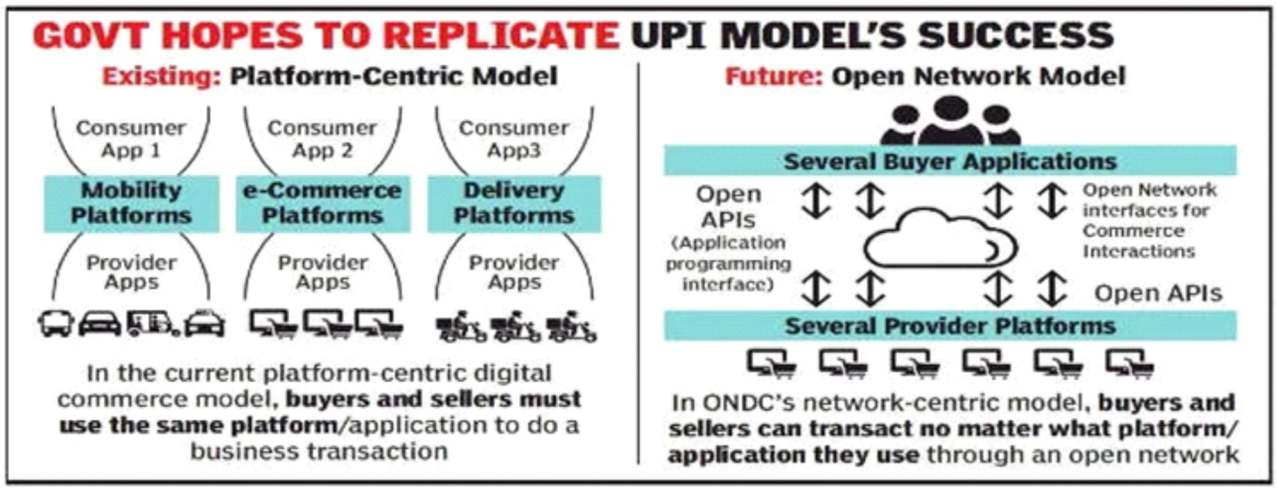


Figure 10 : Open Network Digital Commerce (Image Source: The Times of India - How will open network for e-commerce work? Jul 12, 2021)

Open-source software will ensure that the small retailers and sellers do not have to spend additional costs for procuring the software licenses. Also, the aspects related to onboarding of sellers, product listing on the catalogue, searching of products, etc. can be monitored by citizens on an open-source platform ensuring complete transparency of the process, and no bias can be introduced by the platform owner. Further, engagement of government back platforms and promoters will help the government understand the nuances of operating profitable business and will thus lead to simplification of the business norms for the e-commerce sector bringing delight to the e-commerce platforms, sellers and customers.

Recommendation: The government through a Special Purpose Vehicle (SPV) has successfully managed the Government e Marketplace (GeM) aimed at public procurement for state and central government. It is **recommended that GeM be made available for the Indian citizens and customers to take advantage of this excellent initiative.**

More options available to the customers are good for both the sellers and the customers. Government of India through a Special Purpose vehicle (SPV) had launched an online platform for public procurement of goods and services in India, named the Government e Marketplace (GeM) since 2016. This has provided an open and transparent procurement platform for state and central government buyers. Since August 2021, the GeM platform has onboarded 25,98,510 Sellers & Service Providers out of which 718,365 are MSE sellers & service providers. Further, it has more than 52 lakh products, in about 16,409 product categories, and has 193 service categories. The number of sellers on the platform are in no way less than any of the large e-commerce platforms in India and GeM has adequate experience in handling large number of sellers and buyers simultaneously. The government-backed GeM platform would also provide an additional layer of assurance to the onboarded sellers about fair competition and transparency. The customers would get an additional option for their shopping journey with multiple options from both private and government players.



Retail Business Models

Introduction

The current report investigates various business models associated with the retail industry and tries to map global regulations major related to prominent countries. The report begins with an analysis of global retail business analysis followed by brief insights into various forms of business models of the retail industry across the globe. The report then tries to map various regulatory frameworks associated with each retail business model in several countries and, finally, moves towards a comparative analysis of these regulations. The report concludes with policy insights and suggestions from the authors based on the study conducted.

Global Retail Business

Academicians in the past have defined the customer journey into three stages, i.e., pre-purchase (e.g., 'search'), purchase (e.g., transaction), and post-purchase (e.g., review, returns, repeat). Our report deals with the Pre-Purchase and Purchase stages in detail[16]. Before the purchase cycle starts, retailers must set up their business, and focusing on the business environment becomes a critical factor. The pre-purchase stage primarily deals with the end customer's the product/service search, where aspects like Marketing, Advertising, Promotions, and Customer Support come into the picture with various forms of their associated regulations.

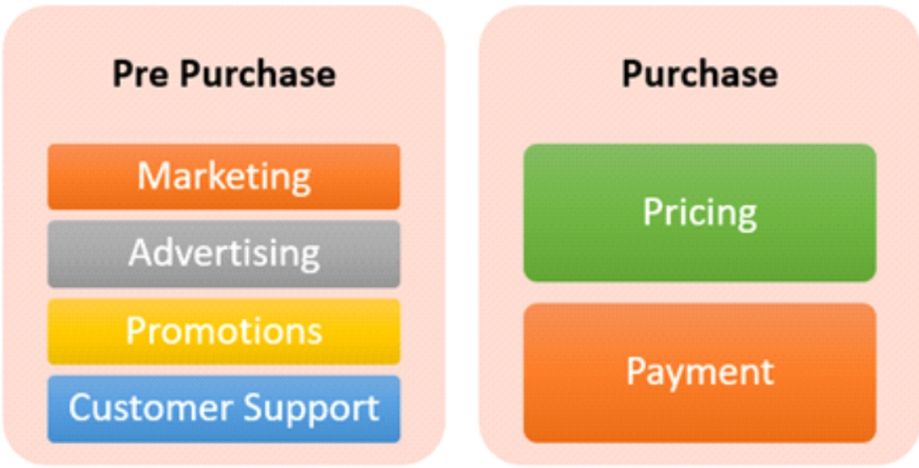


Figure 11 : Two phases of the customer journey (Source: By Authors)

Setting up the business entity is the first step for the retail or e-commerce entity, which involves aspects like registering a business and getting the required government approvals, registering with tax bodies, opening financial accounts with banks, etc. In the case of physical retail stores, additional steps would be required like selecting a store location, government approvals for conducting retail activities at this business, registering corporate electricity connection, etc. The purchase stage is a transaction phase that mainly deals with pricing and payment with its own set of regulations.

There have been various studies on the theoretical aspect of the Business Model in the past, but most of them have been brief case studies from the perspective of start-ups. Paul Timmers was

[16] Understanding Retail Experiences and Customer Journey Management; Available at: https://doi.org/10.1016/j.jretai.2020.02.002

one of the first to propose essential aspects of any business model in the form of product or service architecture, a clear understanding of information flow, and business values, especially source of revenue[17].

This report is focused on retail business models; today, we all agree that the retail industry has undergone seismic shifts with the help of digital system innovations, especially in the post-Covid era. A few decades back, retailers were limited to the role of 'merchant intermediaries,' which used to buy products from suppliers in various ways and sell them to end customers. With technological interventions, global competition, and changes in the retail industry's national and international regulatory frameworks, there has been a drastic change in the retail business model.

As far as the retail business model is concerned, there have been various definitions proposed by academicians and industry experts with distinct approaches. While there have been differences in the previously proposed classification and definition of the retail business model, all of them agree on the aspect of value creation[18]. To put it simply, 'retail business model is made from interdependent structures, activities, process, and governance mechanism that leads to value creation for both, i.e., the retail firm as well as its end customer.' Values for the retail firm include firms' source of revenue, market expansion as well as brand value expansion opportunities that come through taking care of the value proposition of the end customer, which in turn comes through product innovation, flexible and affordable pricing, low shipping cost, shopping experience, easy of product/service delivery, product awareness and robust distribution channel as well as mechanism.



Figure 12: Flow of the report

Further, any retail business model comprises three core elements i.e., retailing activities, retailing formats or business models in this report, and retailing governance and regulations. Retailing activities refer to various approaches for acquiring, stocking, displaying, and exchanging goods and services. The retail business models here refer to multiple permutations and combinations used for sequencing and structuring various retailing activities whose sum leads to customer experience. Over time, the retailing business models have evolved from mom-and-pop neighborhood stores to supermarkets, specialty stores to e-commerce, and omnichannel customer interfaces.

The study and analysis of the retail activities and business models are quite popular among the business and management fraternity. These business models and their success or failure in a particular geography (in most cases, a country) depend on the regulations and policies related to the various retail activities in that country or geography. In this report, we study the evolution of the various business models in retail, followed by a discussion on the customer and societal needs

[17] Introduction to the SEJ special issue on business models: business models within the domain of strategic entrepreneurship; also available at: https://onlinelibrary.wiley.com/doi/full/10.1002/sej.1194

[18] Innovations in Retail Business Models; Also available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1997189

that led to this evolution. We then highlight and list the critical regulatory and policy aspects covered across these retail business models. These regulatory aspects are analyzed for India and compared with similar regulatory norms across six other countries spread across Asia, America, Africa and the Middle East. We choose USA, Japan, China, UK, UAE and Soth Africa as part of this comparative study – a recent report highlights some key facts about the retail markets in these countries[19]. Based on this international comparative analysis, we identify a few areas of improvement for India's retail policies, which are highlighted in the final section on recommendations.

COUNTRY	% REVENUE FROM FOREIGN OPERATIONS	AVERAGE RETAIL REVENUE (US$M)
USA	13.10%	33751
Japan	12.80%	11232
UK	15.20%	15892
China	6.70%	18540
South Africa	30.60%	7623
United Arab Emirates	27.80%	8008
India	-5.30%	18454

Table 1: Comparative analysis of countries with the top 250 retailers in 2020 (Source: Global Powers of Retailing 2022- Delloite[20])

Retail Business Models

The retail industry is undergoing constant transformation, but the transformation has been milder in the last century compared to the massive evolution over the last few decades. This is primarily due to the advent of technology which has completely changed how consumers shop. In the past, consumers would generally visit physical shops to purchase goods. This typically involves traveling to a nearby town or city to visit shops.

The supermarket and shopping mall are two of the most ubiquitous components of the retail landscape. They are also two of the most constantly evolving entities, always trying to stay ahead of the curve to remain relevant and appealing to shoppers. The first supermarkets began appearing in the 1920s in America, a radical departure from the traditional grocery store. They were more extensive, with a wider selection of items, and they were organized in a way that allowed shoppers to move through the store more efficiently. These early supermarkets were also some of the first to offer self-service, a new concept at the time. The first supermarkets in India appeared in the early 1990s, and since then, the country's retail landscape has dramatically

[19] Global Powers of Retailing 2022; Available at: https://www2.deloitte.com/global/en/pages/consumer-business/articles/global-powers-of-retailing.html

[20] Ibid;

transformed. Today, supermarkets and shopping malls are ubiquitous features of the urban landscape and Indian consumers are some of the most avid shoppers worldwide. The arrival of supermarkets in India was a game-changer for the retail sector. Indian consumers had access to a wide variety of food and other products under one roof for the first time. Supermarkets also introduced new concepts such as self-service and branded products to the Indian market. The rapid growth of the middle class and the rise of urbanization were the main drivers of the supermarket boom in India. As incomes rose and more people moved to cities, there was a growing demand for convenient, one-stop shopping destinations.

The shopping mall is a relatively recent phenomenon, first appearing in the 1950s in America. The first malls were designed to be a destination for shopping, with a variety of stores and a central location. In India, the shopping mall culture was almost non-existent until the early 2000s, but today there are over 700 malls across the country, with more being built every year. The rise of malls has transformed the shopping experience for Indian consumers. Malls offer a wide range of shops, restaurants, and entertainment options, all under one roof. They are also air-conditioned, a significant draw in a country where temperatures can reach 50 degrees Celsius during summer. However, the advent of the internet has also made it possible for consumers to shop online from the comfort of their homes. This has dramatically impacted the retail industry, making it much easier for consumers to purchase goods without visiting stores or shops. It has also meant that there are now many more options available to consumers as they can shop for the best deals online. The internet has also had a significant impact on business operations. In the past, businesses had to rely on brick-and-mortar shops to reach consumers. However, the internet has allowed businesses to sell their products online. This has allowed businesses to reach a much wider audience as they are no longer limited by geography. The retail industry is more globalized than ever, as businesses can sell their products to consumers worldwide. The internet has also enabled businesses to connect with consumers through social media and other online platforms. The retail industry is continuing to evolve, and the changes that have occurred over the past few years are likely just the beginning. With the continued growth of technology, the retail industry is likely to undergo even more changes in the years to come.

Traditional	Online	Multi-Channel	Emerging Trends
▪ Mom & Pop (Kirana) stores ▪ Departmental stores ▪ Single/Multi brand outlets ▪ Supermarket	▪ Marketplace ▪ Social Commerce ▪ Direct to Customer	▪ Experience Stores ▪ Research Online & Purchase Offline ▪ Cross Channel ▪ Omnichannel	▪ Manufacturer as Retailer ▪ Metaverse, AR/VR ▪ Rural E-commerce ▪ Drone Delivery

Figure 13: Global Retail Business Model Classification (Source: By the Authors)

Academics, industry experts, and corporations classify the global retail market differently. For ease of understanding and lucid explanations, we have categorized the overall global retail business model into four categories, as depicted in Figure 2 above.

In the following sections, we will describe various retail business models and link them to policy and regulatory aspects that help these business models flourish with a core customer-centric approach. One thing that needs to be considered before going through the proposed retail business model classification is that, in a post-COVID era, most retail firms approach their customers through multiple business models. Thus, one is bound to find one brand available in multiple international locations through multiple business models. The Retail Business Model is divided into five major categories: Traditional Business Model, Online Business Model, Multi-Channel Business Model, Omni Channel Business Model, and Emerging Trends in Business Models.

Traditional Models

Under the Traditional Business Model, the retailer simply acts as a marketing intermediary using the conventional brick and mortar model. Conventionally, these retailers prefer to purchase products directly from the manufacturer and sell the inventory directly to the public. The traditional retail business can be segregated into mom-and-pop stores (also referred to as Kirana Stores in India or Convenience Stores in several countries); Departmental stores; Single or Multi-Brand Stores; Supermarket & Hypermarket, and Specialty or Category Stores.

Mom and Pop (or Kirana) Store

A mom-and-pop store has a physical presence – they can mainly sell daily essentials, groceries, and other general items required by customers. In India, it is also referred to as Kirana stores. It's a small setup usually situated near residential areas. Kirana stores are owned by a single person or operated by a family and are present in most small towns, cities, and metros and dot the country's borders. Per Nielsen, India has about 12 million Kirana stores which account for 90% of the domestic retail & FMCG sales[21]. Given the numbers, Kirana stores are the backbone of India's grocery market and make up a large chunk of unorganized retailing in India. These stores employ millions of people and are an essential source of revenue for the government. They are also a critical link in the supply chain for many manufacturers and distributors.

Typically, Kirana stores sell everything from groceries to small household items to even daily use electronics items. But they have limited products in stock, partly due to a lack of space and partly due to their relationship with the distributor or wholesaler. The distributor or wholesaler informs the owner when new stock arrives. It means that, at times, a customer might go in looking to buy a product of a particular brand but might not find it in stock. They can either wait it out or buy it from elsewhere. If the customer chooses the former, they lose time; if the customer chooses the latter, the Kirana owner loses a sale.

Despite the importance of Kirana stores, they face many challenges. Their biggest challenge is competition from large departmental stores, retail chains, and e-commerce platforms. These big

[21] Retail Players are looking at Kirana Stores for growth; Also available at :
https://www.ey.com/en_in/consumer-products-retail/retail-players-are-looking-at-kirana-stores-for-growth

chains invest in technology and logistics giving them a significant advantage over Kirana stores. Another challenge for Kirana stores is the rising cost of living. The cost of rent, electricity, and other necessities has risen sharply in recent years, which eats into Kirana stores' profits. Despite these challenges, Kirana stores continue to play a vital role in the Indian economy and shall continue to play a vital role in the retail landscape for years to come.

Post-liberalization, the country had a large populace with spending power, which meant customers looked for more product choices, shopping avenues, and value for their money. Kirana stores seemed limited in what they could offer. They had to up the game, or customers would flock elsewhere. Some grocers or Kirana owners began offering home delivery options and accepting card payments – but this phenomenon seems limited only to urban areas.

With customers now being digitally informed and well-aware, acquiring these customers proves to be a challenge for the Kirana stores as they can be digitally challenged and thus unable to provide services like online ordering, etc. For small retailers, digitization increases their creditworthiness since using point-of-sale (POS) devices, digital payments, and debit and credit payments generate critical data that helps lenders extend them credit. During the pandemic, customers may have become acquainted with online ordering, but online stores must still actively create demand. We noticed that during the pandemic, several Kirana stores offered online catalogs over social media (WhatsApp or Facebook) for customers to choose and deliver items at their doorstep, but such digital up-gradation took place in very few urban areas. It signals a shift towards online commerce, which provides easy shopping and more accessible payment options, bypassing the prevalent cash route in traditional Kirana stores.

Departmental Store

In India, departmental stores are a relatively new phenomenon, with the first opening in Mumbai in the early 1990s. However, they have quickly become popular, with several large stores operating in all major cities. Departmental stores offer a wide range of products and services under one roof, making them a convenient one-stop shop for consumers. They sell clothing, cosmetics, homewares, electrical goods, and food. Many stores also have restaurants, cafes, and other amenities. Departmental stores are generally huge, often spanning several floors. They are typically found in busy, central locations such as shopping malls. The popularity of departmental stores in India is due to several factors. Firstly, they offer a convenient way to shop for a wide range of products. Secondly, they can often provide good value for money due to immense buying power. Finally, they provide a fun and enjoyable shopping experience, with many stores offering a wide range of leisure facilities and superior ambiance, including attractive lighting and display.

Single Brand Outlet

India's retail sector has continued to evolve, from hawkers and street vendors to malls and outlets selling the latest electronics and fashion. Purchases tend to occur at small establishments and shops. People would visit the store, request the product or item they were looking for, and the shopkeeper would share some samples for review – a choice of brands is often not available in the retail stores.

Several foreign brands have made their way into the Indian market through the single-brand retail route in the past few years. It has been made possible by the government's decision to allow 100% FDI in single-brand retail. Some foreign brands that have entered India through this route are Swedish furniture giant IKEA, US sportswear retailer Nike, and Japanese electronics major Sony. The entry of these brands has brought about a sea change in the retail landscape of India.

The single-brand retail format has several advantages for both brands and customers. For brands, it provides a platform to showcase their products in a dedicated store environment. It helps create a premium image for the brand and drive sales. For customers, single-brand retail stores offer a convenient one-stop-shop experience. The single-brand retail format is also beneficial for the Indian economy. It helps in generating employment and in promoting entrepreneurship. Moreover, it boosts the Make in India initiative by promoting the sale of locally manufactured products.

Despite many advantages, the single-brand retail format is not without challenges. One of the bigger ones is the high cost of setting up and operating a store. It is a significant deterrent for small and medium brands. Moreover, the competition from e-commerce players is also a significant challenge. But it's safe to say that single-brand retail stores are here to stay. In the coming years, we expect to see more foreign brands making their way into the Indian market through this route.

There are certain drawbacks to a single or mono-brand outlet – most people today tend to be well-informed and prefer to go to a store where they can see many brands and compare them before making a purchasing decision. A single brand outlet might be able to cater to a strong brand-loyal person, but for a customer to become a staunch brand loyalist, the retailer must make a significant investment and offer competitive pricing and superior services, among other things.

Multi-Brand Outlet

Customers today are pretty discerning. Shopping for a product means customers have a wider variety, multiple brands, products, services, and multiple shopping channels. The retailer and not the customer are left to catch up! In the Indian context, retail trade has been categorized as Single Brand or Multi-Brand. A Multi-Brand store can be a specialty or category store if it focuses on showcasing different brands producing a particular product type.

A multi-brand retail outlet (MBO) is a store that stocks products from multiple brands. Multi-brand retail outlets are usually located in high-traffic areas such as malls. They began appearing in India in the early 2000s and have become increasingly popular. They span multiple aspects like:

- **Saree Stores:** Saree stores are top-rated in India, offering various sarees to choose. You can find sarees in all different colors, fabrics, and designs at these stores like Nalli Silk in Bangalore or Priya Gopal Bishoyi in Kolkata
- **Jewelry Stores:** Jewellery stores are also quite popular in India. They offer a wide variety of jewelry to choose from, including gold, silver, diamonds, and other precious stones like Reliance Jewels, PC Jewellers, Kalyan Jewellers, etc.

- **Clothing Stores:** Clothing stores are another popular specialty store in India. You can find all types of clothing at these stores, including traditional Indian and Western-style clothing like Lifestyle, Shoppers Stop, Trends, WestSide, etc.
- **Cosmetic Stores:** Cosmetic stores are also quite popular in India. They offer various cosmetics, including Indian and Western brands like Nykaa, MAC, etc.
- **Home Decor Stores:** Home decor stores are another famous specialty in India. You can find home decor items at these stores, including furniture, paintings, and other home accessories like Home Stop, IKEA, etc.

The presence of multi-brand retail outlets positively impacts the supply chain in India. These outlets require a steady supply of products, resulting in a more organized and efficient supply chain. Overall, the growth of multi-brand retail outlets in India is a positive development. These outlets provide consumers with more excellent choices and convenience and are driving the modernization of the retail sector in India.

Branding and marketing strategies can influence a customer to check out the products. But nothing beats having multiple brands and products under one roof –it means the customer has multiple and a wider variety of options to choose from and make an informed purchasing decision.

Multi-brand retail outlets have an edge as they paint a broad picture for their customers. Unlike a Single brand outlet where products are portrayed as an accessory or a complement to the customer's lifestyle, a multi-brand store creates a more prosperous, broader, and more immersive experience. Therefore, the goal for MBO retailers will be to craft, design, and execute a unique experience.

Supermarket & Hypermarket

In India, the retail sector is undergoing a revolution. Modern supermarkets and hypermarkets are replacing traditional mom-and-pop stores. These new retail outlets offer more products and services and are more convenient and comfortable to shop in. There are several reasons for this growth. Firstly, there is a growing middle class with more disposable income. This class is looking for better quality products and services and is willing to pay more. Second, there is a growing number of women working outside the home. They are looking for convenient, one-stop shopping destinations that offer various products and services.

The hypermarket format is particularly well-suited to the Indian market as it allows for selling food and non-food items. This is a significant advantage, as many Indian households still prefer to purchase food items from traditional outlets such as Kirana stores. Supermarkets and hypermarkets can meet the needs of these consumers better than traditional retail outlets. The industry is highly competitive, with players vying for market share. The top players in the industry are Reliance Retail, Future Group, More, DMart, and Spencer's Retail. They offer a wider variety of products, better quality, more convenience, and more value for money. As a result, they are quickly becoming the preferred choice for shopping in India.

The critical policy and regulatory aspects related to the functioning of the various Traditional retail business models discussed above are listed in the table below.

Business Environment	Marketing & Advertisement	Pricing & Discount	Emerging Technology
▪ Business process for setting up stores ▪ Approvals for brand outlets ▪ International brands operating in India	▪ Store-level advertisements and promotion of products ▪ Location, content, and authenticity of advertisements	▪ Norms for pricing products in retail stores ▪ Duration of keeping product on marked price before discount ▪ Allowable limits on the amount of discount	▪ Not Applicable for these models

Online Models

Under the Online Business Model, the retailer uses digital innovation in cyber platforms to complete the product sale cycle. The cyber platform acts as a digital marketplace that provides ease of accessing a large set of product details, easy comparative analysis of product specification and pricing, and ease of product availing features like renting, subscription-based services, renting, and fintech-backed online sales. The online retail business model comprises two categories: e-commerce marketplace and social commerce. The e-commerce marketplace is subdivided into various categories like Business to Business (B2B) Sales; Business to Consumer (B2C) Sales; Direct to Consumer (D2C) Sales; and lastly, Consumer to Consumer (C2C) Sales.

Marketplace

In India, online marketplaces play a significant role in reshaping the country's retail landscape. Connecting buyers and sellers across the country on a single platform creates a new breed of entrepreneurs and helps consumers access a broader range of products and services. Some of the leading online marketplaces in India are Flipkart, Amazon, Snapdeal, and Paytm. These platforms attract millions of users and are helping small businesses reach a larger audience.

Flipkart, the country's largest online marketplace, started as an online bookseller but has now expanded into various categories such as electronics, fashion, and home furnishings. The company has also launched its own payments platform, PhonePe, which allows users to make digital payments. Amazon, one of the largest online retailer globally, entered the Indian market in 2013 with the launch of its marketplace platform. The company has since expanded into other categories such as groceries and consumer electronics. Snapdeal, one of the leading online marketplaces in India, offers a range of products and services across categories such as electronics, fashion, and homes. The company has also launched a payments platform, FreeCharge, which allows users to make digital payments. Paytm, Indian payments and e-commerce platform, has also launched a marketplace platform. The company offers a range of products and services across categories such as electronics, fashion, and home.

An online marketplace has many advantages; customers can access many sellers, products, brands, and services. They can easily see what options are available, check prices, product information, features, and quality, time taken for delivery, compare costs across brands and products, check reviews, etc.

The sellers hold the inventory, not the company running the online marketplace. For sellers, there is an added benefit apart from access to many customers; they do not have to run a retail store. Therefore their setup cost is low. During the pandemic, online retail became a lifesaver for many customers, mainly due to social distancing norms and local restrictions.

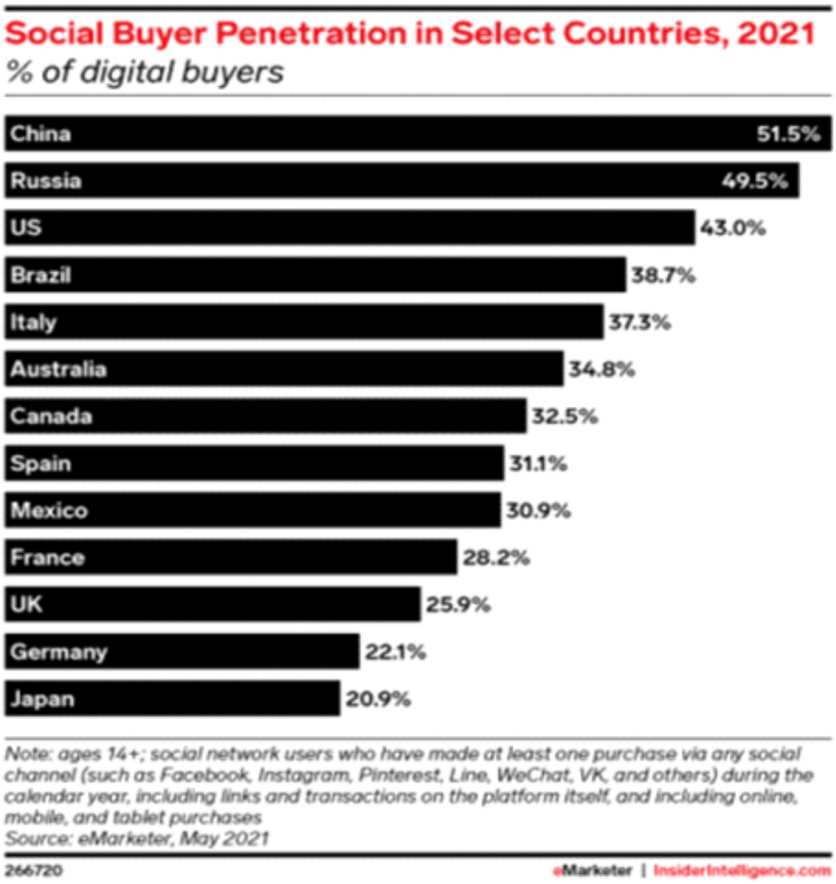
The online marketplace could be in the form of a website or a mobile app. You could be a Business-to-Business (B2B), Business-to-Consumer (B2C) marketplace.

- B2B model is where a business makes a transaction with another business; e.g., a company could be re-selling products, brands, or services produced by others (Retailers).

- The B2C model is one in which the business sells the products and services directly to the customer. It can apply to restaurants, retail outlets, doctor's offices, etc. Off late, it used to indicate e-commerce businesses that connect consumers & products on their online platforms.

Social Commerce

Social commerce employs social networking websites like Facebook, Instagram, Twitter, YouTube, and Pinterest to sell products and services. – in short, it is the convergence of online commerce & social media. Social commerce is a relatively new concept in India, but it is quickly gaining popularity. It is a form of e-commerce that allows users to buy and sell products and services through social networking platforms.



Graphic: eMarketer/Insider Intelligence

Figure 14 :Social Buyer Penetration in Select Countries,2021

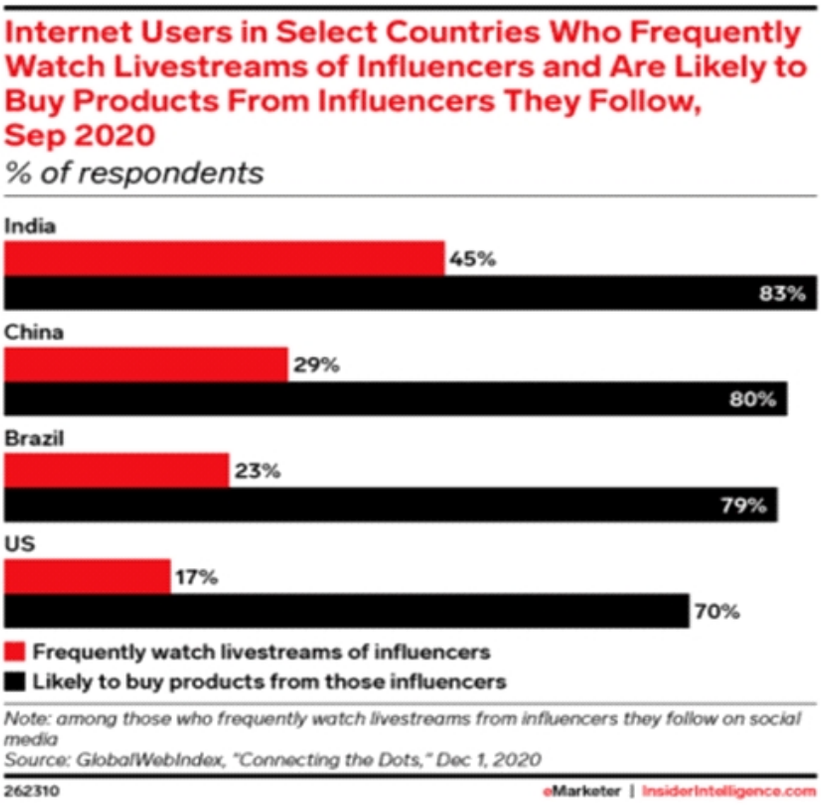
In many ways, it is like traditional e-commerce, but there are some key differences. One of the biggest advantages of social commerce is that it allows businesses to reach a larger audience. Because social networking platforms have such a large user base, businesses can tap into this to reach more potential customers. Additionally, social commerce platforms often have built-in features that make it easy for businesses to promote their products and services. For example, Facebook and Instagram have a “Shop Now” button that businesses can add to their page, making it easy for customers to find and purchase products. Another advantage of social commerce is that it is often more personal than traditional e-commerce. When customers purchase products through social networking platforms, they can often connect with the businesses and other customers more personally. This can lead to better customer service and more loyalty from customers.

Shopping has always been a social experience – people tend to rely on the recommendations of family members, friends, influencers, and even store owners. People tend to engage in the recommendations of those they trust. Social commerce helps the customers in the social aspect of commerce. Short, catchy graphics or videos are also used to show how the product looks; this helps the customer with their purchasing decision as they can see how the dress looks on someone or how the makeup looks on someone of their skin tone before making a purchase. Customers are linked directly to the checkout or shopping cart. Social Commerce is on a rapid rise as seen in the social buyer penetration across different geographies[22].

[22] Social commerce is here to stay: what will the big techs do about it? Available at: https://labsnews.com/en/articles/business/social-commerce-is-here-to-stay-what-will-the-big-techs-do-about-it/

For retailers, there is a benefit too. Users are present on the social media app or platform and can buy their products directly from it! The entire buying process from discovery to purchase is taking place in one place; why redirect the customers to another website, have the added hassle of creating a webpage or app, host it when the retailer can be present on the social media itself? Finally, social commerce can be an excellent way for businesses to save money. Because social networking platforms are free to use, businesses do not have to invest in setting up their website or online store.

Additionally, social commerce platforms often have lower transaction fees than traditional e-commerce platforms. Social commerce is an excellent way for businesses to reach a larger audience, connect with customers more personally, and save money. A recent survey found that Indian social media users are highly likely to purchase products from influencers through social commerce.



Graphic: eMarketer/Insider Intelligence

Figure 15 : Internet Users in Selected Countries

Social commerce also benefits the customers; they don't have to struggle to remember multiple passwords and toggle between multiple apps. Customers can check out the product or object they are buying in the social media app or platform itself. Social commerce is heavy on customer interaction – so the brand encourages the customer to give a review by submitting photos, comments, or feedback. Not just that, customer interaction with the retailer and vice-versa is direct.

Direct to Customer (D2C)

D2C is when a manufacturer brand sells its product to the end user. The direct-to-customer market in India is overgrowing, with more brands and retailers adopting this model to reach their target audience.

The direct-to-customer market in India is multiplying, with more brands and retailers adopting this model to reach their target audience. Some of the reasons for this growing popularity are as follows. The Indian consumer is becoming more brand conscious and willing to spend on quality products. The internet and social media reach has increased tremendously, making it easier for brands to connect with their target audience. The competition in the market is increasing, making it necessary for brands to adopt innovative marketing strategies to stay ahead of the curve. The direct-to-customer model helps brands to build a direct relationship with their customers, which is essential for long-term success.

There is a difference between B2C (Business to Customer) and D2C (Direct to Customer). B2C is when any company sells the product to the end consumer D2C, on the other hand, the maker or manufacturer of a product sells it to the end consumer. Therefore, a B2C company can be either a retailer, a marketplace, or a manufacturer going the D2C route. The traditional supply chain includes a manufacturer, supplier, wholesaler, distributor, and retailer. Sales to the end customer involve lengthy discussions or negotiations at each production or delivery stage. It leads to a long lead time for product launches and an even longer wait time for customer feedback. With so many layers from the manufacturer to the customer, there was bound to be a breakdown at some time. This was highlighted starkly in the pandemic. More and more companies are now opting to go the Direct-to-Consumer (D2C) route.

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D2C offers the company or manufacturer of getting feedback directly from customers instead of depending on third-party people. This way, the company builds its relationship directly with the customer and gets real-time feedback on products and services. Another drawback of offline & online intermediaries like distributors and marketplaces is that they take a commission, charge fees, or purchase the product at a significant discount. By adopting the D2C model, brands and companies can get the entire amount paid by the customer.

The important policy and regulatory aspects related to the functioning of the various Online retail business models discussed above are listed in the table below.

Business Environment	Marketing & Advertisement	Pricing & Discount	Emerging Technology
▪ Local or foreign firms are allowed to participate in online business ▪ Types of products that are allowed to be sold online ▪ Norms for selling international products on domestic online platforms ▪ Any norms for procuring domestic manufactured products	▪ Advertisement norms on online platforms ▪ Norms for targeted advertisements to individuals ▪ Content and authenticity of advertisements ▪ Any norms on influencers involved in social commerce	▪ Norms for pricing products on online platforms ▪ Duration or amount of discount that may be made online compared to physical retail in the same geography	▪ Any norms on the location of cloud servers storing customer data ▪ Norms or responsibility of the platforms facilitating the sale of products ▪ Norms for platforms advertising the products

Multi-Channel & Omni Channel Models

Under the Multichannel Business Model, retailers use various permutations and combinations of marketing and distribution tactics to provide the end-user with multiple options to avail of the retailer's product. The multichannel retail business models are of various kinds, mainly the Research Online and Purchase Offline (ROPO) Models. Under the Omni Channel Business Model, Experience Stores Model, the retailer uses cross-channel strategies like brick-and-mortar model, e-commerce platform, social media, mobile application, and social commerce avenues to extract maximum value for the customer and the retail firm both. Cross Channel Integration is a type of Omni Channel Integration.

Research online and buy in-store

The lines between online and offline shopping are increasingly blurred in a rapidly global world. In India, this is especially true given the country's large population and growing middle class. Researching online and buying in-store is often called “Research online and purchase offline”. Retailers have acknowledged that customers often research online about the products offered, read reviews and competition before making a purchase decision.

There are several reasons for this preference. Firstly, many Indian shoppers still prefer the tactile experience of touching and feeling products before they buy them. Secondly, there is a lack of trust in online retailers, especially when it comes to big-ticket items. And finally, returns can be a hassle, especially if the product must be shipped back to the seller. This model increases the web presence of the brand/product. However, the investment in technology is also directly proportional to the portfolio of the brand/product. The business benefits from product reviews and online communities, but the online advertising cost will be high. As the Indian economy continues to grow and internet penetration increases, it's likely that more and more shoppers will start to purchase items online. But for now, the in-store experience is still king.

Experience Stores

Experience stores are an extension of Brick and Mortar, where companies develop experience stores for building brand trust and customer engagement. This concept is also referred to as showrooming. According to research, more than 80% of online shoppers do not complete their purchases due to a lack of trust or high shipping costs.

Experience stores are a new retail concept that offers customers a unique, hands-on shopping experience. The store is designed to resemble a real-life construction site, with customers able to build and customize their products. Some retailers have come up with experience stores, mainly in the electronic goods segment like Samsung and Oneplus, that provide a holistic experience to the customer. Luxury brands also have established experience stores to provide customers with an exceptional experience. Walking into a store is not just about touch and feel. For example, brands like IKEA have created an ultimate experience store. Brands like Fab India and Reliance have established experience stores.

Digitalization has stepped up into every aspect of customers' life. For example, Max Fashions has launched an intelligent kiosk at its store in VR Mall, Bengaluru, which connects its customers and eases shopping through technology. With an instant catalog on the big screen, customers can search if apparel in a specific size is available in the store or not. If unavailable, the order can be placed at the kiosk, and the product will be delivered to the customer's house.

Cross Channel Integration

To survive and thrive in today's retail landscape, businesses need to integrate their brick-and-mortar stores with their online presence. This means creating a seamless shopping experience for customers, whether they're shopping in-store, online, or using a mobile app. Therefore, cross-channel integration.

Cross-channel integration is when a firm coordinates its marketing channels' objectives, design, and deployment to create synergies for the firm and offer customized benefits to consumers. Many retailers have already shifted to a cross-channel approach, and it's paying off.

There are a few key aspects to drive successful cross-channel integration:

- **Creating a consistent brand experience:** The brand should be recognizable and consistent across all channels. Thus, using the same logo, colors, and messaging makes customers feel like they're shopping with the same company, in-store or online.
- **Offer multiple ways to pay:** Customers should be able to pay for their purchases in the most convenient way. This means offering options like cash, credit, and debit and mobile payment methods like Apple Pay and Android Pay.
- **Providing customer support across all channels:** If a customer has a question or issue, they should be able to get help through whatever channel they're using. A customer service team trained to handle inquiries through phone, email, chat, and social media.
- **Use data to their advantage:** Data collected from the above customer activities is communicated to make them all come together into a singular customer journey. This includes everything from purchase history to browsing behavior. This data can personalize the shopping experience and offer targeted promotions.

Integrating your brick-and-mortar store with an online presence is essential for survival in today's retail landscape. This generates more visibility. Interestingly, via their medium, some channels bring more attention to other brands, businesses, and services. One channel like Youtube may spur interest in another. A YouTube video might prompt more visits to another website. This way, integration offers customers myriad choices to choose and engage with a brand. An integrated approach increases the number of customer touchpoints. The more touchpoints a customer has, the more opportunity there is to collect data from fine-tuning different marketing strategies. Cross-channel marketing offers a chance to stay consistent across channels, strengthening the brand and its reputation and reducing customer confusion.

Omnichannel Retail

To compete in today's retail landscape, retailers must have an omnichannel strategy. The term "omnichannel" was first coined by Darrell Rigby in 2011 and has since become a buzzword in the retail industry[23].

Omnichannel retailing is often confused with multi-channel retailing, but there is a crucial difference between the two. Multi-channel retailing refers to a retailer with a presence across multiple channels but each channel operating independently. In contrast, omni-channel retailing involves integrating all channels to provide a seamless customer experience.

There are many benefits of omni-channel retailing for both retailers and consumers. For retailers, omni-channel retailing can help to increase sales, improve customer loyalty, and reduce costs. For consumers, omnichannel retailing provides a more convenient, personalized, and cohesive shopping experience. Omnichannel retail means various channels available to the shopper are all integrated. E.g., A customer can buy a dress from a website, pay using Cash on Delivery (COD) at home, speak to the store call center about a problem, and return it in-store.

Despite the many benefits of omni-channel retailing, there are also some challenges that retailers need to be aware of. One of the biggest challenges is the lack of integration between online and offline channels. To provide a seamless customer experience, retailers need to have a strong omnichannel strategy. Another challenge retailers face is investing in new technology and infrastructure. To support an omnichannel strategy, retailers need a robust eCommerce platform, mobile app, and POS system with automated supply-chain updates to ensure a seamless purchase cycle. They must also invest in warehousing and logistics solutions to support an omnichannel approach. However, it can be said with confidence that omnichannel retailing is the future of retail. To stay competitive, retailers need to embrace an omni-channel approach to retailing.

The critical policy and regulatory aspects related to the functioning of the various multi-channel and omni-channel retail business models discussed above are listed in the table below.

[23] The Future of Shopping; Also available at : https://hbr.org/2011/12/the-future-of-shopping

Business Environment	Marketing & Advertisement	Pricing & Discount	Emerging Technology
▪ Any norms on setting up new business as an extension to existing business like online store opening the physical store or vice versa ▪ Sharing of customer data across different modes of interaction ▪ Similar product features across platforms	▪ Advertisements applicable to products available across multiple platforms ▪ Norms on products specifications across different interaction modes ▪ Product quality across different interaction modes	▪ Norms on the alignment of pricing across various interaction modes ▪ Norms on discounts allowed across different interaction modes – can they be different, or must they be the same?	▪ Any norms on the location of cloud servers storing customer data ▪ Norms on continuity of service and customer information across different modes

Emerging Trends

Further to the above, various retail business models are still emerging. In this section, we categorize recent business formats used by retailers globally, which do not come under the conventionally defined retail business models. The emerging trends in retail business models include Product/Service Experience/Purchase through Metaverse, Export through e-Commerce, Drone Delivery, Manufacturer as Retailer, and Rural e-Commerce through Kirana Stores.

Manufacturer as Retailer

Integration across the value chain has been a time-tested strategy for players to improve margins and business size. With the e-commerce boom, newer opportunities are opening for all market participants. Now, manufacturers are increasingly toying with the idea of forwarding integration - selling their products to end consumers themselves to “finally” generate and work with customer data in-house and establish alternative distribution channels alongside traditional and digital trading partners. This way, manufacturers can bypass intermediaries such as wholesalers and retailers. With the rise of the internet and small businesses operating online, the manufacturer directly accesses the customer, figures out what the customer wants, and maintains competitive pricing.

Traditional roles of manufacturers and retailers are blurring and getting more intertwined – we now see the rise of a new breed of players called the 'manutailers' – players who combine manufacturing with retailing. A rising and much-unexplored area of study is 'partial forward integration.' Traditional manufacturers accomplish this by selling through company-owned stores. Apple, Nike, Ralph Lauren, Audi, etc., sell through company-owned stores. In India, The Jaipur Watch Company, a high-end luxury watch company, manufactures and retails its products. Similarly, Joyalukkas is a jewelry company known for manufacturing and retailing their jewelry to end consumers directly. Cafe Coffee Day (CCD) is an Indian cafe chain owned by Chikmagalur (Karnataka) based Amalgamated Bean Coffee Trading Company and is well known for its dedicated kiosks and café chains.

Metaverse, AR & VR

Virtual Reality (VR) is an artificial environment created with software and presented to the user in a way that suspends real-time belief and the user accepts the virtual reality as accurate. Augmented Reality (AR) integrates digital overlays with the user's environment in real-time. The recent emergence of the Metaverse has seen many applications in the AR/VR domain.

The word "metaverse" originated from Neal Stephenson's 1992 novel "Snow Crash."[24]. Metaverse is an interconnected web of social platforms networked in an immersive environment backed by multiuser platforms. Metaverse through Virtual Reality (VR), Augmented Reality (AR), and Mixed Reality (MR) provides dynamic interaction among multiple users through digital artifacts. While Metaverse provides affordances in immersion, embodiment, presence, and identity constructions, these affordances come with challenges and regulatory landscape requirements.

As per recent reports[25], the global market size of the metaverse is projected to grow from USD 61.8 billion in 2022 to USD 426.9 billion by 2027, at a 47% CAGR. Worldwide, countries like China, Japan, India, and South Korea in the Asia Pacific are expected to be the fastest-growing region in the metaverse market, accomplishing the highest growth rate at a CAGR of 49.6%.

Unlike virtual reality, which creates an artificial environment, augmented reality uses the existing environment and overlays new information on top of it. Augmented and virtual reality put data into view, context, and use in real-time. Earlier, the gaming and entertainment industry was based on augmented reality, and virtual reality and consumer business models have emerged their way into AR and VR technologies. Technology helps engage and connect with consumers. For example, AR applications are dominating the beauty industry. Global cosmetics firms like L'Oréal have purchased tech firms to make the consumer experience personalized.

Retail business models now view Metaverse as having the potential to change how consumers interact and make purchase decisions. Metaverse can impact marketing, product interaction, commerce, supply chain, operations, employee training, and retention. As a result, many brands and retailers are jumping on the Metaverse bandwagon. Not only from the supply side, but even young consumers are also starting to prefer immersive purchasing experiences. In a recent survey, nearly two-thirds (64 percent) of consumers globally (including India) purchased a virtual good or participated in a virtual retail experience in the past year. Furthermore, 83 percent of global respondents have shown interest in purchasing via metaverse. Furthermore, 42 percent of respondents globally, including in India, said they had visited a retailer in the virtual world to get advice and make a payment or browse a product range when shopping for a physical item[26].

Some areas where AR, VR, and Metaverse have witnessed penetration are:

- **Fashion industry –** Clothing, makeup, fashion accessories, and hair products can be tried virtually by consumers by uploading their pictures. In India, fashion-tech startup StyleDotMe uses AR to help customers with virtual try-outs at physical outlets.
- **Eyewear –** Brand, and companies selling eyeglasses enable customers to try the glasses virtually while making their purchase decisions.
- **Furniture –** AR allows customers to arrange furniture virtually in their homes or houses and see how it looks before making a purchase.

[24] This 29-year-old book predicted the 'metaverse' - and some of facebook's plans are eerily similar; also available at: https://www.cnbc.com/2021/11/03/how-the-1992-sci-fi-novel-snow-crash-predicted-facebooks-metaverse.html

[25] Metaverse Market by Component, Vertical and Region - Global Forecast to 2027; Also available at : https://www.reportlinker.com/p06277917/Metaverse-Market-by-Component-Vertical-and-Region-Global-Forecast-to.html?utm_source=GNW

[26] Accenture Survey; Also available at : https://www.bloomberglinea.com/2021/10/12/neta-a-social-e-commerce-platform-raises-49m-led-by-kaszek/

Rural E-commerce

Online commerce can enhance its sales by adding a physical presence like tying up with experience stores or brick-and-mortar stores, enabling customers to look and feel the products before purchasing. Consumers following traditional payment options are bound to place high trust in this model. Further, the disruption brought in by Covid -19 has prompted many brick-and-mortar stores to develop websites and mobile-based apps for customers to discover products.

Neta, a social e-commerce platform in Mexico, is implementing an online-to-offline model by focusing on the mom-and-pop stores in Mexico to aggregate demand and delivery[27]. Customers place their orders via the shop owner or local grocer. They can pick up the groceries from the same shop too. Neta offers a virtual catalog of products and fresh produce sold at the store. For every item the store owner sells, Neta earns a commission. By using the mom-and-pop shops as their entry point, Neta can at times fulfill orders for around 50-100 clients on a weekly basis compared to fulfilling one order at a time[28].

Mom-and-pop stores or corner grocer's stores know their customers, have their contact details, use WhatsApp, and sometimes even lend to them informally. Neta is tapping into these pre-existing informal social networks and is reaching them in a non-digital manner. India, too, has a sizeable rural population currently unserved by e-commerce penetration because of the low availability of smartphones, stable internet connectivity, and logistics network for delivery not being developed in rural areas. There is potential to use rural kirana stores as a platform for availing e-commerce services in these areas, and the store owners gain additional revenue from new transactions.

Drone delivery

To improve delivery timings, retailers are also experimenting with Drone Delivery Services (DDS). A delivery drone is an unmanned aerial vehicle (UAV) used to transport medical supplies, food, packages, or other goods. Delivery drones are typically autonomous. Before DDS, reaching the customer faster meant centralization of delivery services. Last-mile retail delivery via drones will enable retailers to achieve faster delivery times. In India, delivery via drones is soon to happen. The Director General of Civil Aviation (DGCA) has permitted a few companies[29], and we see several success stories of drone delivery pilots for medicines[30] and vaccines[31] during Covid.

In the post-covid era, drone delivery might prove attractive to customers concerned about health and safety. However, privacy and public safety issues related to drone technology must be addressed before they can be widely adopted. Customer acceptance must also be gauged before implementing a full-scale drone delivery system.

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[27] Neta, a social e-commerce platform, raises $4.9M led by Kaszek; Available at: https://www.bloomberglinea.com/2021/10/12/neta-a-social-e-commerce-platform-raises-49m-led-by-kaszek/

[28] Neta; Also available at: https://neta.mx/

[29] A. Ray, 'Food delivery in India via drones? Zomato, Swiggy, Dunzo can start testing, says DGCA' Livemint, 4 June 2020. Available at: https://www.livemint.com/companies/news/food-delivery-in-india-via-drones-zomato-swiggy-dunzo-can-start-testing-11591253543250.html

[30] In a first, Skye Air Mobility, Blue Dart deliver vaccines via drones in a trial run; Available on: https://www.dqindia.com/skye-air-mobility-blue-dart-conducted-first-kind-live-bvlos-drone-flights-telanganas-medicine-sky-project/

[31] Flipkart hops onto drone delivery bandwagon; begins with vaccines in Telangana; available on: https://timesofindia.indiatimes.com/business/india-business/flipkart-hops-onto-drone-delivery-bandwagon-begins-with-vaccines-in-telangana/articleshow/86641256.cms

Delivery of goods via drones is a new concept, and challenges need to be overcome. Packages delivered by drones do not usually have a safe delivery area. While Amazon has suggested a drone delivery pad and DHL has recommended a safety locker with code, it is challenging to implement[32]. There are security concerns as remote computers control drones, and the programming has serious thefts if hacked. Hackers pose security concerns to property, people, and air space. Turbulent weather poses a severe threat to drone delivery. Navigable air space for drones and limits must be clearly defined, so these drones do not enter private and secured areas.

The critical policy and regulatory aspects related to the functioning of the various emerging retail business models discussed above are listed in the table below.

Business Environment	Marketing & Advertisement	Pricing & Discount	Emerging Technology
▪ Norms around owning virtual avatars on Metaverse ▪ Can all products be displayed in virtual mode?	▪ Norms for advertisements on Metaverse ▪ Platform responsibility for the product advertised and delivered	▪ Nothing specific – online and multi-channel norms apply here	▪ Areas in which drones can operate ·Privacy norms on virtual avatars ▪ Cybersecurity norms and data storage

Policy Aspects

In the previous section, we looked at the evolution of the various business models, from traditional ones to supermarkets, online e-commerce, multi-channel models, and some of the latest emerging trends. Based on the discussion of the various business models, we arrived at a list of standard policy and regulatory areas that govern the retail businesses in that geography/country. For this report, we have segregated them into four areas: the overall business environment responsible for establishing and operating a business; marketing & advertisement norms which include ensuring that pertinent information is passed to the customer and norms for pricing & promotions. With the rapid emergence of digital technologies, we see new digital technologies like drones, Augmented/Virtual Reality (AR/VR) are frequently used mainly through online retailers – as these are evolving areas, the regulations for these technologies are in flux.



Figure 16: Retail ecosystem covered in this report

[32] Issues with drone delivery; Also available at: https://fwlogistics.com/the-issues-with-drone-delivery/

Business Environment

A sound business environment caters to various aspects of business models and regulations surrounding such models. These regulations cover aspects like ease of starting a business through a single application kiosk format to reduce compliance follow up with various government departments, easy access to location for office and factory, finance in the form of easy loan and taxation norms & payment methods, logistic access like ease of access to employees, product/service delivery, electricity, road, water and internet connectivity with least possible red tape, etc.

Business Environment conventionally deals with four domains cyclically: starting a business, getting a location, access to finance, dealing with day-to-day operations, and lastly, operating in a secure business environment. Apart from these four major domains, access to internet-based services is a major aspect that is essential for business environment regulations.



Figure 17 : Business Environment Regulations (Source: World Bank Group[33])

Countries that want to attract more business provide reforms to encourage ease of doing business in their country, while countries follow a restricted approach to encourage local players. An ideal business environment should have minimal regulations in simple language that is easy for businesses to adhere to and fulfill. The World Bank's “Ease of Doing Business” evaluates and ranks countries on aspects of starting and operating the business in those countries. The central government and state governments need to review the challenges faced by business owners and amend regulations to make the business environment more vibrant and competitive.

[33] Ease of Doing Business Report 2019 by World Bank; Also available at:
https://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB2019-report_web-version.pdf

Marketing & Advertising



In today's world, retail marketing is more important than ever. With the rise of online retailing, brick and mortar stores need to find ways to stand out from the competition. Retail marketing is promoting and selling products or services to customers using physical stores or other channels such as the internet, catalogs,

Advertising is more important than ever in the crowded retail ecosystem. With so many choices and so much competition, retailers need to find ways to reach their target audiences and get them in the door. There are several ways to advertise, and the best approach depends on the type of business, the products or services offered, and the target market. Traditional methods like print ads, radio, and television can be effective but can also be costly. Many retailers find online advertising a more cost-effective way to reach their target audiences. By advertising on websites your target market is likely to visit, you can reach many potential customers at a fraction of the cost of traditional methods.

Through marketing and advertisements, the retailer or the product manufacturer or distributor positions the product uniquely to fulfill the target customer's needs. A distinct narrative or positioning of the product helps in better retention of that product in the customer's mind leading to higher sales. Thus, marketing and advertising firms create innovative ways to position the product, which might often stretch the boundaries of what a particular product can achieve. For example, we often see carbonated soft drinks play a role in making a protagonist carry our brave or daring activities in the advertisements – is that for real? There is a need for regulations on how products can be positioned in marketing and advertising content, both online and physical retail.

Pricing & Discount

Pricing and discounting are two crucial concepts in retail. Pricing is the process of setting a price for a product or service. Discounting is offering a lower price for a product or service. Pricing is a complex process that involves many factors. Companies must consider the cost of the product or service, the perceived value of the product or service, and the competition. In addition, companies must decide whether to charge a fixed price or a variable price. Discounting is a way to attract customers and increase sales. Companies often offer discounts for products or services purchased in bulk or for customers who pay cash. Discounts can also be offered for products or services purchased during a slow period. Pricing and discounting are essential tools companies use to compete in the marketplace. When used effectively, they can help companies increase sales and profits.

Businesses often resort to aggressive pricing and discounting strategies in a highly competitive marketplace to gain market share and drive sales. While these strategies can be effective in the short term, they also lead to long-term problems if not managed carefully. When done correctly, aggressive pricing and discounting can be a powerful tools to help a business grow. However, there are a few things to remember to ensure these strategies don't backfire. It's essential to clearly understand your target market and what they are willing to pay for your product or service. If the retailer's price is too low, they may not be able to make a profit or cover their costs. On the other hand, if the price is too high, the retailer may lose potential customers.

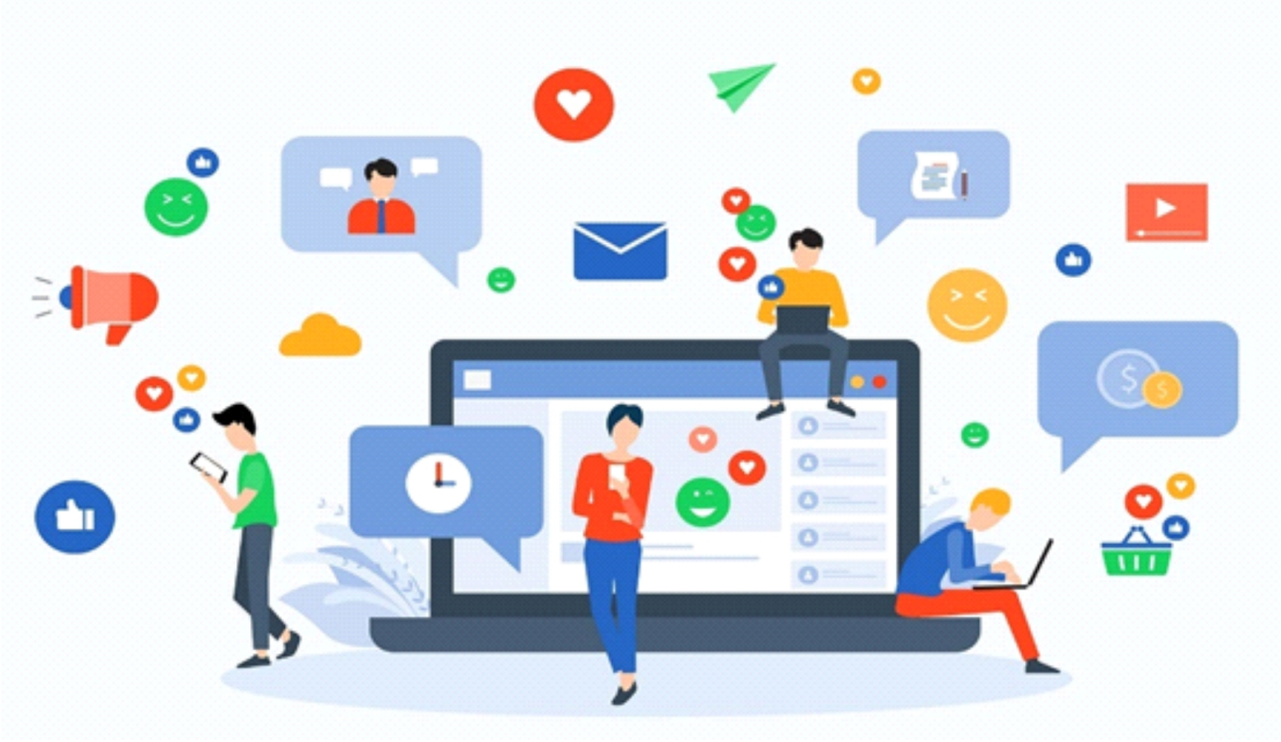
Retailers increasingly resort to unethical pricing and discounting practices to lure customers and boost profits. From dynamic pricing that takes advantage of consumer psychology to bogus "sales" and "markdowns" that inflate prices, these deceptive tactics are becoming all too common. As a result, shoppers are being tricked into spending more money than they need to, and companies are seeing their bottom lines improve at the expense of consumer trust. Some of the typical unethical pricing and discount factors are listed here:

- **Dynamic pricing** is a pricing strategy that takes advantage of consumer psychology to get people to spend more money. Companies will use data to track consumer demand and then raise prices when demand is high. This practice is expected in the airline and hotel industries, but it's also starting to creep into other sectors like retail.
- **Bogus sales and markdowns** are another way retailers trick consumers into spending more money. This tactic involves inflating the regular price of an item and then offering a "sale" or "discount" that brings the price back down to the original level.
- **Hidden fee**s and surcharges are another common pricing tactic that can add up to a significant amount of money over time. From booking fees to account maintenance fees, these charges are often buried in the fine print and are easy to overlook.
- **Bait-and-switch pricing** is when a company advertises a product or service at a low price but then tries to sell you a more expensive version once you're already invested in the purchase. This tactic is commonly used in the car industry, but it can also happen in other industries.
- **Price gouging** is when a company takes advantage of a situation (like a natural disaster) to charge exorbitant prices for goods and services in high demand. It is an unethical pricing practice that can have devastating consequences for people who are already struggling.

These are just a few unethical pricing practices that are becoming common in the retail industry. The government and regulators of the land play an essential role in coming up with regulations for pricing and discount of products in that country (or state), and retailers operating in that region must follow these norms leading to a fair, vibrant, and competitive retail ecosystem ensuring the benefit of both the customers and the retailers in the ecosystem.

Emerging Technology

Influencer marketing techniques using social media platforms through various social media platform-based pages using methods like photos, posts, and videos using paid endorsements by celebrities and influencers have been a recent trend. In various instances, these endorsements are presented to make the endorsement organic. The goal of influencer marketing is to build relationships with these influencers and get them to promote your content to their audience. It can be done by having the influencer share your content on their social media channels, write a blog post about your product, or give you a shoutout in their next video. The key to influencer marketing is to find relevant influencers to your brand and have a large audience that you can tap.



One of the most common unethical practices is influencers not disclosing that they are being paid or compensated in some way by the brands they are promoting. This is misleading to their followers and gives the impression that the influencer is genuinely passionate about the product when they are just being paid to say nice things about it. Another unethical practice is influencers using fake accounts or bots to inflate their follower count. This makes them appear more popular than they are and is misleading to their followers. Some influencers will accept payment for positive reviews without using or trying the product themselves. Which is not only unethical but it is also illegal in many countries. As influencer marketing continues to grow, it is essential that brands and influencers alike adhere to ethical practices. Only by being transparent and honest with their followers can they maintain the trust and respect of the audience. Worldwide, governments are bringing it under the regulatory umbrella to ensure healthy marketing practices and advertising norms.

Emerging technologies are constantly reshaping the retail landscape. The most significant emerging technologies in retail today are:

- **Augmented reality (AR) & Virtual Reality (VR)** are the most buzzed-about technologies in recent years. Retailers are using AR to create immersive shopping experiences that allow customers to "try on" products without physically handling them VR can be used to transport customers to a virtual store where they can browse and purchase products. For example, Alibaba, the Chinese e-commerce giant, has developed a VR shopping platform called Buy+ that allows users to shop in a virtual mall.
- **Retailers are using artificial intelligence (AI)** to personalize the shopping experience for customers. AI can be used to recommend products to customers based on their past purchase history and search queries. AI is also being used to develop "chatbots" that can provide customer support and answer product questions.
- **Drone-based retail delivery** is a new way for stores to receive products from suppliers and deliver products to end customers. This new delivery method can be faster, more efficient, and less expensive.
- **Blockchain** is a distributed database technology that is best known for being the underlying technology for Bitcoin. However, blockchain has many other potential applications in retail. For example, blockchain can create a "digital passport" for products that would allow retailers to track the provenance of products and ensure that they are not counterfeit.
- **3D Printing** is beginning to be used by retailers to create customized products for customers. For example, Nike has developed a 3D-printed sneaker called the Nike Flyknit. Customers can order a pair of Nike Flyknits customized to their foot size and shape.

The landscape for these emerging technologies is evolving, and online and physical retailers are exploring novel business models using these emerging technologies. Government-led regulations would play an essential role in ensuring that these emerging technologies do not harm the customers and that customer interests are protected.

International Regulatory Landscape

In our policy draft series, we have discussed various aspects of a customer's retail journey. In our previous report, we discussed Foreign Direct Investment (FDI) in the retail e-commerce sector. The current report discusses multiple regulatory areas, including business establishment and running, product pricing and promotions, marketing and advertising, and social media marketing regulations. Thus, we deal with the **pre-purchases** and **during-purchase aspects of regulations.** We have used a comparative analysis approach for our study, where we have mapped the regulatory landscape of leading markets for various business models in the retail landscape.

United States of America (USA)

In the United States, the retail landscape is highly competitive. Many retail establishments range from small, family-owned businesses to large, national chains. The retail industry constantly changes as new stores open and close, and consumer tastes and preferences evolve. The largest retail chains in the United States include Walmart, Target, and Amazon. These companies account for a significant portion of the retail market share in the country. Other large retail chains

include Costco, Home Depot, and Lowe's. The retail landscape in the United States is highly competitive. To succeed, retailers must not only offer products and services that appeal to consumers but also be able to compete on price and other aspects. Regulations, then, play an essential role in ensuring fair competition among businesses and the protection of customer interests.

The last World Bank's Ease of Doing Business Report ranked the USA among the top ten countries globally. The United States recently took a few positive steps to ease the business startup. They made starting a business easier by introducing online filing of the statement of information for limited liability companies; they made paying taxes less costly by decreasing the corporate income tax rate, and most importantly, they made enforcing contracts easier by introducing electronic filing and electronic payment of court fees.

In the USA, the Federal Trade Commission Act (FTA) covers aspects related to marketing, promotion, and advertisement of products during the pre-purchase phase.

- The Federal Trade Commission (FTC) and Federal Communications Commission (FCC) are the nodal agencies responsible for the investigation, administration, and regulation of overall advertising and marketing in the USA. [34][35]
- FTA regulates areas like advertising to children, endorsements, environmental marketing, health claims, Made in USA claims, online advertising and marketing, and telemarketing.
- FCC handles complaints related to broadcast advertising on platforms like radio, TV, cable, and broadcast satellite system.
- Both FCC and FTC investigate various aspects of marketing and advertising, including the retail sector, irrespective of the various business models.
- As far as Made in USA claim is concerned, the enforcement policy state on U S Origin Claims by FTC regulates the Made in USA claim by manufacturers and retailers based upon the amount of US content in the product.
- Federal Trade Commission defines Made in the USA as 'all or virtually all the product has been made in America.' Thus, all significant parts, processing, and labor that go into the product must be of U.S. origin. The Made in USA claim is regulated by FTC and is legally known as the 'Made in USA labeling claim.' Non-compliance with FTC's Made in USA labeling claim, or any form of deception may attract civil penalties followed by injunctive provisions.

The same Federal Trade Commission (FTC) Act also looks at aspects related to the pricing of the products by the retailer of the manufacturer involved in direct sales. The interests of customers are protected through the Uniform Deceptive Trade Practices Act. The Department of Commerce (DoC) provides guidelines for *Unit Pricing Samples*[36] to ensure coherent pricing of the unit and bulk products.

- The FTC Act prohibits unfair and deceptive advertising, which extends to product pricing. The FTC's Guides Against Deceptive Pricing[37] requires that a retailer must offer an item at a price for a reasonable, substantial period in good faith, and in the regular course of

[34] Federal Trade Commission; Also available at: https://www.ftc.gov/business-guidance/advertising-marketing

[35] Federal Communication Commission; Also available at: https://www.fcc.gov/about-fcc/what-we-do

[36] Federal Communication Commission; Also available at: https://www.govinfo.gov/content/pkg/GOVPUB-C13-4851a46324cc86af742242cfc5a93d9a/pdf/GOVPUB-C13-4851a46324cc86af742242cfc5a93d9a.pdf

[37] FTC Guide against deceptive pricing; Also available at: https://www.ftc.gov/legal-library/browse/rules/deceptive-pricing

business, before advertising that price as a one-time or regular price.

- As per FTC's regulations, companies cannot artificially inflate a product's price for a short period to support a claim that an item is discounted when the price is reduced. Also, retailers cannot advertise their product as less than another merchant or manufacturer unless principal retail outlets sell the product at a higher price.
- A retailer who advertises a manufacturer's or distributor's suggested retail price should avoid creating a false impression that it is offering a reduction from the price at which the product is generally sold in its trade area.
- The average prices measure price gouging in an affected area over a given look-back period before an emergency or event that triggers escalated pricing. The then-President of the USA issued an executive order instructing the Department of Justice to investigate and prosecute price gouging under the Defense Production Act. Many state laws in the USA prohibit price gouging, followed by severe fines.
- At the state level, many states have adopted the Uniform Deceptive Trade Practices Act[38], including Delaware, Illinois, Maine, and Nebraska. California has the strongest consumer protection laws. Other states have been the leaders in specific aspects of consumer protection too.
- The US Department of Commerce (DoC) is responsible for providing Unit Pricing Guidelines to the retailers to provide retailers with information about the best practice requirements for the unit pricing of pre-packaged commodities in the retail market. It defines unit pricing as *"the cost per unit of measure of goods, such as the cost per milliliter or ounce."*[39] Though not mandatory, the DoC encourages retailers to use the best practice guide to help them in displaying product (including all food and non-food goods) pricing inside supermarkets, online marketplace, VR/Metaverse platforms, drug and convenience stores, mass merchandisers, wholesale clubs, auto parts stores, department stores, etc. in either paper, electronic or bar code format so that customer can easily compare prices and value of products.

The social media-based advertising regulations are taken care of by FTC. The FTC, as discussed earlier, is the nodal body that ethically regulates advertisers and any form of brand endorsement, including social media influencers and social media pages, through its Endorsement Guide. According to the FTC's endorsement guide, the social media endorsement message should be unmistakable when you have a relationship ("material connection") with the brand. It defines a "material connection" to the brand that includes personal, family, employment, or financial relationships – such as the brand paying you or giving you free or discounted products or services. Endorsements are encouraged to be disclosed in cases of such a relationship with a brand. It also explains how disclosures must be made. Like the endorsement declaration placement on social media pages should be in a manner that is hard to miss and explained in detail for declaration of these endorsements for videos, pictures, and live streams.

[38] Uniform Deceptive Trade Practices Act: Another Step toward a National Law of Unfair Trade Practices; Also available at : https://core.ac.uk/download/pdf/217207909.pdf

[39] Unit Pricing Guidelines; Also available at: https://www.govinfo.gov/content/pkg/GOVPUB-C13-4851a46324cc86af742242cfc5a93d9a/pdf/GOVPUB-C13-4851a46324cc86af742242cfc5a93d9a.pdf

People's Republic of China

The retail landscape in China is rapidly evolving. The rise of e-commerce and mobile commerce is changing how consumers shop, and traditional brick-and-mortar retailers are struggling to keep up. The rise of e-commerce giant Alibaba is one of the biggest disruptors of the retail landscape in China. Alibaba's Taobao and small platforms account for over 80% of China's online retail market, and the company is now expanding into brick-and-mortar retail. Other e-commerce players are also changing the retail landscape in China. JD.com is Alibaba's main competitor, and the company is investing heavily in drone delivery and other innovative technologies. Pinduoduo is a rapidly growing social e-commerce platform that is popular with millennials. Regulations would play a crucial role in ensuring an equitable competitive landscape and protection of customer interests.

The People's Republic of China recently made starting a business easier by fully integrating the obtention of company seals into the one-stop shop. They made obtaining building permits easier by simplifying low-risk construction projects' requirements and reducing the time to get water and drainage connections. China also made construction safer by imposing stricter qualification requirements for professionals in charge of technical inspections, verifying architectural plans, and differentiated building quality supervision schemes. Getting electricity has also been made easier by streamlining the application process and increasing electricity tariff changes transparency. China has also strengthened minority investor protections by imposing liability on controlling shareholders for unfair related-party transactions and clarifying ownership and control structures. They have also made paying taxes easier by implementing a preferential corporate income tax rate for small enterprises, reducing the value-added tax rate for specific industries, and enhancing the electronic filing and payment system.

The people's Republic of China has various regulations and legal frameworks which address different aspects of the retail ecosystem.

- The State Council Commercial Franchise Management Regulation of China came into effect in May 2007, establishing a comprehensive legal framework for franchise contracts, stipulating the rights & responsibilities of franchisors & franchisees, reinforcing information disclosure requirements for franchisors, and regulating marketing/advertising activities during franchisee recruitment.

- The People's Republic of China also enacted the 'Advertising Law of the People's Republic of China[40], which is one of the most extensive and detailed regulatory documents dealing with regulation, punitive, and other legal aspect of marketing and advertising for foreign as well as Chinese firms operating within China. It covers the regulatory aspect of all major sectors, including various retail business models. It is divided into six broad chapters, which deal with general provisions, rules for the contents of advertising, code of conduct of advertising, supervision, and administration of marketing and advertising, legal liabilities like punitive measures, and supplemental provisions like social core values and civilized social climates.

[40] Advertising Law; Also available at: http://english.mofcom.gov.cn/aarticle/lawsdata/chineselaw/200211/20021100053452.html

The retail ecosystem in China is closed as there are hardly any foreign retailers operating in that country with the possibility of a market monopoly. In such a competitive ecosystem, aspects of predatory pricing can arise to gain a market monopoly. China's Anti-Monopoly Law, Price Law, Anti-Unfair Competition Law, Consumer Rights, Interests Protection Law, and China State Administration for Market Regulation ensure fair competition and product pricing.

- China's Anti-Monopoly Law ('AML')[41] prohibits a dominant company from selling products at prices below cost without legitimate reasons. The AML specifies predatory pricing as one of the six conduct types that are prohibited for dominant firms. Article 17(1)(2) AML prohibits a company in a dominant market position from selling products at prices below cost without legitimate reasons.
- The People's Republic of China regulates price gouging centrally through the PRC Price Law, PRC Anti-Monopoly Law, the PRC Anti-Unfair Competition Law, and the PRC Consumer Rights and Interests Protection Law. Under the Price Law, business operators in China are required to set prices for their goods and services based on the costs of manufacturing, operation, and market supply and demand. It categorizes ad prohibits unfair price behaviors like fabricating and disseminating price increase information to drive up prices, hoarding commodities with tight supply or abnormal price fluctuations, using other price-gouging practices to push up commodity prices excessively, using misleading or false pricing practices., covertly manipulating prices by raising or reducing grade levels of goods or services and illegally seeking exorbitant profits (even absent any market power).
- The China State Administration for Market Regulation (SAMR)[42] has recently issued the Guidance on Investigation and Handling of Illegal Acts of Price Gouging During the Novel Coronavirus Pneumonia Epidemic Prevention and Control Period. The SAMR Guidance sets out detailed guidance on applying the Price Law and determination of illegal price gouging for daily necessities and products related to epidemic prevention.

- The SAMR Guidance categorizes certain practices of excessive pricing as illegal price gouging. These are:

    I. Selling the same product in such a manner results in the margin between the seller's cost and the selling price being significantly higher than that of the last actual transaction on or before January 19, 2020 (being the day immediately before the Chinese government's official declaration of the Novel Coronavirus as a Class B level communicable disease); or

    II. Otherwise, selling products at a margin above levels is determined as acceptable by the local counterparts of SAMR. Although SAMR has not issued national guidance on acceptable margins, local governments have set thresholds ranging between 15% and 35%.

[41] AML; Also available at:
http://english.mofcom.gov.cn/article/policyrelease/Businessregulations/201303/20130300045909.shtml

[42] SAMR; Also available at: https://en.nim.ac.cn/node/647

Cyberspace Administration of China (CAC)[43] requires bloggers, influencers, and content creators on public social media accounts, known as “self-media,” to possess a government-issued credential to publish anything on a host of topics. Other social media categories such as trending charts, hot search lists, push notifications and short video platforms also comply with this regulation.

Among many things, such as the right to obtain factual information about relevant commodities, the right to a fair deal, and the right to acquire knowledge concerning consumption and protection of consumer rights and interests, e-Commerce platforms can be held to joint or liabilities with the seller and manufacturer of the goods or services sold, therefore imposing a duty of care on e-Commerce platforms to take an interest and requiring such platforms to know their vendors or their products well, which will maximize authentic contact details and minimize the sale of defective or fake goods, or any such other activities that would infringe on consumers' rights.

As well as this, the recent amendment to the Consumer Rights Law increased compensation standards and penalties for violations, expanded liability for businesses involved in false advertising, developed e-commerce regulations, and created consumer privacy protection standards. Furthermore, many diverse laws, regulations and local ordinances are concerned with data protection, including the Consumers Rights Law and the Regulation on Personal Information Protection of Telecom and Internet Users (the “MIIT Regulation”). The primary obligations espoused in these general laws on data controllers are to ensure data is processed correctly and for companies and other legal entities to collect and use personal information with regards to:

a. Principles of legitimacy, rightfulness, and necessity when collecting and using personal information.
b. policies regarding the purpose, manner, and scope of collecting and using personal information;
c. obtaining consent from any individual that has information collected;
d. refraining from collecting or using personal information in breach of any laws or regulations and with the agreement of any individual that has information collected;
e. confidentiality and legality of the handling of personal information.

The PBOC, in July 2015, also issued the Administrative Measures on Online Payment Business of Non-banking Payment Institutions, which is currently seeking public opinion. The Measures seek to put more restrictions on online payment businesses and online transfer businesses carried out by non-financial institutions, including limiting the amount an individual can pay online to RMB 5,000 per day through third-party payment accounts unless a security token and electronic signature can verify the customer's identity. Therefore, although there are risks involved in using online payment services technology, China has counteracted with additional laws and regulations to ensure the minimization of such risks. Regarding e-Commerce Platforms, China has separate E-Commerce Law of the People's Republic of China (E-commerce Law), enacted on

[43] CAC; Also available at : http://www.cac.gov.cn/2021-08/25/c_1631480920680924.htm

August 31, 2018. It encompasses general principles, E-Commerce Operators, General Provisions, e-Commerce Platform Operators, Dispute Resolution, Promotions, and Supplementary Provisions.

The People's Republic of China has developed a regulatory landscape covering various functions of the retail ecosystem, including starting a new franchisee, marketing/advertising, competition/anti-monopoly issues, commodity hoarding, and abnormal pricing (in general and during pandemics), and protection of consumer rights.

Japan

The retail landscape in Japan is fascinating. On the one hand, you have traditional stores that have been around for centuries, and on the other hand, you have cutting-edge, innovative stores that constantly change the game. Between these two extremes, you have a wide variety of retail experiences worth exploring. One of the unique aspects of shopping in Japan is the prevalence of small, independent stores. These stores are often family-run businesses passed down for generations, offering a level of personal service that you simply can't find in large chain stores.

Japan is the third-largest economy in the world but lies in 114th place for ease of doing business. Red tape is one of Japan's most significant issues as far as starting a business is concerned. There is no one kiosk system for starting a business instead, and organizations are required to communicate with the Ward office, the Legal Affairs Bureau of the Ministry of Justice, the District Tax Office, the local tax office, the Labor Standards Inspection Office, the Japan Pension Service and the Public Employment Security Office before other procedures can be considered. Other issues include difficulty securing credit financing for the firms, complex tax payment methods followed by issues getting construction permits, product sourcing, and property registrations.

Given this diversity in the retail ecosystem, regulations would play an essential role in ensuring fair play by the different players in the ecosystem. The Japanese Fair-Trade Commission (JFTC) and Consumer Affairs Agency (CAA) are creating and enforcing retail regulations related to marketing and advertisements.

- Advertising regulation is overseen by the Japanese Fair-Trade Commission (JFTC)[44] in Japan. The JFTC's mission is to enforce fair trade and anti-trust laws. JFTC allows “Fair Trade Associations" (i.e., private trade associations) to set their guidelines for advertising and promotion. Industry associations are typically allowed to set any restrictions on product categories.
- The Act Against Unjustifiable Premiums and Misleading Representations[45] prohibits the use of misleading expressions and non-factual claims in adverts. One of the stipulations in this law limits using superlative terms; such claims must be fact-based, not mere opinions ("Prohibition of Misleading Representations,” Article 5.i). For instance, words like "No.1" and "the best" are not strictly illegal.
- Consumer Affairs Agency (CAA)[46] is Japan's regulatory body that prompts disciplinary action for deceptive and unfair business practices. When CAA determines that an

[44] JFTC; Also available at: https://www.jftc.go.jp/en/about_jftc/index.html

[45] Act against Unjustifiable Premiums and Misleading Representations; Also available at: https://www.cas.go.jp/jp/seisaku/hourei/data/aau.pdf

[46] CAA; Also available at: https://www.caa.go.jp/en/

advertisement or price label is misleading, they will order the business to cease the misleading practice and take necessary steps to prevent reoccurrence. As a disciplinary measure, the CAA may publish a notice naming the company and its infraction. In some cases, they will order the payment of a fine. Stealth marketing, where the viewer is unaware they are being advertised, is prohibited in Japan under the aforementioned Unjustifiable Premiums act ("Prohibition of Misleading Representations," Article 5.iii).

- Therefore, while not explicitly spelled out in Article 5, law experts in Japan advise against "undercover marketing" and "native advertising":

    I. "Undercover marketing" refers to the paid placement of products (often in a movie or TV show) without the knowledge of the viewer that it's a paid product placement.

    II. "Native advertising" refers to disguising an ad as a general interest video or article. Articles or videos paying for placement must make this discernible to readers and viewers.

Pretending to be a customer or a third party and writing positive reviews for your services would also violate "general consumers' voluntary and rational choice-making."

Promotions and product pricing are essential aspects of a diverse retail ecosystem like Japan. Improper Premiums and Improper Representations Prevention Act (IPIRPA) and the Fair-Trade Commission of Japan (FTC) govern the laws related to these aspects in Japan.

- Retail business models in Japan, regardless of their size, are subject to certain restrictions and regulations to preserve fair trade and protect consumers. The indication of an original and discounted product price is generally permitted but subject to certain restrictions under the Improper Premiums and Improper Representations Prevention Act (IPIRPA) and guidelines of the Fair-Trade Commission of Japan (FTC) to prevent misleading pricing[47].
- Double Pricing is a significant problem in Japan's retail industry. 'Double-pricing,' i.e., a method by which the original price of a product is marked-up immediately before discounting the marked-up price so that the resulting discounted price, appearing to be a bargain, is not a discount at all. The IPIRPA requires that the reference price on the label is genuine and has been in effect for at least four weeks during the eight weeks preceding the offer[48] and no more than two weeks before the offer's start. In other words, the former price must be offered during a sufficiently long period that is not too remote from the starting date of the offer at a discount. Subject to a few exceptions, discounts are not deemed to be premiums regulated by the IPIRPA.
- On the other hand, the following schemes are, in principle, regarded as discounts and not as premiums: price reduction (including a reduction subject to subsequent purchases) (e.g., X yen discount if you buy more than Y pieces; X% discount on the price of a coat if you buy a suit; X yen discount on the next purchase if you buy more than Y yen today) and a cash refund (including cashback conditioned by subsequent purchases) (e.g., X% cash refund on your payment, X yen cash refund if you buy for Y yen). The value of gifts is regulated under the IPIRPA and guidance issued by the FTC.

[47] The Regulation of Sales Promotion in Japan; Also available at : https://www.cliffordchance.com/content/dam/cliffordchance/briefings/2012/10/the-regulation-of-sales-promotion-in-japan.pdf

[48] Ibid;

- The maximum value of a gift with any retail product must be whichever is the lower of
    1. an amount which is appropriate by reference to industry standards and business customs, or
    2. a value generally capped as follows: 200 yen or 20% of the transaction value, whichever is the higher. The valuation of the transaction varies according to circumstances, such as whether the manufacturer or the retailer makes the gift.
- Retailers are encouraged not to engage in "sales below-cost" when " gifts" are offered. Gifts are not limited to products; they can include services, vouchers, securities, cash, entertainment, and anything else. They are defined as a "Premium" under the IPIRPA. As mentioned above, the maximum value of Premiums is regulated by the IPIRPA.
- If the Japanese Consumer Affairs Agency (the "CAA") suspects that a retailer is in breach of the IPIRPA, the CAA will investigate. If the investigation identifies facts suggesting a breach, the CAA will give the retailer a chance to produce contrary evidence, submit its views in writing, and take necessary measures to end the practice. If the evidence does not convince the CAA, it may issue a cease-and-desist order (a "CDO").

Japan's retail laws and regulations are pretty mature as the country has built upon traditional business wisdom and the experience of modern retail stores to evolve with such robust regulations. There are regulations around the critical aspects of retail like fair trade, misleading claims in product marketing, discount pricing, double pricing, gifts, etc. The regulations around aspects of "undercover marketing" and "native advertising" where the advertisements are made subtly show the depth of research and policy discussions that go towards developing such regulations.

There's no official watchdog in Japan like the FTC (Federal Trade Commission) and the ASA (Advertising Standards Authority). The 'WOMJ Guideline,' prepared by the Word-of-Mouth Japan Marketing Association in 2017, and the 'Moral Manifesto for Internet Advertising and Guideline for Publication,' prepared by the Japan Interactive Advertising Association (JIAA)[49] in 2015, are the main self-regulatory rules on advertising and marketing related to social media in Japan. JIAA (Japan Interactive Advertising Association) has an additional set of guidelines to which the brands adopting social media marketing directly or indirectly adhere. These regulations are not punitive nor have any legal binding, but almost all advertisers follow them. If the sponsors don't show transparency in their influencer campaigns, they will face backlash from the consumers. Unlike USA or UK market, the hashtag for transparency is not #AD or #sponsored. Instead, it's #PR mostly.

[49] JIAA; Also available at : https://www.jiaa.org/jiaa/en/

United Kingdom (UK)

The retail landscape in the United Kingdom is highly fragmented. There are around 1,500 retailers in the country, with a wide variety of sizes, formats, and locations. Supermarkets and discount chains dominate the market, but many specialist retailers, including fashion, homeware, furniture, and electronics retailers. The retail landscape in the United Kingdom is undergoing significant change. The traditional high street is under pressure from several factors, including the growth of online retailing, the rise of out-of-town shopping centers, and the demise of some well-known high street retailers. There is some sign of hope, as well-known retailers, including John Lewis and Marks & Spencer, have reported strong sales in recent years. There is also a growing trend for shoppers to support local independent retailers. Owing to the recent Brexit and this significant change, the future of retail in the United Kingdom is uncertain.

As far as the world bank's last ease of doing business report is concerned, the UK was ranked among the top 10 nations globally. While the UK is one of the top countries regulations-wise as far as ease of doing business is concerned, which includes easy access to a single kiosk system for fast permission and establishment of firm, ease in access to credit financing, and infrastructure accessibility, etc. Their recently introduced pension scheme regulation by the UK government where an employer must pay pension to its employees has made hiring a hectic task for the organizations.

Despite the recent uncertainty, the retail regulations of the UK have developed over a long time, and we see a range of regulations focused on the marketing and advertisement of products.

- As per UK regulations, all marketing and advertising must include an accurately described product or service that is legal, decent, truthful, honest, and socially responsible (not encouraging illegal, unsafe, or anti-social behavior). The Consumer Protection from Unfair Trading Regulations[50] investigate that consumer are not misled or harassed through false or deceptive messages, leaving out important information, or using aggressive sales techniques by firms.
- The Advertising Code of Practice[51] investigates non-broadcast and broadcast media regulations. The code has rules that cover non-broadcast advertising (for example, print, online), sales promotion, and direct marketing (such as telesales and email) related to advertising to children, offending, and political advertising. The broadcast code covers issues including taste, decency, and product placement. Specific requirements apply to food, alcohol, beauty, environmentally friendly products, medicines, and tobacco.
- Any firm gathering, storing, or using information about customers or potential customers is also bound to protect their data.

The aspects related to pricing/payments during the purchase phase and post-purchase aspects like dispute resolution are covered under horizontal commercial laws.

- Directive 2005/29/EC relates to unfair business-to-consumer commercial practices. The directive defines the unfair business-to-consumer commercial practices prohibited in the

[50] CPUTR; Also available at : https://commonslibrary.parliament.uk/research-briefings/sn04678/

[51] ACP; Also available at: https://www.gov.uk/marketing-advertising-law/advertising-codes-of-practice#:~:text=The%20CAP%20non%2Dbroadcast%20code,advertising%20to%20children

- EU. It applies to any act or omission directly related to a trader's promotion, sale or supply of a product to consumers. It protects the economic interests of consumers before, during, and after a commercial transaction.
- Directive 93/13/EEC on unfair terms in consumer contracts. The Directive protects consumers in the EU from unfair terms and conditions which might be included in a standard contract for goods and services they purchase. It introduces the notion of 'good faith to avoid any significant imbalance in mutual rights and obligations.
- Directive 2006/114/EC seeks to protect traders against misleading advertising from other businesses (i.e., business to business), which is equivalent to an unfair commercial practice. To this end, it determines the conditions under which comparative advertising is authorized
- Directive 98/6/EC rules on indicating prices of products sold to consumers. The Directive requires the selling price and the unit price of all products that traders offer to consumers to be indicated to improve consumer information and enable price comparisons.

In the UK, non-declaration of paid product endorsement by anyone, including celebrities, social media influencers, bloggers, vloggers, or social media platforms in any form, means breaking consumer protection law for which, if proven, the culprit could face enforcement action from the Competition and Market Authority, local authority Trading Standards services or the Department for the Economy in Northern Ireland. For any form of endorsement, payment against endorsement is defined as any sort of associated reward, money, gifts of services or products, or the loan of a product, is 'payment' – whether the person endorsing it originally asked for it or got sent it out of the blue (e.g. 'freebies'). CMA encourages healthy, upfront, unambiguous, non-deceptive declaration of endorsements, including lucid and unambiguous hashtags over social media platforms for text-based pictures, videos, and live stream posts.

South Africa

The country's retail landscape is diverse, from big box stores and high-end boutiques to open-air markets and street vendors. There are both high street, boutique retailers, and international chains. The country has several shopping malls and a growing number of outlet stores. The retail sector in South Africa is proliferating, thanks to a growing middle class and a rise in consumer spending. Retail sales are expected to reach R1.6 trillion (US$ 115 billion) by 2020, up from R1 trillion (US$ 71 billion) in 2015.[52] This growth is driven by several factors, including a growing population, an increase in disposable income, and a growing appetite for spending. The retail landscape in South Africa is highly competitive, with many players vying for market share. The sector is fragmented, with no one player commanding a significant share of the market. The top 10 retailers account for less than 30% of the market, while the remaining 70% is split among many small and medium-sized players.

South Africa has recently launched two new measures to enhance the ease of making business approaches. They have made enforcing contracts easier by introducing a specialized court dedicated to hearing commercial cases. They have also introduced a national minimum wage

[52] Global Powers of Retailing 2022; Also available at:
https://www2.deloitte.com/global/en/pages/consumer-business/articles/global-powers-of-retailing.html

system to ensure employees are hired quickly without many wage issues for employers and employees.

The following section lays down the regulations in South Africa related to the aspects of marketing and advertisement.

- The Advertising Regulatory Board administers the Code of Advertising Practice[53] which regulates the content of South African advertising. The codes regulate advertising domains related to alcohol, cosmetics, direct marketing, breast milk substitutes, environment, pet food, food and beverages, and social media. The direct market code deals with the consumer market and various business models associated with the business-to-business marketing models.
- Marketers must not misrepresent a product, service, or marketing programme and must not mislead by statements or manner of demonstration or comparison. It further states that Photography, artwork, type, size, color, contrast, style, placement, verbal description and audio-visual portrayal must accurately and fairly describe the product or service offered.
- Marketers must ensure that the general impression of the communication does not deceive by omission or commission. The clarity in marketing communications must be executed in a simple and easy-to-understand manner.
- Disclaimers in any medium must be prominent and easily accessible, near the representations they relate. Disclaimers must not be used to contradict claims but to provide additional information.
- Unless the promotional material advises the consumer or business of limited stock, marketers must ensure that quantity is sufficient to meet reasonably foreseeable demand. Also, comparisons included in marketing communications must be factual, verifiable, and not misleading. They must compare similar aspects of the products or services being assessed. Marketing communications should not stress insignificant differences that lead the consumer or business to draw a false conclusion.

In South Africa, the regulations related to the purchase process like product pricing, payment options, delivery of goods, and those related to the post-purchase process are listed below.[54]

- Before a consumer buying opportunity, marketing offers must provide all the information necessary for a reasonable consumer or business to make an informed purchase decision. Marketers must take reasonable steps to ensure that a consumer or business agreement to enter a contract is fully informed and intentional. Precise disclosures will vary by product or service being marketed but must include the–

  exact nature of what is being offered.
- Price, including all additional charges such as delivery or handling costs.
- Terms of payment.
- Consumers or business' commitment and any ongoing obligation in placing an order; and

  delivery arrangements, including shipping terms and delivery times.

[53] [54] ARB ; Also available at: https://arb.org.za/codes.html

The following additional disclosures must be made with the offers:

- other order-related charges (such as handling charges, services charges, surcharges, etc.);
- late payment penalties;
- return and cancellation policies and procedures;
- substitution policies;
- guarantees and warranties; and
- marketers contact information.
- For business-to-business transactions, all information necessary for an excellent business to make an informed purchase decision, including the disclosures described, must be presented at the time of the original offer and agreement. In the case of an ongoing relationship, the information must be presented again only when there is a material change. A material change to an agreement requires new consent, and the disclosures of offers must be clear, comprehensive, and prominent. They must present all items material to a purchase decision and be available in a form that permits a consumer or business to access a hard copy of the information
- As far as Price claim is concerning terms such as “regular price,” “suggested retail value,” “manufacturers list price,” and “fair market value”, must represent prices at which the item has been sold in the relevant marketplace in substantial quantity or for a substantial period. Where price discounts are offered, qualifiers such as “up to” and “xx off” must be presented in easily readable form and proximity to the prices quoted.
- As far as using the word 'free' is concerned, products or services offered without cost or obligation on the part of the consumer or business may be described as “free.” “Free” may also be used to describe a premium or incentive to purchase products or services if– (a) any cost or obligation is identified near the word “free,” or (b) the price of the original product has not explicitly been inflated to cover the cost of the premium. If not, the marketing communication must use another term, such as “bonus.”

The retail regulations in South Africa are in the evolving phase, and we see the focus on improving transparency in the process by making available different information about hidden costs, seller details, the selling process, etc. Corruption is a significant problem in South Africa with a high level of inequality which is an essential reason for the same. A minimal number of people control a large amount of the country's wealth-creating avenues for corruption. It is good to see that the retail regulations in one of the fast-growing BRICS (Brazil, Russia, India, China, and South Africa) are focused on tackling corruption which would lead to a fair retail ecosystem along with economic growth and prosperity.

South Africa's Advertising Regulatory Board has recently launched Social Media Code[55] which clearly defines Social Media, Social Media Marketing, Social Media Advertising, Organic Social Media, Influencers, and User Generated Content. It also clearly demarcates the method to

[55] Social Media Code ; Also available at: https://www.arb.org.za/assets/appendix-k.pdf

declare endorsements, the use of hashtags to do it properly, and the declaration of goods exchanges in lieu of an endorsement.

United Arab Emirates (UAE)

The retail landscape in the United Arab Emirates (UAE) is rapidly evolving, with new shopping malls, mixed-use developments, and boutique stores popping up across the country. The UAE is home to some of the world's most iconic shopping malls, such as the Dubai Mall and Mall of the Emirates. These mega malls offer a comprehensive retail experience, with hundreds of stores, restaurants, leisure facilities, and entertainment options under one roof.

E-commerce is a growing sector of the economy in the United Arab Emirates. The value of e-commerce transactions in the country was $5.9 billion in 2015 and grew to $15.5 billion by 2020. The UAE has the highest penetration of e-commerce in the Middle East, with 62% of the population making online purchases[56]. There are several reasons for the growth of e-commerce in the UAE. The country has a high Internet and mobile penetration level, with 95% of the population accessing the Internet and 97% owning a mobile phone. This provides a large potential market for online businesses. In addition, the UAE has a young and affluent population, with 60% of the population under 30. This demographic is more likely to shop online than older age groups.

The United Arab Emirates has made starting a business less expensive by reducing the fees for business incorporation. It has made dealing with construction permits more accessible by using a risk-based approach to reduce the number of inspections. They have also increased minority investor protections by providing for disqualification of directors in cases of prejudicial conflicts of interest and by introducing a value-added tax regime.

The following regulations govern the aspects related to marketing/advertising in such a diverse and evolving retail ecosystem.

- There is no specific law in the UAE that regulates the electronic marketing of products or services. The National Media Council (NMC) issued an official advertising guide[57], which aims to clarify standards for the UAE's advertisement industry and protect the public from marketing promotions that do not conform to applicable standards. The guide is not specific but provides basic guidelines about how the local culture, ideology, etc., should not be hurt and how firms can use advertising as a medium in a healthy manner.
- The Telecommunications and Digital Government Regulatory Authority (TDRA) issues regulations governing telecommunications licensees' electronic communications with subscribers and how they should monitor spam passing through their networks.
- The New Consumer Protection Law of the United Arab Emirates deals with consumer data safety where Article 4(5) implies that firms should not use consumer data for “the purposes of promotion or marketing,” and significant penalties are levied upon such

[56] Global Powers of Retailing 2022; Also available at:
https://www2.deloitte.com/global/en/pages/consumer-business/articles/global-powers-of-retailing.html

[57] Official Advertising Guide; Also available at ;
https://u.ae/-/media/Media/Media-In-UAE/NMC-AD-Guide-EN-PDF-presntation.ashx

practices in cases for non-compliance, including imprisonment, fines, and closure of the relevant business.

- The TDRA requires social media influencers to be licensed by National Media Council (NMC) if they accept paid ads of any consumer product/services to be published on their accounts.

The following Regulations in UAE govern the aspects related to Promotions and Pricing:

- The Federal Law No. 15 of 2020 on Consumer Protection aims to protect all consumer rights, including the right to a standard quality of goods and services and the right to obtain them at the declared price.
- The law covers all goods and services sold or provided by suppliers, advertisers, and commercial agents across the UAE's mainland and free zones. It also covers goods sold through eCommerce platforms registered in the UAE.
- As per the law, the supplier must provide the consumer with a dated invoice that includes his trade name, address, type of goods or service sold or provided, its price and quantity, and any other data specified by the Executive Regulation of this law. The invoice must be in Arabic, and the provider may add any other language as they deem fit.
- Suppliers who fail to provide transparent information and labeling, advertise misleading prices and false data on the goods and services, or fail to repair or replace a defective product without a charge, will face imprisonment of up to two years and a fine not exceeding AED two million.

UAE has recently launched various regulations to monitor and regulate social media marketing for products and services.

- The 2017 National Media Council Resolution vide Article (43) clearly states, "All paid advertising materials or items shall include a clear and candid indication that they are paid advertising materials or items." This applies to all advertising in all media, including social media. On a strict interpretation of the law, a Facebook page for a brand should clearly state that it is advertising.
- Article (45) (7) does add further complications for such practices. It states that "the identity of the advertisement must be made clear and be presented as they are special and independent from the other advertising and editing materials or items, and borders must be placed to be separate such advertisement from any other material or item as well as intervals or time breaks in case of TV and radio broadcasting."
- To try and clear up further ambiguity, particularly about social media influencers, the UAE government issued a Guideline for Advertising late in 2018. Aside from providing a neat summary of laws applicable to advertising, the Guidelines also contain the following list of special conditions for social media. Key points include the use of the hashtag "#ad" or "#paid_ad" for disclosure – "thank you to …" or "in cooperation with…" is not sufficient. These hashtags must be legible and easy to find – readers should not have to scroll down to find them. Video content must include a verbal reference to the disclosure within the video.

India's Regulatory Landscape & Comparison

India's Regulatory Landscape

India has emerged as one of the most attractive destinations for investments and doing business in recent times. India has jumped 79 positions from 142nd (2014) to 63rd (2019) in 'World Bank's Ease of Doing Business Ranking 2020'. To improve ease of living and ease of doing business in India, more than 25,000 compliances have been reduced by the Government of India. India does not have one single specific law on retail business. The retail business sector is governed under various laws, including contract, competition, consumer protection, intellectual property, employment, tax, foreign exchange, and other allied laws. Foreign Direct Investment (FDI) in India has been rising in the past few years, especially in retail, e-commerce, hospitality, and travel. This growth in the retail and e-commerce business has gradually attracted attention from leading international retailers and e-commerce players, and more sectors have opened for foreign investment in India. The government has also supported this by introducing various reforms and initiatives, which include allowing FDI up to 100% in specific sectors, increasing the sectoral cap, permitting FDI under the automatic route as against the government approval route, and removing certain sector-specific restrictions.

The Government of India, in recent times, has improved various aspects to encourage the opening and operating of businesses in India. As part of the Government of India's Ease of Doing Business (EODB) initiatives, the Ministry of Corporate Affairs has deployed a new Web Form, 'SPICe+' (pronounced 'SPICe Plus'). SPICe+ provides services related to establishing new firms by a resident of India, NRI's, and foreign nationals regarding three Central Govt Ministries & Departments[58] (i.e., Ministry of Corporate Affairs, Ministry of Labour & Department of Revenue in the Ministry of Finance). It saves both time and money and minimizes the aspects of red tape and corruption for new entrepreneurs starting their business in India and for established foreign firms establishing their foothold in India. SPICe+ is an integrated Web Form that serves as a single window for firm incorporations, DIN allotment, issue of PAN, issue of TAN, EPFO registration, ESIC registration, and the opening of bank account for the company, and GSTIN allotment. As per the new rules of the Ministry of Corporate Affairs, the requirement for minimum paid-up capital to start a company has been removed for private companies through the Companies (Amendment) Act, 2015. These new initiatives are expected to reduce the number of processes and time taken to start a business in India.

The Department for Promotion of Industry and Internal Trade (DPIIT), under the Ministry of Commerce and Industry, the Government of India, has recently launched the latest Business Reform Action Plan for 2020 (BRAP 2019-20)[59]. The reform action plan includes a Single Window System including online application submission, payment of application fees, access to information and transparency, etc.

[58] SPICe+ ; Also available at : https://www.mca.gov.in/MinistryV2/spiceplusfaqs.html

[59] BRAP 2019- 2020; Also available at: https://dpiit.gov.in/sites/default/files/Implementation_Guide_2019_dated_04022019.pdf

Retail advertisement is a vast subject including various complexities, which is impossible for a single body to regulate across the entire nation. Hence aspects of regulations are regulated and monitored by different bodies. The Advertising Standards Council of India (ASCI) is a non-statutory body that controls and regulates marketing and advertising. ASCI has adopted a Code for Self-Regulation in Advertising[60] which applies to all involved in the commissioning, creation, placement, or publishing of advertisements. Apart from that, there exist a plethora of statutory regulations on advertising concerned with various domains. These are the Code for Commercial Advertising on Television (Doordarshan) and All India Radio[61], The Press Council Act 1978[62], Young Persons (Harmful Publications) Act, 1956[63], Standards of Weight & Measures Act, 1976[64], Indecent Representation of Women (Prohibition) Act, 1986[65], Consumer Protection Act, 1986[66], Laws related to intellectual property rights, Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply, and Distribution) Act, 1992[67], The Food Safety & Standards Act, 2006[68], Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply, and Distribution) Act, 2003[69], Tobacco Prohibition Act, Prize Chits and Money Circulation Schemes (Banning) Act, 1978[70] and Cable Television Network Rules, 1994[71].

The Department of Legal Metrology regulates pricing and discount regulation in India. In 1990, The Ministry of Civil Supplies, Department of Legal Metrology, introduced the maximum retail price (MRP) printed on all packaged commodities consumers purchase by amending the Standards of Weights and Measures Act (Packaged Commodities' Rules) of 1976[72]. Hence every product meant to be sold requires having its maximum retail price (MRP) specified over the product. MRP is the highest price determined by the manufacturers for a specific product before the sale in India, and retailers cannot charge customers more than MRP. The maximum retail price printed on a product is inclusive of all taxes. Any retailer selling the product above the MRP would be liable to pay a fine, imprisonment, or both. No seller can put the new sticker of MRP upon the printed MRP of the product. Under section 36 of the Legal Metrology Act, any person distributing or delivering any pre-packaged commodity that does not conform to declarations on the package shall be punished with a fine of up to Rs. 25,000 for the first offense; for the second offense, the fine will rise to Rs. 50,000, and for the subsequent offenses the fine may go up to Rs. 1,00,000 with imprisonment for one year or both.

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[60] The Code for Self Regulation by ASCI ; Also available at: https://iprmentlaw.com/wp-content/uploads/2018/03/ASCI-Code.pdf

[61] Code for Commercial Advertising on Doordarshan; Also available at: http://www.indiancommunities.org/2019/03/21/code-of-commercial-advertising-on-doordarshan/

[62] The Press Council Act,1978 ; Also available at : https://legislative.gov.in/sites/default/files/A1978-37.pdf

[63] THE YOUNG PERSONS (HARMFUL PUBLICATIONS) ACT, 1956; Also available at : https://legislative.gov.in/sites/default/files/A1956-93_0.pdf

[64] STANDARDS OF WEIGHTS AND MEASURES ACT, 1976; Also available at: https://lawsisto.com/Read-Central-Act/1570/STANDARDS-OF-WEIGHTS-AND-MEASURES-ACT-1976

[65] Indecent Representation of Women (Prohibition) Act, 1986; Also available at: https://legislative.gov.in/sites/default/files/A1986-60_0.pdf

[66] Consumer Protection Act, 1986; Also available at: http://chdslsa.gov.in/right_menu/act/pdf/consumer.pdf

[67] Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992; Also available at: https://www.indiacode.nic.in/handle/123456789/1958?sam_handle=123456789/1362#:~:text=An%20Act%20to%20provide%20for,connected%20therewith%20or%20incidental%20thereto.

[68] The Food Safety & Standards Act, 2006; Also available at: https://fssai.gov.in/cms/food-safety-and-standards-act-2006.php

[69] Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003; Available at : https://legislative.gov.in/sites/default/files/A2003-34.pdf

[70] Tobacco Prohibition Act, Prize Chits and Money Circulation Schemes (Banning) Act, 1978; Available at : https://legislative.gov.in/sites/default/files/A2003-34.pdf

[71] Cable Television Network Rules, 1994; Available at : https://www.trai.gov.in/sites/default/files/CableTelevisionNetworksRules1994.pdf

[72] Standards of Weights and Measures Act (Packaged Commodities' Rules) of 1976; Available at : http://www.bareactslive.com/ACA/ACT1006.HTM

Lately, after the implementation of Goods and Service Tax (GST) in July 2017[73], manufacturers are required to comply with three aspects of MRP:

1. Both original and revised maximum retail prices should be displayed on the product.
2. The revised maximum retail prices should not be overwritten on the original one.
3. The change in maximum retail price cannot be more than the net price increase of the product because of tax.

We will be discussing in detail regarding the taxation aspects separately in one of the following reports. The Indian E-Commerce market is governed by majorly seven sets of regulations these are Information Technology Act, 2000[74]; Consumer Protection Act, 2019[75]; Consumer Protection (E-Commerce) Rules, 2020[76]; Foreign Exchange Management (Non-Debt Instruments) Rules, 2019[77]; Legal Metrology Act, 2009[78]; Data Protection Bill[79] and Non-Personal Data Governance Framework[80] *(withdrawn in 2022 by Government of India).*

The Guidelines for Influencer Advertising in Digital Media[81] by ASCI came into effect on 14 June 2021 in India. The major aim of the guideline is to differentiate between content-based videos and promotional videos made by influencers for commercial gain. As per the guidelines, "anyone who has a position of authority to influence the purchasing decisions or opinions of an audience is an influencer." It includes social media influencers and virtual influencers like avatars. The internet, on-demand platforms, mobile broadcast, digital TV, and other similar areas where an influencer can reach out to the public now qualify as digital media. As per ASCI guidelines, advertisements published by social media influencers on their influencers' accounts must carry a disclosure label identifying them as an advertisement. The disclosure label must be upfront and suitable for all devices. No other label is allowed to be used than the ones approved by ASCI, such as #Ad, #Sponsored, #FreeGift, #Employee #Partnership, et al., as the consumer may not be familiar with other short forms or words that can definitively suggest an advertisement.

[73] The Central Goods and Service Tax, 2017; Available at : https://cbic-gst.gov.in/CGST-bill-e.html

[74] Information Technology Act, 2000; Available at : https://www.indiacode.nic.in/bitstream/123456789/13116/1/it_act_2000_updated.pdf

[75] Consumer Protection Act, 2019; Available at : https://egazette.nic.in/WriteReadData/2019/210422.pdf

[76] Consumer Protection (E-Commerce) Rules, 2020; Available at : https://consumeraffairs.nic.in/en/theconsumerprotection/consumer-protection-e-commerce-rules-2020

[77] Foreign Exchange Management (Non-Debt Instruments) Rules, 2019; available at : https://rbi.org.in/Scripts/BS_FemaNotifications.aspx?Id=11723

[78] Legal Metrology Act, 2009; Available at : https://www.indiacode.nic.in/bitstream/123456789/4892/1/legalmetrology_act_2009.pdf

[79] Personal Data Protection Bill, 2019 ; Available at : https://prsindia.org/billtrack/the-personal-data-protection-bill-2019

[80] Non-Personal Data Governance Framework; Available at : https://prsindia.org/policy/report-summaries/non-personal-data-governance-framework

[81] Guidelines for Influencer Advertising in Digital Media; Available at : https://images.assettype.com/afaqs/2021-02/0b608628-7f01-433e-98e5-185916c4b12e/ASCI_Guidelines.pdf

International Comparison

Based upon the analysis of individual countries and comparative analysis discussed in this report, we have mapped the level of various regulatory aspects of business models in the countries mentioned above in three categories: good, fair, and poor. The categorization has been done based on the existing regulatory framework for the four areas; statutory bodies to implement these frameworks; nature of regulations and regulatory bodies, i.e., statutory, and non-statutory; frequency of changing regulations as well as grassroots level situation. The analysis of the six countries mentioned for the current report is limited to the four regulatory areas mentioned below.

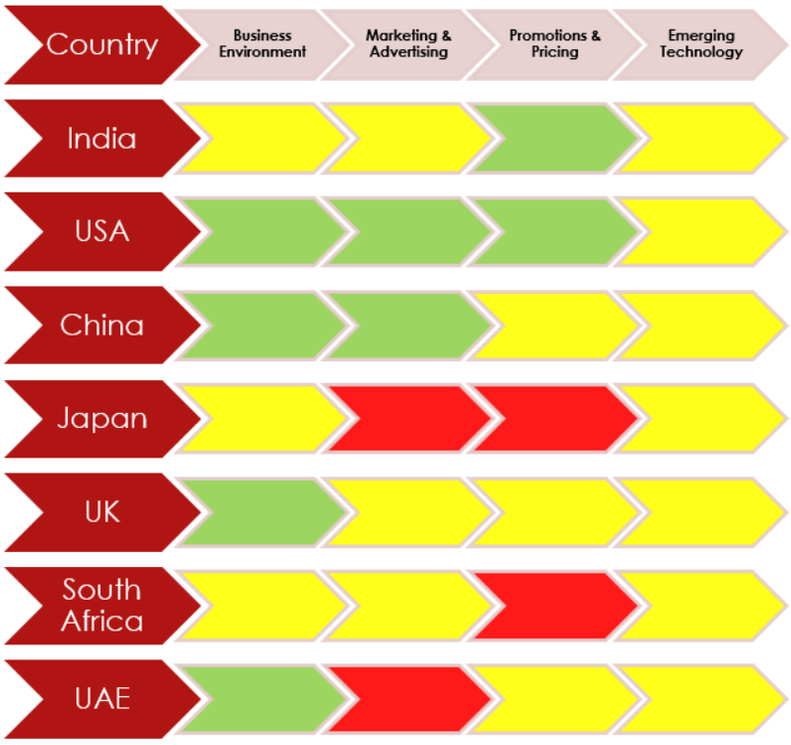

Figure 8: Color Coding used for grading regulatory area (Source: Compiled by Authors)



Business Environment

In this section, we primarily look at the overall business environment and the ease of opening a new business in that country – similar norms will also apply to opening a retail store. As discussed earlier, in India, the Department for Promotion of Industry and Internal Trade, under the Ministry of Commerce and Industry, has recently launched the latest Business Reform Action Plan for the year 2020 (BRAP 2019-20), intending to make the various aspects of business operations including starting a business, dealing with construction permits, access to electricity and credit, property registration, protection of minority investors, tax payment, trading and sourcing of material from across the border as well as contract enforcement and speedy resolutions related to cases of insolvency.

Great work on Ease of Doing Business across major cities in all countries had been evaluated regularly by the World Bank, and we would use the latest data available for 2020 as the base for this comparison on regulations in this area. It may be noted that the Ease of Doing Business evaluation was discontinued in 2020, and the World Bank Group is formulating a new approach to assessing the business and investment climate across countries worldwide named Business Enabling Environment (BEE).

COUNTRY	EASE OF DOING BUSINESS (RANK)	STARTING A BUSINESS (RANK)
India	62	136
China	32	45
Japan	30	106
South Africa	84	139
UAE	16	17
UK	8	18
USA	6	55

Table 1 : Comparative Chart (Source: Ease of Doing Business Report[82])

Out of the 190 countries ranked in the Ease of Doing Business ranking in 2020, India ranks a mere 136th in the aspect of starting a new business. The Department for Promotion of Industry and Internal Trade (DPIIT) understands this challenge in the Indian regulatory landscape and is working towards easing the norms around starting a business. This is reflected in the improvement of 79 positions in five years from 142nd in 2014 to 63rd in 2020. Given the legacy ranking methodology was based on perception, it would take a few years for the changes to reflect on the ground, and hopefully, the new Business Enabling Environment (BEE) would capture the recent improvements in the business environment and processes.

Marketing & Advertising

As we have seen, various aspects of Marketing and Advertising in India get covered through various statutory regulations in India. Also, we have seen that the Competition Commission of India exists, which is the national competition regulator; there is no central body in India to regulate and monitor advertising and marketing. The Advertising Standard Council of India is a non-statutory and voluntary body. Advertising Standards Council of India (ASCI), a non-statutory body, deals with aspects related to the commissioning, creation, placement, or publishing of advertisements in India. India is a multicultural, multilingual, and multiracial country, and we

[82] Ease of Doing Business Report; Available at: Scores (doingbusiness.org)

sometimes see advertisements hurt the sentiments of particular groups of people leading to violence or backlash for the brands involved[83][84].

Compared to India, we have government-backed statutory bodies like the Federal Trade Commission (FTC) and Federal Communications Commission (FCC) in the USA dealing with all aspects of retail marketing and advertising. Similarly, we have the China State Administration for Market Regulations (SAMR) in China, Consumer Affairs Agency & Fair-Trade Commission in Japan, and Advertising Regulatory Board in South Africa. Much like India, the UK has various statutory regulations which investigate various aspects of marketing and advertising without the presence of single or multiple central bodies to regulate them. On the other hand, there is no specific law in the United Arab Emirates regulating and monitoring marketing and advertising. They have various advertising guidelines issued by the National Media Council (NMC), the federal body regulating advertising and marketing.

India has a dedicated body Ministry of Information and Broadcasting, which is responsible for disseminating information and undertaking promotional campaigns through advertisements to create awareness among the masses about Government schemes, programs, and policies through various forms of media, i.e., Print Media, Electronic Media, Outdoor Media, social media, Internet Websites, etc. on behalf of various Ministries/ Departments and other government bodies. This body can oversee the Advertising Standards Council of India (ASCI) activities or make ASCI a part of this Ministry for better monitoring and coordination.

Promotion & Discounts

India's product pricing and promotion norms deal mainly with regulations and punitive measures associated with Maximum Retail Price norms governed through the Package Commodity Rule 2007, Legal Metrology Act (Sect- 36), and Goods and Service Tax (GST), 2017. The Department of Consumer Affairs is the statutory body under the Ministry of Consumer Affairs, Food & Public Distribution that administers the policies for Consumer Cooperatives, price monitoring, essential commodity availability, the consumer movement, and control of statutory bodies such as the Bureau of Indian Standards (BIS) and Weights and Measures.

While the introduction of Maximum Retail Price might be innovative in post liberalization India to ensure reduced corruption and bring price parity today, the system may create price disparity in both urban and rural landscapes, thus hampering both consumers and retailers. In rural demographics, as the logistical cost of introducing a new product in retail outlets is more because of high storage and maintenance charges, the retailers avoid stocking new products while the consumer ends up paying more than MRP to avail of these products. One of the well-known examples is the rural retailers charging above MRP for cold drink bottles in rural and semi-urban demographics. Even in urban demographics, it is common to charge more for a chilled bottle of water or cold drink, especially in places like shopping malls, airports, and restaurants.

[83] A roundup of some recent ads that hurt 'Indian' sentiments; Available at: https://indianexpress.com/article/lifestyle/life-style/roundup-recent-ads-hurt-indian-sentiments-hindu-rituals-patriarchy-7601641/

[84] From FabIndia to Tanishq, a look at brands that faced backlash on social media for their ads; Available at: https://www.firstpost.com/india/from-fabindia-to-tanishq-a-look-at-brands-that-faced-backlash-on-social-media-for-their-ads-10086071.html

As far as fixing of MRP is concerned, as per the current GST Rule, if any manufacturer intends to update the MRP of their product due to a tax change, they must give at least two advertisements in newspapers, intimating the price change to the customers. At the same time, they must intimate the price change to the company director, legal metrology, and controller of legal metrology in respective states. While the GST rule clearly states that any manufacturer cannot increase the MRP beyond rate appreciation caused due to tax change, the Legal Metrology (Packaged Commodities) Rules, 2011 hardly talks about the methodology used for fixing the MRP of any product. To be precise, we do not have any uniform mechanism for fixing the MRP of products sold over various retail business models. The issues related to taxation on top of product pricing is a topic that needs further deliberation and research – one of our subsequent reports on "Taxation Policy and Regulations in India" would analyze them in detail and provide policy recommendations.

In UAE, UK, Japan, and China, there are no such regulations regarding the display of the Maximum Retail Price for the end consumer. While in South Africa, product pricing is displayed in various forms like regular price, manufacturers listed price, and fair market value; in the UK, the directive 98/6/EC ensures the display of unit price by the trader to end consumer. Federal Trade Commission (FTC) Act in the USA deals with aspects related to pricing and discounts during product promotion and sales. FTC Act prohibits unfair and deceptive product pricing, artificially inflating a product's price, and avoids creating a false impression of a discount. To put things simply, India is one of the few countries, compared to its size economy, where we still use the MRP mechanism for product pricing.

Though India does not have any regulation for products sold during festive seasons at brick-and-mortar retail shops and malls, the proposed Consumer Protection (e-Commerce) (Amendment) 2021 discourages flash sales over the e-commerce portal for an indefinite period or definitive set of goods. Thus, the current laws are not uniform across various retail business models as far as discount pricing is concerned. Instead, it is more stringent toward e-commerce-based retail sales. In the previous policy recommendation report on "Foreign Direct Investment (FDI)," we have recommended uniform and simple pricing and discount norms irrespective of the fact where the product is sold (online or physical store).[85]

UAE has regulations to curb misleading pricing and selling of goods without proper invoices, which have punitive measures. Further, there is no regulation related to flash sales or discounting over various retail business models in UAE and South Africa. On the other hand, Japan and China have a more robust regulatory landscape regarding pricing, discounting and flash sale norms. Through the IPIRPA of FTC, Japan regulates discounting and flash sales over various business models. On the other hand, through Anti-Monopoly Law and PRC Price Law, China regulates pricing, double pricing, predatory pricing, flash sales, and discounting over various business models.

[85] Policy recommendations for Foreign Direct Investments (FDI) for e-commerce sector of India ; Available at : https://www.isb.edu/content/dam/sites/isb/research-thought-leadership/research-institute/bipp/reports/ISB-FDI-Report%20-%20Nov%202021.pdf

Globally, we see robust norms related to retail pricing in physical stores as this phenomenon has been around for a more extended period allowing regulators and lawmakers to understand the ecosystem and then develop the appropriate regulations for the same. It is also evident that many of these old regulations might not directly apply to the current retail models where the line between physical and digital has blurred, leading to the emergence of multi-channel, omnichannel, or Metaverse based models. Multiple innovative services are adding to the business models like delivery by drones, bricks to experience, direct commerce, etc., disrupting the current pricing and discount norms. The bodies in charge of product pricing and consumer affairs need to have a keen oversight of the various developments in the retail sector and develop appropriate regulations in the future.

Emerging Technology

As discussed earlier, seven sets of regulations govern the Indian E-Commerce market, along with the Guidelines for Influencer Advertising in Digital Media by ASCI that explicitly investigates various aspects of social media-based advertising and marketing regulations. Thus, India has no specific set of regulations to regulate social media marketing. As the ASCI is a non-statutory body, its guidelines are technically binding, and neither does its contravention attract punitive measures.

In UAE, all the digital marketing regulations are governed by the National Media Council Resolution. It caters to regulations for various aspects of social media marketing, including influencers, bloggers, and vloggers over platforms, TV, and Radio. In South Africa, social media marketing regulations are governed by Social Media Code launched by their Advertising Regulatory Board. It regulates social media, Social Media Marketing, Social Media Advertising, Organic social media, Influencer as well as User Generated Content. In the UK, the Competition and Market Commission governs social media regulations and punitive measures, including aspects like influencer marketing. Japan, like India, does not have any statutory body or regulation to regulate social media marketing. But they have self-regulatory guidelines like Moral Manifesto for Internet Advertising and Guideline for Publication, which are culturally followed in the market, and in case of non-compliance, the marketer has to face social backlash, which is very strict. On the other hand, the people's Republic of China has the Cyberspace Administration of China (CAC), which regulates and requires bloggers, influencers, and content creators on public social media platforms to adhere to its norm or face strict punitive measures in cases of non-compliance. The Federal Trade Commission remains the nodal body in the USA to regulate all marketing and advertising aspects, including social media.

As far as the emerging technologies affecting retail business models are concerned, the majority of it is in their early pilot phases as far as their usability in retail business models is concerned globally, and India is no exception. Out of all these, metaverse and drone delivery at two areas which has the potential to bring radical changes to the retail business model, and thus the regulating landscape around it is evolving very fast. Unlike normal circumstances where first technology comes first, followed by a discussion on the regulatory landscape, the stakes are very high regarding metaverse and drone deliveries. These two technologies can not only

revolutionize the world around us for the common good, but they have the potential for social harm and disorder if not regulated from day one.

Other emerging technologies like Artificial Intelligence[86] and Big Data[87] play a vital role in retail as these technologies are widely used for marketing purposes. These technologies also impact the final search ranking on e-commerce, an area of extensive debate that will be taken up in one of our later reports in this series. The other important technology is Blockchain, which has been used in the retail sector, particularly for food traceability[88], and adds a layer of trust in the process. For other retail goods, the manufacturer's location is explicitly mentioned on the product – this is also a norm in several countries to display such product information.

The regulations related to emerging technologies like Artificial Intelligence, Big Data, Metaverse and drones are still evolving across the countries studied in this report, so we see most of the countries have moderate rating for the emerging technology aspect.

Metaverse e-commerce platforms allow businesses to create virtual stores where users can browse and purchase products and services. These platforms can also be used for marketing and advertising, as businesses can create virtual spaces to showcase their products and services. In addition, metaverse e-commerce can be used for customer service, as businesses can create virtual customer service representatives to help users with questions or problems.

[86] Gangwar, Manish., Kaplan, Andreas., Kopalle, Praveen., Reinartz, Werner. (2022) "Examining Artificial Intelligence (AI) Technologies in Marketing Via a Global Lens: Current Trends and Future Research Opportunities", International Journal of Research in Marketing

[87] Eric T Bradlow., Gangwar, Manish., Kopalle, Praveen., Voleti, Sudhir. (2017) "The role of big data and predictive analytics in retailing", Journal of Retailing, 93 (1), 79-95

[88] Food Traceability Market 2022 | Industry Share, Size, Key Players and Analysis by 2027; Available on: https://indiandefencenews.info/63372/uncategorized/food-traceability-market-2022-industry-share-size-key-players-and-analysis-by-2027/

REGULATIONS		
Countries	**Drone Delivery**	**Metaverse**
India	▪ Drone (Amendment) Rules, 2022: Deals with flying norms and regulations per the drone's weight. DGCA is the nodal body that provides a remote pilot license based on weight.	▪ The metaverse landscape is still in an evolving phase in India, and there is no regulation.
USA	▪ Federal Aviation Administration (FAA) looks into drone delivery and remote pilot licensing in the USA. ▪ UAS Partnership for Safety Plan (PSP) Program, in collaboration with Amazon Prime Air, UPS Flight Forward, and Wing, is working to enhance drone delivery regulations and technologies.	▪ The metaverse landscape is still evolving in the USA, and no regulation exists.
UK	▪ UK's Civil Aviation Authority (CAA) led innovation hub explores how regulations can safely encourage autonomous flying.	▪ To be regulated through the upcoming Online Safety Bill.
UAE	▪ 2020 Dubai drone law paves the way for the Dubai Department of Civil Aviation (DCAA) to implement its 'Dubai Sky Dome' initiative, which allows Commercial drone delivery.	▪ Dubai's Virtual Assets Regulatory Authority is the only government establishment worldwide with its Metaverse headquarters.
South Africa	▪ According to South Africa's national aviation authority, the South African Civil Aviation Authority (SACAA), flying a drone is legal in South Africa, but there is no specific regulation regarding or permitting drone delivery.	▪ The metaverse landscape is still evolving in South Africa, and no regulation exists.
Japan	▪ Japan's national aviation authority, the Japan Civil Aviation Bureau (JCAB), looks into drone regulation, and their aviation regulation permits drone delivery. ANA is expected to start drone delivery in Japan in 2023.	▪ Japan's Industry groups follow guidelines regarding the rights of users and rules for business transactions in the metaverse. As such, there is no regulation from the government of Japan as of now.
China	▪ The Specification for Express Delivery Service by Unmanned Aircraft by the State Post Bureau of the People's Republic of China is one of the few national standards developed yet by the government for drone delivery. The Standard is applicable to express delivery services with a maximum take-off weight of 150kg and an airspeed of no greater than 100km/h.	▪ The metaverse landscape is still evolving in China, and there is no regulation.

Table 2 : Comparative Analysis of Drone Delivery and Metaverse Regulations
(Source: Compiled by Authors)

There are several benefits of using metaverse e-commerce for businesses. First, it can be used to reach a global audience, as virtual worlds are not limited by geography. Second, businesses can create a more immersive and interactive user experience, increasing sales. Third, metaverse e-commerce can be used to create a brand identity and build customer loyalty. Finally, businesses can use metaverse e-commerce to save costs, as they do not need to build or maintain a store physically. Most of the countries we covered in this report have concrete regulations on the Metaverse, which is understandable as the technology is evolving now. Dubai in UAE is the prominent exception where the Virtual Assets Regulatory Authority deals with norms for virtual assets. It is also interesting to note that UAE is the only country in the world which have provided citizenship to an artificially intelligent robot[89].

On the other hand, the drone delivery technology comes with regulatory challenges posed to the aviation industry and its present norms, its usability in war and the form of secret weapon, and a threat to life and privacy if it is armed with a weapon or camera unregulated, etc. Drones have been around for some time now, and the risks associated with flying unmanned ariel vehicles are known, leading several nations to come up with regulatory norms for flying drones. These regulations put criteria on the size and weight of the drones being flown, registering of drones above a specific size, limits on flying within sight or beyond sight, and the country of manufacture of the drone as an issue of national security. Some countries like the UK and UAE have developed regulations around the delivery of products using drones, while Japan and the USA are coming up with such regulations. The attached table compares drone and evolving Metaverse regulations across various countries studied in this report.

[89] Sophia, the first intelligent humanoid robot, to debut in Dubai; Available on: https://gulfbusiness.com/sophia-the-first-intelligent-humanoid-robot-to-debut-in-dubai/

Policy Recommendations

Based on the discussion on various business models, emerging trends, international regulatory landscape, and their comparison with India's regulatory landscape, we recommend some policy interventions with regards to regulations in the domain of advertising, rural e-commerce, exports via e-commerce, and on policies around emerging technologies to promote the better customer-centric retail business model in India. As discussed, the recommendations are grouped into four broad areas and are as follows.

Advertisement Regulator

To drive sales and interest in the product, retailers use various forms of advertisement and marketing the underlying products. This can include in-store displays, window displays, flyers, coupons, and more. By using these various forms of advertisement, retailers can grab customers' attention and convince them to buy their products. Given the highly competitive retail sector, the retailer or product owner must share genuine product information with the customer.

In India, the advertising and marketing industry is plagued by several problems. Firstly, the industry is highly fragmented with many active small players, which leads to a lack of cohesion and coordination between players and makes it difficult for the industry to function effectively. Secondly, the industry is highly unregulated with no clear guidelines or rules, making it easy for companies to flout norms and indulge in unethical practices. Thirdly, the industry is highly competitive, and companies often must resort to cut-throat tactics to gain an edge over their rivals which often leads to malpractice and unfair competition.

Recommendation: The approach toward regulating advertisements and marketing in India is quite fragmented, creating loopholes for the retailers. We propose an apex national statutory body to deal with the monitoring and regulation of all advertisements in India. The current Advertising Standards Council of India (ASCI), with its years of experience, can emerge as the nodal agency for this purpose and would be reporting to the Ministry of Information and Broadcasting (MIB). ASCI would need to continuously take inputs from the various existing bodies on the dissemination platform or with the line ministries on the content of the advertisements.

In India, there is no statutory body to look after all aspects of advertisements and marketing in the country. The non-statutory body Advertising Standards Council of India (ASCI) looks after several aspects of advertisements and marketing in India along with the Code for Commercial Advertising on Television (Doordarshan), Cable Television Network Rules, 1994[90], All India

[90] Cable Television Network Rules, 1994; Available at : https://www.trai.gov.in/sites/default/files/CableTelevisionNetworksRules1994.pdf

Radio[91] or The Press Council Act 1978[92] governing the norms for advertisements in that medium i.e., television, radio or print media. The newly proposed Information Technology Act 2021[93] deals with aspects of advertisements on social media platforms. The current regulations are specific to the platform on which these advertisements are showcased. Further, the Central Consumer Protection Authority (CCPA), formed pursuant to the Consumer Protection Act, is empowered to act against bad actors who publish misleading/false advertisements to the detriment of consumers. CCPA has also issued the '*Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022*'[94] with the objective of curbing misleading advertisements and protecting consumers. With multiple regulators involved and overlapping jurisdiction can lead to confusion in the ecosystem leading to delays in the resolution of complaints and it will be much better if a central authority is handed this responsibility across all advertisement mediums. With the increasing digitalization and the current pandemic, we see the boundaries between physical and digital worlds getting blurred and it would become even more challenging to keep track of the advertisements across these different mediums with through different bodies. We further see different regulations protecting the interest of some specific groups like children or young adults, women, etc. but a lack of overall regulations protecting the interests of the consumers and citizens. This fragmented approach to monitoring and regulating advertisements in a large country would mean that certain aspects would always get missed out or it will be easier for retailers to find gaps in the existing fragmented landscape.

To overcome this fragmented nature of advertisement monitoring and regulations in India, in this report, we propose a single nodal statutory body to deal with all aspects of advertisements in India. Even though the scope of this report is related to retail and e-commerce, we believe this regulator would be best positioned to look at advertisements for other areas like services, political advertisements, etc. Instead of creating a new body, it would be recommended that the existing Advertising Standards Council of India (ASCI) takes up the mantle as the apex statutory body dealing with all sorts of advertisements in the country. Further, Advertising Standards Council of India (ASCI) may be aligned to the Ministry of Information and Broadcasting (MIB) which is the nodal ministry to deal with all aspects related to broadcasting of advertisements in the nation. Monitoring and regulating all advertisements in India are a complex matter, which would require expertise of several different stakeholders, so ASCI as the nodal agency would need to take inputs from other bodies dealing with advertisements on national television, cable television, print media or radio. Further sectoral expertise would be required at ASCI, and they can get inputs from the other sectoral line ministries for different aspects say healthcare, women issues, agriculture, transport, etc. India is a multi-cultural society with each state having a different cultural sensitivity and an advertisement which can be humorous in one state can be offensive in another one. ASCI needs to have state level co-ordination for monitoring the suitability of a particular advertisement content before launching it in that state.

[91] Code for Commercial Advertising on Doordarshan; Also available at : http://www.indiancommunities.org/2019/03/21/code-of-commercial-advertising-on-doordarshan/

[92] The Press Council Act,1978; Also available at : https://legislative.gov.in/sites/default/files/A1978-37.pdf

[93] IT Act 2021; Available at : https://prsindia.org/billtrack/the-information-technology-intermediary-guidelines-and-digital-media-ethics-code-rules-2021

[94] CCPA Guidelines; Also available at: CCPA Notification.pdf (consumeraffairs.nic.in)

Rural E-commerce

E-commerce operations in India started in the metro cities and over the years expanded to the Tier-II and Tier-III cities which experienced massive growth over the last few years[95]. Around 70% of India's population still reside in rural India where we do not see substantial penetration of e-commerce. Some of the underlying reasons for the lack of e-commerce penetration in rural India can be listed as follows.

- Unavailability of smartphones with high-speed internet which deter the discoverability and transaction of the products on the e-commerce platform
- Lack of trustworthy digital payment options for the citizens for closing the transactions is another hindrance to e-commerce adoption
- The demand in rural areas is sparse and there is little incentive for the established e-commerce players to build warehouses for the logistics
- Delivery organizations do not have dedicated staff in the rural areas to ensure last-mile delivery of the products

There are ongoing efforts by the Government of India to overcome some of the issues listed above. *BharatNet*[96], also called the National Optical Fiber Network (NOFN), is a project of the Government of India with an objective to provide high-speed broadband Internet access to all the Gram Panchayats of India. *BharatNet* is part of the Digital India Programme, an initiative of the Government of India to ensure that all citizens have access to digital services and to bridge the digital divide in the country. As of May 2022, the project has connected 1.32 lakh Gram Panchayats with high-speed broadband and wireless internet capability. This government initiative is providing high speed broadband connection through optic fiber, the private telecom service providers are providing better mobile data services. Recently, the National Payments Corporation of India (NPCI) has launched a novel version of Unified Payments Interface (UPI)[97] allowing non-smartphone users to carry out monetary transactions without internet connectivity using mobile 2G services like text on a feature phone. This ensures that some challenges like internet access and online payment would likely be resolved in the coming years.

Recommendation: The rural post-offices in partnership with the e-commerce players (both government and private) can enable the adoption of rural e-commerce providing better product choices to millions of citizens. The partnership will involve the Indian Railways for long haul transport and warehouse of the goods as railway parcels whereas local youth trained as delivery partners would play the crucial role of last mile delivery of the products.

[95] Rural India drives the boom in India e-commerce sector; Available at : https://www.indiaglobalbusiness.com/the-big-story/rural-india-drives-the-boom-in-indian-e-commerce-sector#:~:text=The%20sector%20is%20projected%20to,earlier%2C%20ie%2C%20by%202022.

[96] BharatNet; Available at: https://bbnl.nic.in/

[97] Press note; Available at: https://rbidocs.rbi.org.in/rdocs/PressRelease/PDFs/PR183053473213808441018C93DDA951C5C601.PDF

We have seen earlier in this report that Neta, a social e-commerce platform of Mexico, is implementing an online-to-offline model by focusing on the mom-and-pop stores in Mexico, to aggregate demand and delivery[98]. The government may promote similar model in India to promote rural e-commerce along with a benefit for the small retailers in the rural areas. As of now, the internet connectivity and online payment options can be a challenge in the rural kirana stores and in the absence of the same post offices with good broadband internet connectivity can be a viable option. A partnership between the post offices backed by The Department of Post, e-commerce platforms, Indian Railways and logistics partners can enable rural e-commerce. The roles of the various parties in this partnership are listed below:

- **Department of Post** through the rural post offices can have an internet enabled kiosk available in local language. Citizens in that area can visit the post-office, search for items and place the order on the e-commerce portal through the post-office. The post office plays an important intermediary for validating and placing the order. The post office would also be the intermediary for receiving the payment in case the citizen does not have an online payment mechanism. Further, the post-office would receive a small commission for the e-commerce services offered – the monthly commission amount can be used to hire an additional resource to deal with the e-commerce orders or divided amongst the post-office staff involved in these e-commerce activities. Many of these citizens would have existing business or deposits at the post-office and based on their profile, financing options can be provided in collaboration with Indian nationalized banks.
- The kiosk at the post-office can have multiple **e-commerce** options in a single place for access by the citizens. Both private platforms like *Flipkart, Amazon, Myntra, Nykaa* can be featured along with government back *Open Network Digital Commerce (ONDC), IRCTC by Railways* or customer version of Government e-Marketplace (yet to be developed). Each of these entities can come into an individual partnership with the Department of Post to provide access to their application across all Indian post-offices in local language along with the additional option of English and Hindi.
- **Indian Railways** has a great network across the country along with in-roads in rural areas with railway stations in the vicinity. In a partnership with Indian Railways, the ordered products would be picked up from the urban warehouse and transported by Railways to the nearest railway station for last-mile delivery.
- **Last mile logistics** can often be a challenge in rural areas as there might not be adequate volumes to delivery vendors to operate in those areas in low margins. Rural youths may be trained as delivery partners by the established delivery organizations like *Delhivery or Ecom Express*. These youths may be engaged in other activities may participate in the last-mile delivery of goods as a part-time activity on commission basis. These delivery partners would pick the packages from the nearest railway warehouse and deliver it to the post-office or the final customer depending on the status of the payment. The post-office plays an important role, where the delivery partner updates the post-office of the delivery status, and the post-office can also collect the payment from the citizen and pass it on the seller who had supplied the goods.

[98] Neta, a social e-commerce platform, raises $4.9M led by Kaszek; Available at: https://www.bloomberglinea.com/2021/10/12/neta-a-social-e-commerce-platform-raises-49m-led-by-kaszek/

Such a model can be of immense benefit to the various parties in the partnership. In the rapidly progressing digital world, the post-offices are in the process of reinventing themselves and riding on the popular e-commerce bandwagon would help in enhancing their popularity along with revenue generation. The e-commerce players are not able to expand much beyond Tier-II or Tier-III cities as the volumes are not high for these players to operate in these areas and such a partnership would help them make rural in-roads along with fulfilling the unmet citizen needs in those areas. This would also lead to enhanced parcel delivery for Indian Railways leading to increase in the Railways revenue. Rural e-commerce would also help in providing employment opportunities to the youth in that area as delivery partners and get trained in the leading last mile delivery logistics practices.

E-commerce beyond borders

In May 2020, Prime Minister Narendra Modi announced the Atmanirbhar Bharat Abhiyan with the objective to make India a self-reliant nation by reducing its dependence on other countries for its development. It aims to boost the indigenous manufacturing sector and promote the use of local products and services. India's global merchandise exports share has remained flat at around 1.7 percentage over the last five years. An increase in merchandise exports from India would be an important factor for the growth of the manufacturing sector, leading to job creation and driving India's economic growth.

The Union Minister for Commerce & Industry and Railways, Piyush Goyal, has said that the government is committed to taking all necessary steps to increase India's exports. The Minister said that the government has taken several steps to improve the ease of doing business in India and is working on a war footing to improve the country's export competitiveness. The efforts on engaging new channels for increasing India's exports might take some time, meanwhile e-commerce can play a crucial role in expanding the reach of India's export to global markets. Technology-based global selling programs of the international e-commerce platforms like Amazon enable such seamless transactions of products across international borders by creating a seamless buying experience for the customers while easing the various challenges in the process[99].

- **Market Intelligence:** Ecommerce exports provide MSMEs and manufacturers access to a lot of information and market intelligence to understand demand patterns, latest trends, pricing preferences for markets across the world thus allowing the Indian manufacturers to find suitable markets for their products without the overheads involved in the process of gathering market intelligence.
- **Market Access:** The international e-commerce platforms operate in multiple countries, so Direct to Customer (D2C) exports enables businesses to sell directly to customers across the world. It helps businesses transcend boundaries and open a much larger pool of customers.
- **Global Supply Chain:** With Ecommerce exports Indian MSMEs and manufacturers can leverage the global presence and existing global infrastructure of online marketplaces for shipping, distribution, returns management and customer service which provides further ease in the process and reduces the overheads in terms of time and finance.

[99] Exports 2.0 to enable small businesses reach customers worldwide and create global brands; Available on: https://timesofindia.indiatimes.com/blogs/voices/exports-2-0-to-enable-small-businesses-reach-customers-worldwide-and-create-global-brands/

- **Faster and Simpler payments:** Ecommerce exports can address issues related to currency conversions, tax laws and other intricacies of global finance by simplifying cross-border payments. It can support global remittances and provide an effective mechanism to manage payments thus reducing the payment cycles of sellers from several months to few weeks.
- **Global Indian brands:** For the longest time, many Indian exporters have doubled as contract manufacturers, providing products for other brands. With e-commerce exports, being able to directly interact with customers has resulted in the creation of brands that manage all components of a business, from production to branding and sales. This results in brands owning the intellectual property for their products and higher profit margins- all of which aid in the creation of 'global brands' from India.

Recommendation: Exports through e-commerce is a small percentage of India's current exports and is driven primarily by the international e-commerce players who have good connect with customers globally. We recommend that the Government of India develops a well-defined e-commerce export framework that will provide a platform to Indian MSME and manufacturers to connect with the global supply chain through the various foreign e-commerce platforms which might not even be operating in India. The government can play a pivotal role to setup bilateral or multilateral trade agreements with countries where these e-commerce platforms operate.

E-commerce players like Amazon have already engaged on such initiatives named Global Selling program, and as part of the same various on-ground events and workshops are organized at regular intervals to generate awareness on the benefits of e-commerce exports in key export clusters across India. These programs are designed to cater to the business needs of Indian exporters and creating the right infrastructure and support system needed to enable businesses of all sizes to export from India by leveraging e-commerce.

In the years to come, exports will play a crucial role in India's economic growth and Ecommerce exports provide an easy and rapidly scalable route for Indian MSMEs and manufacturers – to generate higher forex for the country while creating employment opportunities. The immediate priority areas to fuel e-commerce exports start from creating more awareness about e-commerce exports on the ground; end-to-end digitization of processes for MSMEs and manufacturers to start their journey as exporters and building effective yet low-cost logistics solutions.

Emerging Technology

Metaverse is an interconnected web of social platform which is networked in an immersive environment backed by multiuser platforms. Metaverse through Virtual Reality (VR), Augmented Reality (AR) and mixed reality (MR) provides dynamic interaction among multiple users through digital artifacts.

E-commerce is growing in popularity to shop for goods and services because it is convenient and often cheaper than traditional shopping methods and makes it easier to compare prices and find deals online. In addition, many people prefer to shop online because they can avoid crowds and parking. One of the major drawbacks of e-commerce is the lack of personal interaction or physical look and feel of the product. Also, while buying something online, one is dealing with a faceless entity and there is no face-to-face interaction with a salesperson or store representative. AR/VR technologies and Metaverse is here to transform the e-commerce purchase experience where shoppers can see the product as they would see it in store, try an attire on the virtual avatar, interact with an artificial intelligent powered salesperson to know about the product features, etc.

Recommendation: Metaverse is emerging as an important mode for commerce and the regulatory landscape around metaverse needs to be defined from Indian perspective. Regulatory areas like user data security and privacy regulations, anti-trust and competition-based regulations, liability enforcement regulations, legal jurisdiction of nations as far as issues and misdeeds in metaverse in concerned, national security issues, fintech aspects, digital currency etc. needs further research and regulation. We recommend setting up a Center on Digital Economy as the nodal agency to deal with all aspects related to Metaverse and other issues emerging in the Digital Economy.

While Metaverse provides affordances in form of immersion, embodiment, presence and identity constructions, these affordances come with its own set of challenges and regulatory landscape requirements. In the Metaverse, legacy issues related to marketing and advertisements would get amplify multifold with the emergence of Metaverse. Sellers would compete for advertisement attention from the customers in this virtual space, leading to massive revenue stream for the Metaverse platform owners which would need regulations as an extension to the existing advertisement norms. Further, a business having a virtual store might not be in the country from where the customer is viewing the virtual store leading to cross-border regulations like those proposed in the Personal Data Protection Bill[100] *(withdrawn in 2022 by Government of India).*

The metaverse comes with challenges in terms of Infrastructure, high speed seamless internet connectivity (5G and beyond) as well as currently high cost for AR/VR/MR components and devices. Apart from usability challenges there are various regulatory aspects which needs to evolve globally. These include user data security and privacy regulations, anti-trust and competition-based regulations, IPR regulations, liability enforcement regulations, legal

[100] Data Protection Framework by MEITY; Available on: https://www.meity.gov.in/data-protection-framework

jurisdiction of nations as far as issues and crimes committed in metaverse in concerned, regulations related to national security as well as fintech based regulations especially dealing with transaction, digital currency etc. In India these aspects are regulated and managed by different ministries with Ministry of Electronics and Information Technology (MEITY) in the lead and a coherent approach is needed to deal with these aspects in a holistic manner is required in the future. The recommended Center for Digital Economy can be an independent body or aligned to MEITY and will also have strong linkages with other Ministries like Industry & Commerce, Ministry of Information and Broadcasting, Ministry of Consumer Affairs, Competition Commission of India. This proposed center should observe the technological development of the Metaverse and the various possibilities. The center should operate as a hub with various technological and business institutes involved in the research related to the usability of this technology and related risks. There should be simple regulations to start with and over time based on deeper understanding the same can be revamped.

Drones are becoming increasingly popular for a variety of purposes, including delivery. There are several companies that are now using drones to deliver packages, and the results have been promising so far. There are a few advantages to using drones for delivery. Drones can be much faster than traditional methods and deliver a package to its destination in a matter of minutes, whereas a traditional delivery truck might take hours. Another added advantage is that it can be much cheaper as it doesn't need to be paid for like in case of a delivery agent or a driver. Of course, there are also some disadvantages to using drones. The most prominent one is the unreliability as the drone can crash due to technical problems or battery outages leading to delays or even prevent a delivery from happening. Another concern is that drones can be used for nefarious purposes as it can be remotely hijacked, and cane be used for delivering malicious objects like a bomb or other weapon. Even though there have been various pilots on drone-based delivery, there is no guidelines which balances technology benefits while balancing the possible threats or failures.

Recommendation: Ministry of Civil Aviation has come up with comprehensive drone policy for India which requires registration of drones on the Digital Sky platform and taking permission for every new route for flying. We recommend addition of a small section on drone delivery and developing a capability for Unmanned Traffic System Management (UTM) for monitoring Beyond Visual Line of Sight (BVLOS) drones.

Overall, the use of drones for delivery is a promising development. There are some potential benefits, but also some risks that need to be considered. At present the trails on drone deliveries are point to point, i.e., the drone originates from the dispatcher and end up at the receiver's address. Either of these places might be in a congested zone or restricted zone leading to complications in the delivery process. Keeping this in mind the government can come up with comprehensive regulation for drone delivery along with the development of Unmanned Traffic

System Management (UTM) for controlling the activities of Beyond Visual Line of Sight (BVLOS). As part of this regulation, drones may be allowed to fly only over on certain areas only, say on top of the roads, public parks and few other common places – rest of the places can be marked as no fly zones. This will bring simplicity in the registration of drone flights as the fly/no-fly zones would be clearly demarcated reducing the paperwork required for permissions with every flight route. Further, drone terminals can be developed in selected spots across rural/urban areas which will operate as airports for flights or bus terminal for buses from where the drones will fly off with the packets and terminate the journey. Delivery agents can help in delivering the items to these drone terminals and help in the last mile delivery – thus bringing efficiency in the process without compromising on jobs. Further the proposed UTM can help in monitoring the flight of the drones across points and the platform for the same may be developed with government support.



Data & Search on E-commerce Platforms

Introduction

Data is the largest harbinger of profits and innovation in the modern world. However, it largely remains an untapped resource. The industry's constant mining of data gives rise to new technologies and, therefore, new concerns. Humongous volumes of data are generated on e-commerce platforms, including user demographic, location, and payment details. Data on a user's search and browsing on e-commerce platforms are all captured and stored, including products viewed, the number of time users spend on each product page, activities like product comparison, etc. Finally, data on the products added to the shopping cart, purchase, return, and customer feedback are also captured on the platform.

These activities generate rich user data as they browse products by external sellers on an e-commerce platform. Based on the data, e-commerce platforms are often at an advantageous position compared to the other actors involved in the generation of this data. As all these transactions by default take place on the e-commerce marketplace, the data is owned by the platform and sellers while users are only able to view their own transactions. Some e-commerce platforms generate an aggregate product or category-level insights shared with the sellers and users on the portal. Further, e-commerce platforms use this data to profile customers and generate customized recommendations, which help in improving sales.

In this report, we start with a discussion on the various actors involved in the process of generating data on e-commerce platforms followed by a discussion on how each of these actors generate these data and the time spent in the process. We then look at how the data on the e-commerce platforms can be accessed by these various players and the type of business insights or benefits one can derive from the underlying data.

We observe that the e-commerce platforms are often at an advantageous position while using the underlying e-commerce data. This leads to the discussion on the various proposed regulations to deal with these aspects – we provide an overview of the same followed by an analysis of various ways in which the search results are presented by the platform. In each of these sections, we further analyze the regulations suggested for tackling these aspects followed by a discussion on the feedback received from the stakeholders during the roundtable discussion on this topic. Finally, we derive at the recommendations for improving the search and raking on e-commerce platforms by adequate use of platform's data.

Data on E-commerce Platforms

The e-commerce landscape in India is growing and very vibrant with large number of sellers, products, and customers associated with one or more of these platforms. The e-commerce platforms over years become a warehouse of humongous volumes of data – Statista reports show around 190 million online shoppers in India only for the year 2021[101]. Flipkart is one of the largest online e-commerce players in India and as per their press release in 2021 Flipkart has 350 million registered users and 150 million listed products from close to 4.2 lakh sellers[102]. Amazon, on the other hand, has more than 350 million listed products globally have reported in 2021 on successfully onboarding more than 10 lakh sellers only in India[103].

[101] https://www.statista.com/statistics/1191958/india-number-of-annual-online-shoppers/
[102] Flipkart on-track to have over 4.2 lakh sellers & MSMEs by December 2021
[103] Amazon crosses 10 lakh sellers milestone across India

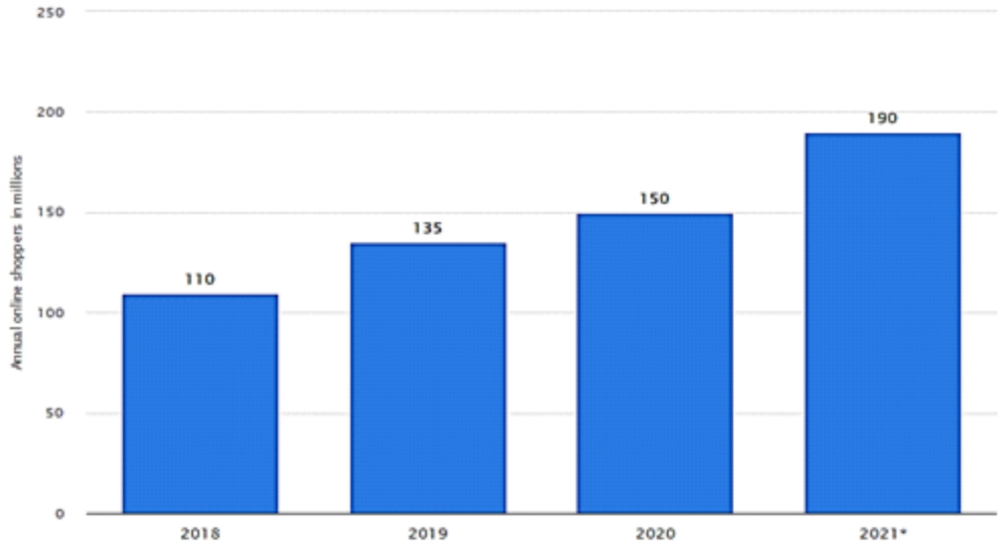

Figure 18 :Annual online shoppers (in millions)

Now, let us understand how valuable data is generated on these e-commerce platforms which makes it lucrative to monetize and utilize this data. An e-commerce platform goes through the process of onboarding sellers on the platform who would have to meticulously enter each of the product details in digital formats on these platforms so that customers coming to these platforms can easily search for these products. Today, we see many product details and specifications available as additional information on a product page as manufacturers are making this information available in digital format. Even a few years back, several product descriptions were not available in digital format making it a cumbersome process for sellers to onboard the digital online platforms with many abandoning the process due to the challenges involved[104]. The availability of product details and product specifications in digital format is the first major reason for many products on these e-commerce platforms. This product information is available in a segregated format across stores where these products are stored and the sellers play an important role in entering these data on the e-commerce platforms through a meticulous process. The e-commerce platforms too play an important role in reaching out to these sellers and helping them with capacity building to onboard the platforms.

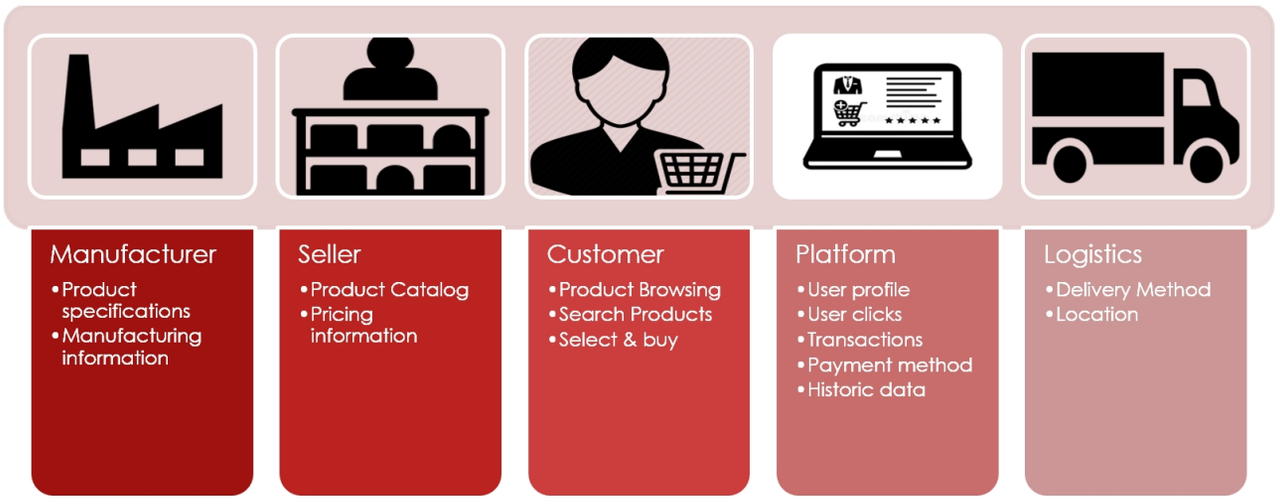

Figure 19 : Actors in retail purchase landscape

[104] Challenges faced by companies in adopting online onboarding process

Onboarding sellers only the supply aspect of these platforms, while customers create demand for these products and an e-commerce platform must finely balance both these aspects[105]. The platform collects several types of information from the customer during the onboarding process like basic profile information, location, email, and phone number. Further, each time the customer visits the e-commerce platform either via mobile application or desktop, vast amounts of weblogs are generated providing information on products searched by the customer, products viewed by the customer, amount of time spent on viewing each product, product added to the cart, transaction leading to the purchase of the product. During the transaction, specific financial details and account details of the customer are also passed on to the e-commerce marketplace in terms and this data can in turn help financial profiling of the client. Other allied information is also available to the e-commerce platform when the customer accesses their platform from the mobile application like location and type of mobile phone used which are good indicators of customer affluence. This information provides valuable information for segmenting and profiling the customer as per the popular AIDA (Awareness → Interest → Desire → Action) model to understand the sales funnel and customer journey[106].

Once the order is placed online, the aspects related to the collection of the product from the destination to the customer's provided address are managed by the platform in most cases in which the e-commerce platforms have dedicated goods warehouses mostly on the outskirts of large cities which store these goods, and this inventory is used for fulfilling the purchase orders. In such cases, the e-commerce platform has tie-ups with one or more logistics partners to pick up the orders from these warehouses and deliver them to the customer. In such cases, the logistics partner is hardly unaware of the contents of the delivery parcel as the packaging of the goods is done by the e-commerce platform. In such cases, the actual seller of the product is unaware of the exact location where their product is delivered.

There is another alternative method of fulfilling the purchase order directly by the seller – in this scenario, the seller stocks the product in their own warehouse or manufacturing facility and upon receiving the orders the goods are packaged and couriered to the customer. In such deliveries, the seller is aware of the exact address where the product is delivered. The product delivery duration is shorter when the e-commerce platform manages the delivery through their logistics partners, so we increasingly see customers prefer ordering products “Managed by the Platform”. We now see that large amounts of data are generated by these e-commerce platforms based on product information, seller details, customer profile, customer weblogs, transaction details, delivery location, etc. Let us explore what sort of raw data or insights are available to the various parties involved and if they can monetize the underlying data generated by them.

- **Customer:** The customer can access his/her data on the purchase and viewing of products in the past. This helps them find the products quickly and re-order them if required. The customer has access to only individual data which is not adequate for generating insights or monetization. The searcher results of the customers and the product listing viewed by the customers are known to be manipulated by the e-commerce platform to increase the sales.

[105] Veisdal, J. The dynamics of entry for digital platforms in two-sided markets: a multi-case study. Electronic Markets 30, 539–556 (2020). https://doi.org/10.1007/s12525-020-00409-4

[106] https://en.wikipedia.org/wiki/AIDA_(marketing)

- **Seller:** The E-commerce platform provides aggregate insights to the sellers on their product categories including valuable information on the overall growth of that product category and the performance of other sellers in that category. Sellers also receive aggregate location-specific insights on the performance of their products across locations. Sellers would like to have access to the granular information on the sale of the products, but such information is mostly not shared by the e-commerce platforms leading to complaints by sellers.
- **E-commerce platform:** The platform manages the entire data on the platform, and they are in the most advantageous position to derive benefit from this data. Based on the data, the platforms have in-depth information on the customer profile and choices which help target relevant advertisements to the customers and in turn earn revenue from sellers or brands to advertise on their platform. The advertisement revenues globally of one of the largest e-commerce platforms Amazon for 2022 stands at $31 billion just behind Google and Facebook[107]. Based on the data and insights on the customer, the platforms are in an advantageous position to change the search results for each customer which often is contested as an unfair business practice.

E-commerce platforms provide preferential/higher ranking to products either for higher profitability or to delight the customer leading to completion of the purchase. These preferential rankings are given to products that are **sponsored** through paid advertisements or products for which the warehousing and logistics are **managed by the Marketplace** platform or **private labels** that are manufactured by the e-commerce platform or the e-commerce platform has some sort of business interest in the sale of that product. In the subsequent part of this report, we discuss each of these aspects in detail and then look at the various regulations that have been proposed to tackle these issues. An overview of the current regulatory landscape is presented in the next section which would help the reader align the issues and the suggested regulations.

Current Regulatory Landscape

As of now, the data generated on e-commerce platforms is solely used by the platforms for purpose of improving their services and enhancing the sales on the platform. A general data protection law in India followed by e-commerce sector-specific regulations would set the standards for the access and use of e-commerce platform data. India came up with a draft version of the Personal Data (PDP) Bill in 2018 which was followed by an updated version in 2019. The PDP Bill was further referred to the Joint Parliamentary Committee and receives recommendations for a series of modifications and amendments in December 2021. The proposed Data Protection Bill has recently been withdrawn and the government would be coming up with a new bill on this topic[108]. In the absence of a national data protection law, it is not advisable to have an e-commerce sector-specific data privacy norm hence the aspects related to the access of the platform data and its derived insights by customers, sellers, and other entities may be put on hold for now.

In India, the Draft E-commerce Policy, 2019 *(withdrawn in 2022 by Government of India)* has established, in line with international data norms, that any information about individuals must be

[107] Amazon's $ 31 billion ad revenue puts it ahead of YouTube

[108] Government Withdraws Data Protection Bill, 2021 : Also available at : https://economictimes.indiatimes.com/tech/technology/government-to-withdraw-data-protection-bill-2021/articleshow/93326169.cms?from=mdr

used only with their express consent. E-commerce platforms must specify the extent, purpose, and use of collected, stored, and recorded data. Most global businesses aim to be GDPR compliant, e-commerce platforms have revised their Terms of Use and Privacy Policies stating the above details. Still, much can be done with the data of consumers who must consent to such use-to-use e-commerce services offered by platforms. As per the company's privacy policy, Amazon shares customer information with third-party sellers, vendors, and service providers involved in an Amazon sale transaction, Amazon's internal service providers, including those vendors who provide paid links and paid search results to customers[109]. Given the laxity in personal data protection norms in India there is no definitive norms on the legality of such personal data sharing.

The Draft National E-Commerce Policy of 2019[110] ("Draft Policy, 2019") goes one step further and brings anonymized data and derivatives in terms of insights generated from the data as a collective property of the group. Even collective data belongs to owners and, therefore, must be considered a collective resource, i.e., a national asset. Further, it aims to give citizens control over their data as the next step.

At the behest, the Draft Policy, 2019 *(withdrawn in 2022 by Government of India)* urges regulators and lawmakers to create dedicated 'technology wings' within their organizational set-ups. The Draft Policy, 2019 admits that a handful of companies dominate the digital economy and e-commerce. They proliferate on their first-mover advantage, practically making it impossible for the 'second mover' on its own to enter the ecosystem. This poses important questions on the ownership of data on e-commerce platforms by users, sellers, and platform owners. While platform owners are monetizing this data through advertisement/recommendation services, how the users and sellers who have helped generate this data also take advantage of the same remains unanswered.



Figure 20 : Regulatory Landscape

Generally, the following statutes regulate the working and management of e-commerce entities, including online retailers, sellers, and marketplaces. We will be discussing them considering their relevance in various sections below.

[109] Amazon's Privacy Policy: https://www.amazon.in/gp/help/customer/display.html?nodeId=GX7NJQ4ZB8MHFRNJ

[110] Draft National E-Commerce Policy, 2019: https://dpiit.gov.in/sites/default/files/DraftNational_e-commerce_Policy_23February2019.pdf

Search Ranking & Bias

Users search for products using keywords on the e-commerce platforms and receive results based on the algorithm maintained by the platform. Often these search results are customized to a user's viewing/buying preferences, or at times, the platform might promote products that provide them with better revenue. Therefore, search ranking bias has become a big concern in the global scenario. It refers to monitoring practices deployed by e-commerce platforms upon a customer's search queries in a way that displays search results that benefit certain interested parties.

The e-commerce platforms used the search to provide targeted advertising to the consumers to see personalized results that suit their individual needs. However, search bias has emerged in the ecosystem, which is primarily targeted towards profit maximization of the e-commerce platform by favoring certain brands or sellers, and there is a lack of transparency in the process or ranking of the products. Such preferential ranking is made to sellers/brands that often have business relationships with the e-commerce platform as discussed in the following sections such that sell of these products would incur better business benefit compared to other products. This skews healthy competition and limits the full array of products and services available to the consumer that making it difficult for small sellers to sell on the platform.

The Consumer Protection Act 1986 protects Indian consumers when they purchase items in a marketplace. The Act is supplemented by various rules like the Consumer Protection (E-commerce) Rules, 2020, that regulate e-commerce players. However, to combat issues like search bias, in July 2021, the Department of Consumer Affairs published a set of proposed amendments to the Consumer Protection (E-commerce) Rules, 2020. The finalized version is awaited but contains some exciting amendments to combat data and search bias on e-commerce portals.

- For example, one of the amendments lays down that an e-commerce entity shall not mislead users by manipulating search results or search indexes having regard to the search query of the user (Rule 5(14)(c)).
- Further, Rule 5(17) states that no e-commerce entity with a dominant market position shall be allowed to abuse its dominant position[111]. The terms used in the draft policy, “mislead” and “manipulate,” are strong and bring further challenges in proving these aspects.

Even though the proposed regulations warn against manipulation or misleading, it is very difficult to detect the same for an or gather proof of any manipulation done by the e-commerce platform. Today, an ordinary user on the platform cannot detect or prove that the search results on an e-commerce platform are misleading or manipulative. There are no alternative options to display the search results from the fair/ideal perspective of the user, seller, and platform administrator. These topics require detailed deliberation and discussion to develop norms acceptable to different parties in the ecosystem.

[111] 'Abuse of dominant position' has been defined by Competition Act (Section 4) available at : https://indiankanoon.org/doc/1780194/

As we know that any sort of manipulation has three elements i.e., vested interest, entity claims (appears) to be unbiased, and lastly, hiding the bias. The problem comes in when consumers are unaware that there is a bias so they cannot protect themselves from being the victim of that bias. The issue can be taken care of by introducing regular real-time third-party algorithmic audit practices.

Sponsored Search Results

Search functionality is at the heart of any e-commerce platform; the goal is to help customers find the most appropriate products and brands and add them to their cart. Sponsored search advertisements are one the most popular tools sellers and e-commerce players use to showcase their products in prominent positions. Paid search advertising is a pay-per-click method whereby e-commerce portals conduct an auction of advertising space on their pages. Sellers bid for digital space over a particular platform, and the highest bidder prioritizes showcasing their products to the target user groups.

Now, there is much debate on whether paid search rankings hinder competition in the market and fortify the already existing first-mover advantage. Bidding for a particular keyword, i.e., search words that customers type into a search engine while looking for a product gets intense, and when there are so many interested e-commerce retailers fighting for customer attention, ad prices significantly go up. The lack of considerable advertising revenue prevents smaller businesses from showcasing their products and hinders healthy competition in the digital market.

The Draft e-commerce Policy, 2019 surmises that advertising charges must be regulated, especially for small enterprises and start-ups. In line with this, regulators are trying to restrict e-commerce entities from such activities. The proposed amendments below to the Consumer Protection (E-commerce) Rules, 2020, are relevant here:

- Rule 5(15) directs e-commerce entities to ensure that sponsored listing of products and services are distinctly identified with clear and prominent disclosures.
- Further, Rule 5(14)(d) restricts e-commerce entities from using the name of brands for promotional sales in a manner that suggests that such goods are associated with the e-commerce entity.

Search is core to an e-commerce platform's business, and revenue from search is a primary component of the platform's revenue from sellers. Advertisements in the physical world through banners or over television or in newspapers are well-established means to promote products and hence one cannot completely remove the presence of advertisements from online platforms.

The prominent disclosures as mentioned in the proposed draft e-commerce rules are followed by the e-commerce players, but the size and position of the text showcasing that the results are "Sponsored" compared to organic are minuscule and users often miss them thus favoring the sponsored sellers[112]. The issue of an excessive sponsored search result may self-regulate as customer awareness of these issues emerge and customers start ignoring those results forcing the e-commerce platforms to reduce the sponsored advertisements.

[112] Ramarko Sengupta. 2020. How the Amazon and Flipkart private labels affect other sellers on the ecommerce platforms.

Order Fulfilled by Maketplace

Often, the e-commerce marketplace charges a range of set rate commissions from their sellers for each good listed on their platform. For most e-commerce players, this amount varies between 2 – 3%, and for popular goods like electronics and fashion, it can be around 5%[113]. The cataloging fee is paid regardless of whether any sale is made or not. At times, the e-commerce platform provides additional services in warehousing, packaging, and delivery of goods for a certain fee. This benefits small business owners who might not have an established warehouse to store or package the goods or delivery options. In such cases, where the marketplace manages most aspects post manufacture of the goods is referred to as "Order fulfilled by Marketplace."

The e-commerce platform has higher visibility and control of such products' delivery process, ensuring assured quality and timely deliveries, so such products get higher promotion in the user's search results. There is growing concern that goods that are fulfilled by the marketplace have better sales rates and are ranked higher in the marketplace. This implies that sellers have no option but to get fulfillment services from marketplaces, putting the marketplace in a dominant position and taking a large chunk from selling goods and services.

With the proposed amendments to the Consumer Protection (E-commerce) Rules, these concerns will be tackled in 2020. Here's a quick look:

- Rule 6(5) states that no logistics service provider of a marketplace e-commerce entity shall provide differentiated treatment between sellers of the same category.

Each logistics service provider of a marketplace e-commerce entity shall provide a disclaimer, including terms and conditions governing its relationship with sellers on the marketplace e-commerce entity platform and a description of any differentiated treatment it gives or might give between sellers of the same category. Fulfillment by the marketplace is beneficial for the end user but can often be unfair for sellers who do not subscribe to those services – leading to a dichotomy where the e-commerce platforms must maintain a fine balance between customer satisfaction and fairness to all sellers registered on the platforms. Here, too, the onus of detecting, collecting evidence, and reporting differentiated treatment lies on the seller which is quite challenging in the absence of a third-party auditing mechanism.

Private Labels

E-commerce platforms have access to large amounts of transactional data on products and user buying behavior, providing rich insights into the platforms. A private label is a product manufactured and sold by the e-commerce platform under its brand name such a product is typically manufactured by a third-party manufacturer, contractor, or third party[114]. Sellers often complain that the marketplace misuses the transaction data to create or promote high-selling products as private labels on the same platform.

[113] Amazon Seller Fee & Pricing | Amazon Fee calculator | Sell on Amazon.in," https://sell.amazon.in, 2022. https://sell.amazon.in/fees-and-pricing#calc-ref (accessed Mar. 25, 2022).

[114] A. Dash, A. Chakraborty, S. Ghosh, A. Mukherjee, and K. P. Gummadi, "When the Umpire is also a Player: Bias in Private Label Product Recommendations on E-commerce Marketplaces," arXiv.org, 2021, doi: 10.48550/arXiv.2102.00141

During the pandemic, the market shifted from brand marketing to feature marketing. A more significant number of people avoided coming to the physical stores and settled for new brands of items since they had no choice but to buy whatever was offered. Businesses noticed this and began selling products under private labels. This can benefit the market because private labels aim to provide better quality and customized products at comparable prices. This also allows local and small businesses to act as manufacturers for private labels.

However, sellers have noticed that many major e-commerce platforms, having complete access to customer data and derived intentions, use their advantageous position to pick and choose areas to launch successful private labels. It creates opaque and sponsored private labels that negatively disrupt the market. The proposed amendments to Consumer Protection (E-commerce) Rules, 2020, try to tackle these issues.

- Rule 5(14)(d) states that no entity shall permit usage of the name or brand associated with that of the marketplace e-commerce entity for promotion or offer for sale of goods or services on its platform in a manner to suggest that such goods or services are associated with the marketplace e-commerce entity.
- Rule 5(14)(f) states that no entity shall use information collected by marketplace e-commerce entities for the sale of goods bearing a brand name that is common with that of the marketplace e-commerce entity or promote or advertise as being associated with the marketplace e-commerce entity if such practices amount to unfair trade practices and impinge on the interests of consumers.

If we draw a corollary from physical retail, it is common for competitors to learn about products and their specifications from other players in the market and improve/launch new products accordingly. The only difference is that the competitor does not have access to all internal data and neither does it provide a platform for selling those products. Can knowledge of popular products be seen as a breach of trust or anti-competitive action on behalf of the marketplace? Both sellers and the marketplace need to grow their business, and ethical business norms are essential to maintain trust between these parties – mechanisms towards this need deliberation and discussion. E-commerce platforms have preferential access to transactions on the platform and derive insights on best-selling products and using this information to launch similar products with the existing brands is considered both a breach of business ethics and violation of competition norms on these platforms.

The problem of private labels is linked to the upper hand that e-commerce platforms have through buyers aggregated data. Some market players use this information to map customer need, enhance their own private labels. While this can be seen as market insight obtained from pre-existing consumer base something even offline stores follow. The problems aggravate when the private labels start competing with brands that are new and through economies of scale lose the market to private labels which promote similar, cheaper and better-advertised products. Such issues arise as e-commerce players in India function both on a hybrid model consisting of both marketplace and inventory leading to such complications which are not allowed as per the Foreign Direct Investment norms.

Consumer Protection

The Consumer Protection (CP) Act of 2019[115] is meant for the protection of the interests of consumers and establishes consumer courts for settling disputes. The Act empowers the central government to take measures to prevent unfair trade practices and protect consumers' interests and rights in e-commerce. It defines e-commerce as buying or selling goods or services over an electronic network. Further, in July 2020,[116] the Consumer Protection (E-Commerce) Rules, 2020, were notified under the Act to specify duties and liabilities of e-commerce entities and sellers on their platforms. After a year, in July 2021, the Department of Consumer Affairs released draft amendments to the 2020 Rules for public feedback. It noted that amendments are necessitated due to widespread cheating and unfair trade practices in the e-commerce ecosystem. These include practices such as preferential treatment to some sellers and reduction in consumer choice due to back-to-back sales.

As far as the Consumer Protection (e-commerce) Rules, 2020 and proposed amendments[117] are concerned, the primary intention behind it was to empower consumers, bring price parity through a level playing field by regulating flash sales, tighten compliance standards by both e-commerce operators and participant, restrict misleading product listing, inorganic product promotion, etc. Though overlapping regulations and legislations are nothing new, if they are not discussed and resolved, it might lead to further confusion and complications for buyers, sellers, and various intermediatory involved.

Currently, various aspects of proposed amendments and even the original regulations overlap with pre-existing regulatory frameworks like FDI regulations, Competition Act, 2013, and most importantly, the Information Technology (IT) Rules,2021.[118]

"Related Party" as defined under the Companies Act, 2013[119] will apply to the "e-commerce entity" as specified under the amended CP Rule 3(b). Thus, corporations may be required to adhere to this regulation just because they are a related party, even when they are not part of the e-commerce industry. Further, the Foreign Exchange Management (Non-debt Instruments) Rules, 2019 (NDI Rules), define an "e-commerce entity" as a corporation formed under the Companies Act, 2013, and this definition is entirely different from the proposed Consumer Protection Rule.

Further, the IT Act, as updated by the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data) Rules, 2011, governs different aspects of the collection, storage, and usage of "personal information" and "sensitive personal information" by individuals and corporations involved in business activities in India.

On the other hand, Rule 5(18) of the proposed e-commerce rules requires an e-commerce business to disclose information (under its management or possession) and aid the applicable Government entity during information security investigations. Most importantly, the Personal Data Protection Bill, 2019 *(withdrawn in 2022 by Government of India)* also contemplated a similar provision.

[115] Consumer Protection Act, 2019; Available at: https://egazette.nic.in/WriteReadData/2019/210422.pdf

[116] Consumer Protection (E-Commerce) Rules, 2020; Available at: https://consumeraffairs.nic.in/en/theconsumerprotection/consumer-protection-e-commerce-rules-2020

[117] Proposed Amendments to Consumer Protection (e-Commerce) Rule, 2020; Available at: https://consumeraffairs.nic.in/sites/default/files/file-uploads/latestnews/Comments_eCommerce_Rules2020.pdf

[118] IT Rule 2021. Also available at: https://www.idsa.in/idsacomments/it-rules-2021-dbhattacharya-040621

[119] Companies Act,2013. Also available at: https://www.mca.gov.in/Ministry/pdf/CompaniesAct2013.pdf

One of the guiding principles of the Draft National E-Commerce Policy, 2019[120] is to create a regulatory environment to ensure genuine market competition, which encourages entrepreneurship and innovation. This aligns with the objectives of the Competition Commission of India, which regulates anti-competitive and anti-trust practices in the Indian markets, including the massive chunk of e-commerce markets. A 2020 study titled Market Study on e-Commerce in India[121] was conducted by the Competition Commission of India, which concluded that marketplace platforms should adopt self-regulatory measures and maintain transparency regarding search results ranking parameters, collection and use of consumer data, review and rating mechanisms, changes in terms and conditions, policies on discounts.

The Consumer Protection (E-Commerce) Rules, 2020 defines an e-commerce entity to include any person who owns, operates, or manages a digital or electronic facility or platform for e-commerce. The Draft Rules add that the e-commerce entity will also include:

(I) any entity engaged by an e-commerce entity for the fulfillment of orders,

(ii) any related party (as defined under the Companies Act, 2013) of an e-commerce entity.

It deals in detail with areas like fallback liability, regulations of associated enterprises, use of brand names associated with marketplace entities, abuse of dominant position, the appointment of grievance officer & chief complain officer for grievance redressal, clause for information handover to law enforcement agencies, aspects of flash sales, cross-selling and miss-selling and lastly misleading advertisement. The proposed amendments to the Consumer Protection (e-Commerce) Rules, 2020,[122] also carry some aspects of competition law. Rule 5(17) states that no e-commerce entity which holds a dominant position in the market shall be allowed to abuse its position.

Further, the proposed amendments also restrict flash sales (Rule 5(16)); restrict the promotion of products by associate brands of e-commerce portals on such portals (Rule 5(14)(d)); use of information collected by portals to promote their associate brands if it amounts to unfair trade practice (Rules 5(14)(f)). Typically, such issues would fall under the purview of the Competition Commission and not the Consumer Protection authorities. As such, some view these proposed amendments as overlapping and delegated legislation. Another critical aspect of the proposed amendments is the obligation upon e-commerce entities to promote domestic sellers and their goods and services.

Rule 5(7) states that any imported goods for sale on e-commerce portals must be identified along with details of the importer, etc. Further, the e-commerce portal must identify goods as domestic or imported at the pre-purchase stage and provide suggestions of alternatives to provide a fair opportunity for domestic goods and ensure that their ranking parameters do not discriminate against domestic goods and services.

Finally, counterfeiting is one of the most concerning aspects of a trust-based industry like e-commerce, where consumers buy goods and services based on faith without any prior

[120] Draft National E-Commerce Policy, 2019; Available at : https://dpiit.gov.in/sites/default/files/DraftNational_e-commerce_Policy_23February2019.pdf

[121] Market Study on e-Commerce in India, Study by CCI, available at : https://www.cci.gov.in/sites/default/files/whats_newdocument/Market-study-on-e-Commerce-in-India.pdf

[122] Proposed amendments to Consumer Protection (e-Commerce) Rules, 2020: https://consumeraffairs.nic.in/sites/default/files/file-uploads/latestnews/Comments_eCommerce_Rules2020.pdf

inspection. The National Draft E-Commerce Policy, 2019,[123] asserts strict anti-counterfeiting measures to maintain consumer faith. For example, seller details should be available, including phone number and email id. The seller must undertake a vow of the genuineness of the quality of the product to the marketplace.

No trademarked products shall be listed on a platform without the trademark owner's consent, especially in the case of high-value luxury items. Complaints about counterfeit products shall be conveyed to the trademark owner within 12 hours. Marketplaces shall also be liable to refund the customer for counterfeit products, and they must take proper genuineness certificates from sellers listed on their platform.

As far as the draft amendments to the Consumer Protection (E-Commerce) Rules – 2020 is concerned, various aspects of proposed amendments and even the original regulations overlap with pre-existing regulatory frameworks like FDI regulations, Competition Act, 2013, and most importantly the Information Technology (IT) Rules, 2021. Further as far as the Draft National E-Commerce Policy, 2019, One of its guiding principles of is to create a regulatory environment to ensure that there is genuine competition in the market which aligns with the objectives of the Competition Commission of India that regulates anti-competitive and anti-trust practices in the Indian markets including the massive chunk of e-commerce markets. Further proposed amendments to the Consumer Protection (e-Commerce) Rules, 202, also carry some aspects of competition law. On the other hand, the National Draft E-Commerce Policy, 2019 focuses upon strict anti-counterfeiting measures to maintain consumer faith.

[123] National Draft E-Commerce Policy, 2019, available at: https://dpiit.gov.in/sites/default/files/DraftNational_e-commerce_Policy_23February2019.pdf

Policy Recommendations

There are two broad aspects that emerge from the above analysis of the current scenario and the recommendations made in the draft regulations – first the aspect related to ownership and access of data on the e-commerce platforms and second the e-commerce platforms using this generated data for monetization in a manner that favors some sellers and puts others at a disadvantageous position. In this section, we aim to resolve some of these aspects as observed in the report above.

Let us consider the first issue of who can access the data of e-commerce platforms and for what purpose. The setting of adequate data usage terms would create a level playing field for existing large sellers compared to new sellers entering the platform ecosystem. To do this, data collected and its usage by these platforms should be ensured to be used only for improving customer experience and should not provide the platform undue advantages like the launch of private labels. The purpose of data collected by these platforms should be assessed, the duration of data storage reduced to a lower period and limit the amount of data collected to minimize the scope for altering market dynamics. A strong data privacy law is required to ensure that e-commerce platforms collecting data adhere to these norms, but the proposed data privacy bill for India has recently been scrapped and the country needs to have a generic data protection law before a sector-specific recommendation can be implemented.

The second issue discussed in the report is that of the manipulation of the search results and product listing that is viewed by the customer in response to the search keywords. Organic search results for a product search would return products without any biases, for example, a search keyword on “mobile phone” would return the top selling or the highest rated mobile phone from the mobile phone category product category. The precedence of other product details on top of the search results indicates search bias, which can arise due to sponsored results, orders fulfilled by the marketplace, or private labels. In each of these cases as discussed above in the report, the e-commerce platform earns higher revenue when the biased results are displayed and finally purchased by the customer. Here we expect a fair search ranking by the search algorithm running on the portal of the e-commerce company's portal. The search algorithm used for ranking on the portal is business confidential information that would not be divulged by the company unless strict scrutiny has been requested on behalf of a legal proceeding[124]. We propose auditing online e-commerce search algorithms[125] by an independent third party on a periodic basis. Most of the search algorithms in e-commerce and other domains are black box models and auditing these algorithms has evolved as the only way to externally evaluate the efficacy of these search algorithms in the Indian context[126]. A third-party algorithm

[124] Amazon. 2019. Online Platforms and Market Power, Part 2: Innovation and Entrepreneurship. https://docs.house.gov/meetings/JU/JU05/20190716/109793/HHRG-116-JU05-20190716-SD038.pdf (2019)

[125] Christian Sandvig, Kevin Hamilton, Karrie Karahalios, and Cedric Langbort. 2014. Auditing algorithms: Research methods for detecting discrimination on internet platforms. Data and discrimination: converting critical concerns into productive inquiry 22 (2014) https://www.cci.gov.in/sites/default/files/whats_newdocument/Market-study-on-e-Commerce-in-India.pdf

[126] When the Umpire is also a Player: Bias in Private Label Product Recommendations on E-commerce Marketplaces, 2021 Abhisek Dash, Abhijnan Chakraborty, Saptarshi Ghosh, Animesh Mukherjee, Krishna P. Gummadi https://arxiv.org/abs/2102.00141

audit would analyze the outcome of the search results generated from multiple different customer profiles – the profiles can vary across geography, historic purchase behavior, location, use of mobile phone used for search, etc. An unbiased search algorithm should display similar search results and not provide undue preference to unrelated products. One may obviously see some variation in search results like a person searching from North India might get a recommendation of a seller nearby compared to someone ordering from South India.

Recommendation: Random third-party auditing of e-commerce platforms is recommended with varying product search criteria and analysis of the difference in the results presented across different users to identify the presence of search bias.

This level of auditing by third-party would provide a holistic report on the fairness of the search algorithm and such reports are ideally shared with a government entity dealing with e-commerce (e.g., DPIIT) or some industry body (NASSCOM or IAMAI) for analysis and taking necessary action. Such audit reports are expected to be technical in nature and might not help an end customer while searching for products online. The end customer needs to understand the underlying criteria based on which certain products have been displayed to them.

Transparency and explainability of machine learning and artificial intelligence[127] algorithms is a growing field of research aimed at developing techniques that can provide an explanation of some of the complex black box algorithms such that they can be easily understood by the end users[128]. Algorithms enabling search on e-commerce platforms have similar black-box characteristics which means the end user of the search does not know the process or steps in which the search functions. Multiple users may use the same search keywords but have different motives for the search, but the motive cannot always be communicated via text to the search engine. There is a growing field of research aimed at predicting the user intent in search queries[129] and e-commerce platforms often use these techniques to predict the search intent but often they fail.

Recommendation: E-commerce platforms to provide a detailed in-depth explanation of how the search results have arrived with multiple options to change the product list as per the customer preference. Government should aim at awareness programs through which customers would be able to have a better understanding and interpretation of the search results on the e-commerce platforms.

[127] Christoph Molnar. Interpretable Machine Learning — A Guide for Making Black Box Models Explainable. Available from: https://christophm.github.io/interpretable-ml-book

[128] P. Jonathon Phillips, Carina A. Hahn, Peter C. Fontana, David A. Broniatowski, and Mark A. Przybocki. Four Principles of Explainable Artificial Intelligence (NISTIR 8312). National Institute of Standards and Technology, 2020. Available from: https://doi.org/10.6028/NIST.IR.8312-draft

[129] Discovering user intent In E-commerce clickstreams H Sheil - 2019

Here we propose that e-commerce platforms provide an elaborate explanation for the display of products on the search ranking page. This explanation would provide details on the underlying logic for listing the products along with options for the user to change the listing as per the available choices – some of these options are available in popular e-commerce platforms even today but the usability of these features must be improved. Here we list some of the aspects that need to be explained by the e-commerce search platform.

- **Default search order** is the search initial ordering of the search ranking when the user first searches using certain keywords. The default search order can be according to the most sold products or products with the best rating. A wider discussion with industry, civil society, and government entities would help define this industry-wide default search order.
- The customer would have the option to **change the default search order** on his/her profile page that can be used in the future.
- The e-commerce platform must have a **separation of search results** between organic and sponsored content. Products, where the e-commerce platforms make significantly higher revenues like private labels, sponsored search, and orders fulfilled by the marketplace, are referred to here as sponsored content.
- Proper **justification** must be provided for product listings that are outside the default search order some products may be displayed higher as the seller is nearby or the seller can fulfill the order in a shorter time duration.
- In cases there are no products matching the user-entered keywords, then the e-commerce platform should make **suggestions for alternative keywords** instead of showing other products.

On top of the search results, the e-commerce platforms should be transparent in displaying the trends and statistics related to each product listed on the platform and while the customer is viewing a particular product, the following aspects should be shared with the customer:

- Number of sales of the product across the last few months/years by the specific seller
- Star rating and feedback received for each product purchase if available
- Number of return requests for the product

These trends and statistics would help in improving the transparency of the e-commerce platform and the search explanations and put a check on biased search results on the platforms.



Taxation in E-commerce

Introduction

In the post covid world, global retail market is experiencing an upward trajectory backed by the digital innovation. Today, the world faces barriers like high inflation, labor shortage, supply chain disruption, varying cross-border taxation regulations, and most importantly, various variants of Covid after the Covid-19 pandemic.

The sector is driven by several factors, including the increasing penetration of the internet and mobile phones, the growing middle class, and the increasing preference for online shopping. The government has also been supportive of the sector and has taken several measures to promote this, including setting up a dedicated e-commerce policy committee and providing tax incentives for e-commerce companies. At the last three roundtables (virtual and physical), we discussed India's e-commerce regulations around Foreign Direct Investment (FDI), Business Models, Data & Issues, and Taxation.

In the previous two reports, we examined the rising e-commerce market in India. Our research findings are further validated by similar other research findings, which estimate that by 2025, India will have more e-commerce users than the entire population of the United States[130].

In this report, we have focused on the regulatory framework related to taxation norms in India. The report analyzes these regulations lucidly and analyzes issues and constraints associated with the present regulatory landscape. Further, the report discusses the policy barriers and issues. The report concludes with policy insights and suggestions from the authors based on the study conducted.

Regulatory Landscape

The regulations and challenges are unique to the Indian e-commerce ecosystem, which requires thorough discussion with the various stakeholders and practitioners to develop strong policy recommendations. As the retail e-commerce market is expanding, the regulations around them are also evolving daily with the changing landscape.

India, too, has seen a rapidly evolving regulatory framework structure around retail e-commerce. This report specifically deals with taxation regulations impacting the retail e-commerce landscape of India. Historically, taxes were levied either on the sale and purchase of merchandise or livestock and were collected haphazardly from time to time. The taxing mechanism and its importance have been discussed in various cultures and civilizations across the globe, including the decree from Caesar Augustus on taxing their subjects; Greece, German and Roman Empires had their taxation mechanism based on turnover and occupation, while the title of Saladin (1188) discusses taxation were levied on land and moveable property.

In the Indian subcontinent, the taxation system has been in force in various forms and finds its mentions in works like Manu Sriti, Kautilya's Arthshastra, and the Gala Bakshi and Bhawoli system followed by Mughals. Kautilya's Arthasastra, written sometime in 300 B.C., deals with the

[130] Wunderman Thompson Report ; Available at :
https://www.afaqs.com/news/digital/groupm-and-wunderman-thompson-along-with-amazon-ads-launch-content-strategies-for-digital-consumer-playbook

taxation system in an elaborate and planned manner to handle the financial administration of the estate.

K.B.Sarkar in his book "Public Finance in Ancient India," while discussing the history of the taxation system in India (1978), wrote :

- "*Most of the taxes of Ancient India were highly productive. The admixture of direct taxes with indirect Taxes secured elasticity in the tax system, although more emphasis was laid on direct tax. The tax structure was broad-based and covered most people within its fold. The taxes were varied, and the large variety of taxes reflected the life of a large and composite population*".[131]

Taxes are compulsory payments made by individuals and various corporations to their respective government. Further, there is no direct mapping between the taxes one pays and the public welfare services one receives from the government. The taxes collected from an individual/firm can be used for various purposes based on social welfare and suitable public needs. Like any individual and corporation, an e-commerce platform is charged with various forms of Direct and Indirect taxes.

Taxation classification into direct and indirect is based on the impact and incidence over the unit (individual or corporation). Simply put, when tax is imposed on a unit, the one whose income and welfare are reduced due to the tax becomes the basis for distinction. Thus, tax is said to be direct when both the impact and incidence fall on the same tax unit and indirect when the impact and incidence fall on different tax units. Direct Tax refers to the tax paid directly to the government by the person imposed on it, while Indirect tax is a form of tax paid by the taxpayer to the government, but the amount of tax is recovered from another person who gets the benefits, i.e., the final consumer. Income tax, corporate income tax, wealth and property tax, and equalization levy are significant parts of direct taxes. On the other hand, value-added tax (VAT) and Goods and Service Tax (GST) form the central portion of Indirect Taxes.

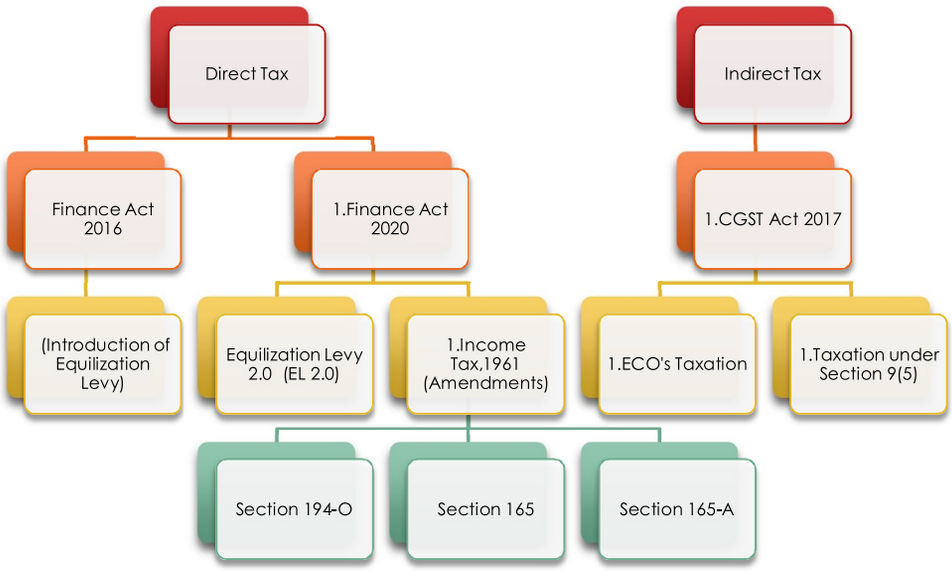

Figure 21 : Tax Regulations with regards to the e-commerce landscape in India (Source: Authors)

[131] Public Finance in Ancient India: Also available at:
Public Finance in Ancient India: Sarkar, Benoy Kumar : Free Download, Borrow, and Streaming : Internet Archive

The Central Board of Direct Taxes (CBDT), functioning under the Department of Revenue, is the authority that administers Direct Taxes in India. Conversely, the Central Board of Indirect Taxes and Customs (CBIC) is the authority responsible for the administration of Indirect Taxes. At the same time, Direct tax is levied on the assessee, including individuals, Hindu Undivided Family (HUF), Company, Association of Persons (AOP), Body of Individuals (BOI), etc., and the final consumer pays indirect Tax. E-Commerce platform encounters three forms of taxation regime in India: direct taxes, indirect taxes, and tax adjustment regulations.

While the discussion on direct and indirect taxation is a wide topic, in our current report (as depicted in Figure: 21) we are focusing mainly on direct and indirect taxation regulations impacting the retail e-commerce business in India.

Finance Act

The Finance Act comprises all the necessary recommendations in direct and indirect taxes based upon the direction of fiscal policy of the union government. The finance bill is introduced by the finance minister in the Parliament and becomes an Act, i.e., fiscal legislation, once it is approved by both the houses of Parliament. Rule 219 of the Rules of Procedure of Lok Sabha states: 'Finance Bill' means the Bill ordinarily introduced in each year to give effect to the financial proposals of the Government of India for the following financial year and includes a Bill to give effect to supplementary financial proposals for any period. It is enacted annually and contains provisions relating to income taxes, customs, excise, Central and Integrated GST, and other cess, exemptions, and reliefs (direct and indirect taxes).

Equalization Levy (EL)

This is a direct tax leviable on consideration received by a non-resident for specified services. It was introduced in India in 2016 to tax digital transactions, i.e., the income accruing to foreign e-commerce companies from India, which was still not covered under the Indian tax regime. Thus, Equalization Levy through the Finance Act 2016 aimed at taxing business-to-business (B2B) transactions. The Equalization Levy (EL) imposed by India on the supply of services by multinational enterprises is a sovereign right to tax revenues earned from operations in the country. The two conditions to be met to be liable for Equalization Levy are:

- The payment should be made to a non-resident service provider.
- The annual payment to one service provider exceeds Rs. 1,00,000 in one financial year.

As per Sec 165 of Finance Act 2016, a person resident in India or a non-resident having a permanent establishment in India shall deduct EL at 6% on the consideration paid to the non-resident towards specified services.

The Union Cabinet gave ex-post facto approval to the official amendments made in the Finance Bill 2020 as the equalization levy proposed under the original Finance Bill, 2016 did not include e-commerce operators who are non-residents of India included in this direct tax. The bill has

already been enacted as Finance Act 2020.[132] As of 2020, the advanced form of the equalization levy (EL) taxing system has been enforced in India.[133] According to this new system, it is crucial that all e-commerce operators who are non-residents of India be included in this direct tax. According to this upgraded form of EL, any non-resident digital operator providing e-commerce services must be taxed at 2 percent.[134] However, this rate only applies when the e-commerce supply or service considers it. The threshold limit for this new tax is two crore rupees, as opposed to the 1 lakh rupees, which had been the threshold for the Equalization Levy in 2016.

Equalization Levy 2.0

The Finance Act, 2020 expanded the scope of the EL to include all non-resident e-commerce operators providing 'e-commerce supply or services. As per the expanded provisions, from 01 April 2020, a non-resident e-commerce operator is liable to pay Equalization Levy at 2% on the consideration received/receivable from e-commerce supply or services.[135] The Equalization levy 2.0 does not apply to transactions already covered by the Equalization Levy 1.0 under Finance Act 2016 discussed earlier. It applies to the online sale of goods, online provision of services, or a combination of both by the non-resident e-commerce operator. In the case of non-resident e-commerce operators, it is applicable when the supply is meant for:

(a) a person resident in India

(b) Person using an Indian IP address

(c) Non-resident in specific cases

As explained, EL 2.0 shall be levied if the aggregate consideration for such specified services received in the previous year exceeds Rs. 2 crores. It is charged at 2% on the amount of consideration received/receivable by the non-resident. Lastly and most importantly, the EL 2.0 is not applicable where an E-commerce operator has a Permanent Establishment in India, and the e-commerce supplies or services are effectively connected with such Permanent Establishment. The EL 2.0 applies to the following specified E-Commerce supplies or services:

- Online sale of goods owned by the e-commerce operator
- Online provision of services provided by the e-commerce
- Online sale of goods or provision of services or both, facilitated by the e-commerce operator; or
- Any combination of the activities mentioned above.

[132] Finance Act 2020; Available at: https://egazette.nic.in/WriteReadData/2020/218938.pdf

[133] EL; Available at: https://www.incometaxindia.gov.in/communications/notification/notification_87_2020.pdf

[134] India's Finance Bill 2021 clarifies scope of e-commerce Equalization Levy; Available at : https://www.ey.com/en_gl/tax-alerts/indias-finance-act-2020-expands-scope-of-equalization-levy-to-include-e-commerce-supplies-or-services

[135] EL -2.0; Available at: https://taxguru.in/income-tax/overview-equalization-levy-el.html

Income Tax Act, 1961

The Income Tax Act,1961[136] provides for the levy, administration, collection, and recovery of Income Tax collected by the Income Tax Department of the Government of India. Every year based upon the approved provisions in Finance Act, the Income Tax Act of 1961 gets amendment. Thus, from time to time, there have been various amendments to the Act. The e-Commerce participants were earlier required to file their income tax returns independently. As a result of which, many small e-Commerce participants didn't use to file their income tax returns and escaped the tax liability leading to a net loss to the government.

Section 194-O

E-Commerce business models in India were out of the ambit of taxation. The recent Union Budget 2020 introduced Section 194-O[137] into the Income Tax Act to widen the Act's scope and to bring the E-Commerce business model into the ambit of taxation by bringing the E-commerce participant within the tax net. According to the Section 194-O:

- *"Notwithstanding anything to the contrary contained in any of the provisions of Part B of this Chapter, where the sale of goods or provision of services of an e-commerce participant is facilitated by an e-commerce operator through its digital or electronic facility or platform (by whatever name called), such e-commerce operator shall, at the time of credit of the amount of sale or services or both to the account of an e-commerce participant or at the time of payment thereof to such e-commerce participant by any mode, whichever is earlier, deduct income-tax at the rate of one percent. Of the gross amount of such sales or services or both."* [138]

An e-commerce operator must deduct TDS for facilitating any sale of goods or providing services through an e-Commerce participant. Thus,194-O is **tax deduction at source by e-commerce operator,** the rate is 1.0%, and it has come into effect from 1st October 2020. As we know, tax deducted at source (TDS), as the very name implies, aims at collecting revenue at the very source of income. It is essentially an indirect method of collecting the tax that combines the concepts of "pay as you earn" and "collect as it is being earned."

Section 194-O defines and differentiates the e-Commerce Operator and Participant under Sub-section (1). Thus, an e-Commerce Operator is defined as "a person who owns, operates, or manages digital or electronic facility or platform for electronic commerce." They are responsible for making payments to the e-Commerce Participant on such sales. On the other hand, an e-Commerce Participant is "a person resident in India selling goods or providing services or both through an electronic facility provided by E-commerce Operator" (except non-resident Indians). In legal terminology, the e-Commerce Operator will be the deductor, and the e-Commerce Participant will be the deductee of the TDS. Simply put, the taxpayer is known as a deductor, and the payee, who receives the net payment, is called the deductee.

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[136] IT Act 1961; Available at: https://legislative.gov.in/sites/default/files/A1961-43.pdf

[137] Section 194 – O; Available at : https://www.incometaxindia.gov.in/_layouts/15/dit/mobile/viewer.aspx?path=https://www.incometaxindia.gov.in/acts/income-tax%20act,%201961/2022/102120000000079579.htm

[138] Finance Act 2020: Also available at: https://egazette.nic.in/WriteReadData/2020/218938.pdf

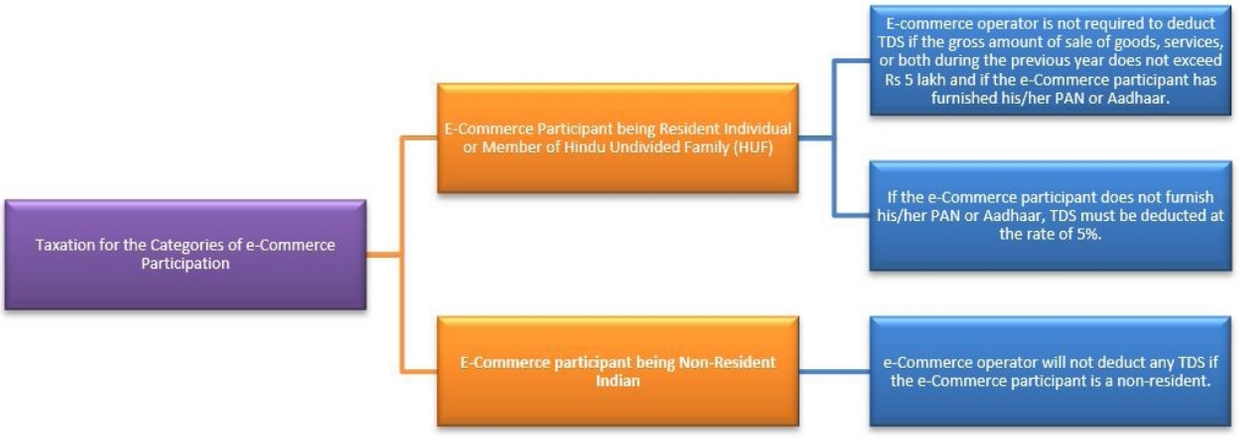


Figure 22 : Section 194-O of Income Tax Act Explained (Source: Author)

The less discussed aspect of Section 194-O is that it burdens the e-commerce operator under two instances. Firstly, when goods are sold through Cash on Delivery (COD), the e-commerce operator mostly receives their commission of sale and their account is settled rather than realizing actual payment. Under such circumstances, how will an e-commerce operator deduct & deposit tax when he has not received the gross amount of sale or service? Will it pay the tax from their pocket or collect it from the seller later? The COD method is mostly used in urban and rural areas both, and this issue will force the e-commerce operators to discourage COD features, pushing the customer segment away from the e-commerce market to the brick-and-mortar market. Most e-commerce operators provide goods return facilities under 30-45 days of purchase. In instances of goods returned after 30 days or next month's billing cycle, the payment must be returned, but the TDS shall appear in the 26AS of the E-commerce participant, yet it would not be able to match her/his sale turnover. To resolve this issue, the Finance Act 2021 has inserted Section 194 Q which requires the buyer of goods, to deduct TDS on payment made to seller under prescribed circumstances making the process simpler for ECO's.

Goods & Service Tax (GST)

Under the previous tax regimes / pre-GST era, there were separate laws for separate levies like excise, customs, central sales tax, value added tax, etc. As a result, tax compliance was complicated, leading to a high tax burden. Further, previously the tax was levied at two points, i.e., when the product used to move out of the factory and other at the retail points. Corruption and lack of transparency used to be significant issues in tax collection. As a result, the Goods and Services Tax (GST), as a single national uniform tax levied upon intra-state supply of goods and services across India on all goods services, was introduced with the fundamental Principle of “One Country, One Tax.”

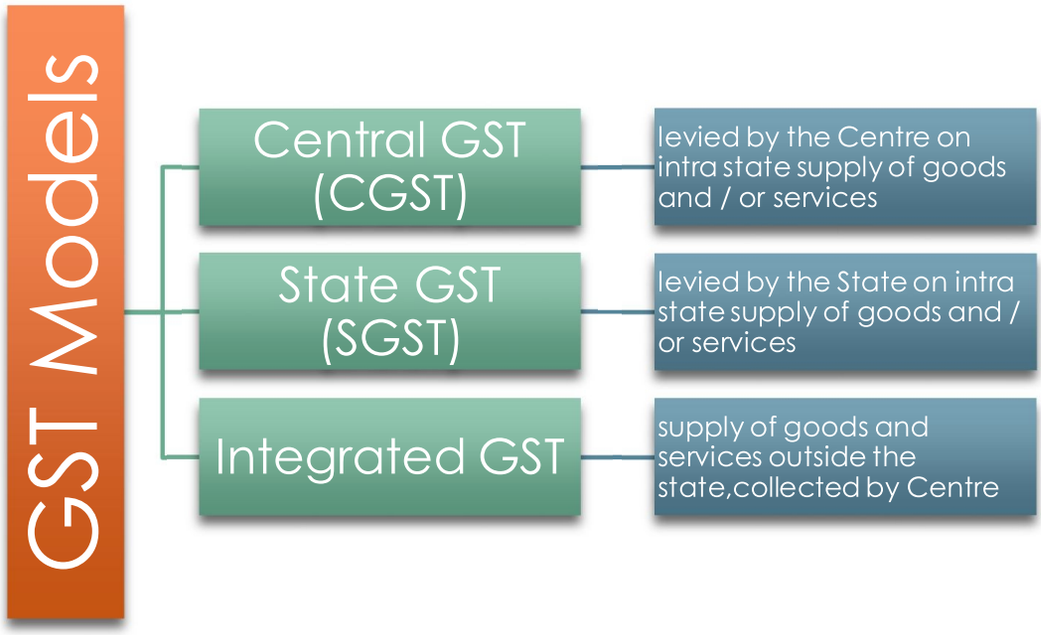


Figure 23 : GST Models in India (Source: Authors)

In the case of Intra State transactions, the Seller collects both CGST & SGST from the buyer, and CGST needs to be deposited with Central Govt. and SGST with State Govt. On the other hand, for Inter State Transactions, Integrated Goods and Service Tax (IGST) is levied on Inter-State transactions of goods and services, which are based on the destination principle. Tax gets transferred to Importing state. Further, an additional tax on the supply of goods, not exceeding one percent, is levied in the cases of inter-state trade or commerce, to be collected by the Central Government for two years and assigned to the States where the supply originates. The Goods and Services Tax (GST) is a destination-based indirect tax, meaning an end-user must pay tax on goods and services they purchase or consume. The state that consumes the goods or services collects such tax, not the manufacturer state. The Central Goods and Services Tax,2017 (CGST Act)[139] has been enacted to collect tax on intra-state supply of goods or services by the Central Government and the matters connected in addition to that or incidental to it.

Sec 2(44) of CGST Act, 2017 defines electronic commerce as the "supply of goods or services or both, including digital products over a digital or electronic network." Further, Sec 2(45) defined the e-Commerce Operator (ECO) as "any person who owns, operates or manages digital or electronic facility or platform for e-commerce." In India, the taxation on electronic commerce is differentiated as per the two significant e-commerce business models, i.e., Inventory based and Marketplace based. The Marketplace business model has been explained in detail in our previous report.

[139] CGST Act 2017; Available at:
https://www.cbic.gov.in/resources/htdocs-cbec/gst/cgst-act.pdf

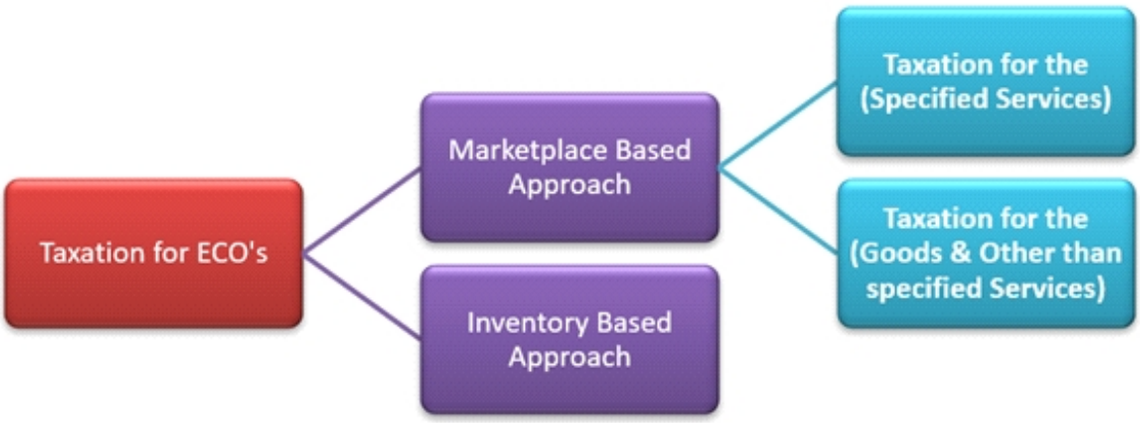


Figure 24 : Taxation as per CGST Act, 2017 (Source: Compiled by Authors)

As per the CGST Act, 2017 ECO's taxation is done with two approaches. Market-based taxation is the first approach where goods and service-based ECO are classified into two categories: Specified Services and Goods and other than specified services. On the other hand, the second taxation category is the Inventory Based Approach to taxation. Before we move further, it is pertinent to understand the concept of Tax Collected at the Source as per the CGST Act. As per the Section 52 (1) of the CGST Act, 2017, The e-commerce operator is required to collect an amount at the rate of one percent (0.5% CGST + 0.5% SGST) of the net value of taxable supplies made through it, where the consideration concerning such supplies is to be collected by such operator, and it is called Tax Collected at Source (TCS). Tax collected at source (TCS) is the tax collected by the seller from the buyer on sale so that it can be deposited with the tax authorities. Section 206C of the Income-tax act governs the goods on which the seller has to collect tax from the buyers. In the following sub-sections we delve deeper into the taxation for different goods and services under both the marketplace and inventory based business models.

Inventory based e-commerce

Under the inventory-based e-commerce business model, the ECO owns goods and services. It would purchase the goods/service from the manufacturers, store them in its warehouse, and on the orders placed by customers from its website, it would deliver. It will list its products on its website, and the consumers will explore it and place orders. The GST impact analysis is tabulated in the subsequent paragraphs.

Thus, the e-commerce entity needs to have the TCS registration and must file monthly returns GSTR-1, GSTR-3B, Annual returns (GSTR-9), and Re-conciliation statement (GSTR-9C) by taking a Regular registration under GST. The courier agency/delivery partner may rely on the authorization to generate an e-way bill while delivering the goods to customers on behalf of the e-commerce entity. E-commerce entities like Jaipur Watches, Lenskart, and Bluestone are a few of the Indian entities.

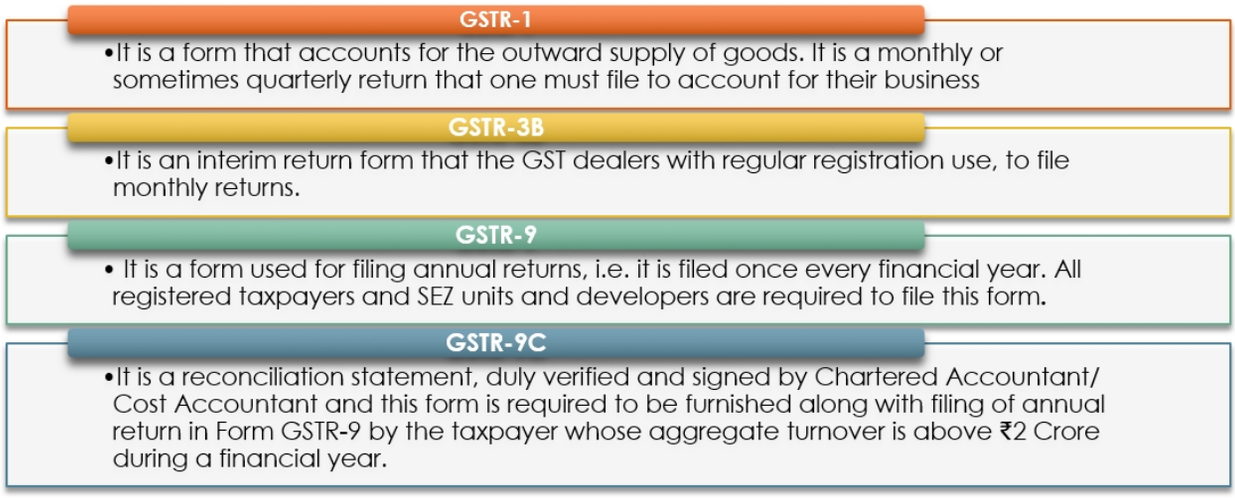


Figure 25 : Purpose of GSTR Forms (Source: Compiled by the Authors)

Further, the CGST Act treats taxation of the marketplace-based e-commerce business model in two different ways based upon Section 9(5) of the CGST Act, 2017. The section deals specifically with tax to be paid by e-commerce operators dealing with the supply of services even when they are not the actual supplier of original goods or services.

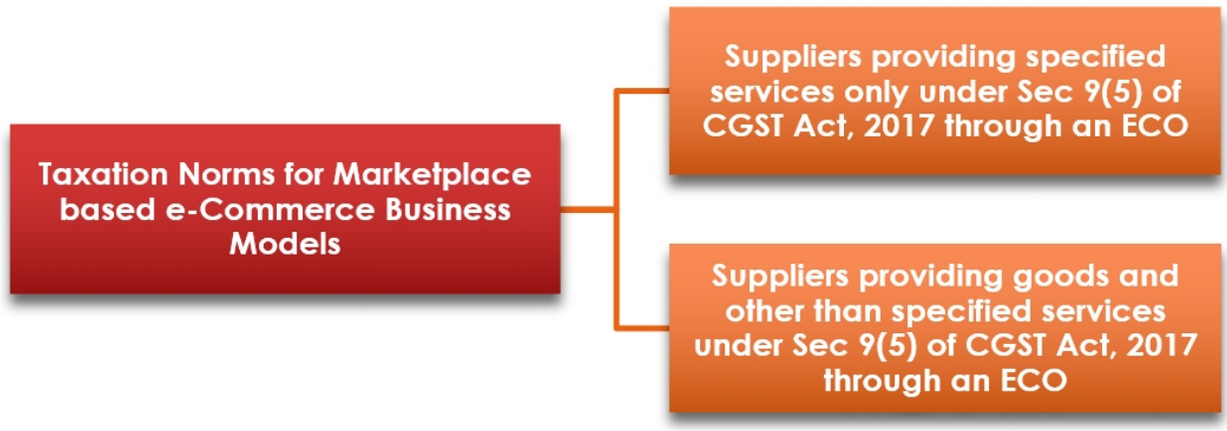


Figure 26 : Taxation based upon Sec 9(5) of CGST Act, 2017 (Source: Compiled by the Author)

Marketplace e-commerce (Specified Services)

The list of specified services under the Section 9(5) of the CGST Act, 2017 includes:

- Passenger Transport Services (Example: Ola, Uber)
- Accommodation Services (Example: Oyo Hotels)
- Housekeeping Services (Example: Urban Clap)
- Restaurant Services (Example: Zomato, Swiggy)

Thus, as far as the core business is concerned, i.e., the ECO is not required to deduct the TCS on the payment collected by then on behalf of the supplier of the services. But for ancillary services (other than specified under section 9(5) of the act and listed above), the entity is required to deduct the TCS on the payments collected by them on behalf of the supplier of service and is liable to take TCS registration and file GSTR-8 by 10th of the following month for every tax period. The GSTR 8 form is used to maintain updated information regarding the TCS amount that e-commerce operators collect on supplies made through their platform. It ensures a seamless flow of input credit to the suppliers who have paid TCS to the e-commerce operator.

Marketplace e-commerce (Goods & Other than specified Services)

Here the e-commerce operator facilitates the supply of goods and other than specified services between the suppliers and the buyers and will charge a specific commission for the services rendered. The ECO will not have any title over its platform's goods or services transacted. Thus, the ECO will be liable to take Regular GST and TCS registration. It is required to deduct the TCS while remitting the consideration paid to the sellers of goods or services.

Policy Recommendations

As far as Foreign Tax Credit (FTC) is concerned, according to Rule 128 of the Income Tax Act,

- *"An assessee, being a resident, shall be allowed a credit for the amount of any foreign tax paid by him in a country or specified territory outside India, by way of deduction or otherwise, in the year in which the income corresponding to such tax has been offered to tax or assessed to tax in India, in the manner, and to the extent as specified in this rule: Provided that in a case where income on which foreign tax has been paid or deducted, is offered to tax in more than one year, credit of foreign tax shall be allowed across those years in the same proportion in which the income is offered to tax or assessed to tax in India."*[140]

The Double Tax Avoidance Agreement (DTAA) is a tax treaty signed between two or more countries to help taxpayers avoid paying double taxes on the same income. As different countries charge tax based upon different criteria like receipt and accrual, residential status, form of business etc., due to lack of uniform taxation method an income may ends up becoming liable for double taxation based upon different taxation regulations in two different countries. This usually happens in cases where an individual is a resident of one nation but earns income in another.

Recommendation: The report recommends extending the Foreign Tax Credit (FTC) facility claim to avoid double taxation for e-commerce companies belonging to countries with which India does not have a Double Tax Avoidance Agreement (DTAA). This would enable a level playing field for all foreign e-commerce operator irrespective of their country of origin.

Currently, taxes covered under the respective Double Taxation Avoidance Agreements (DTAA) entered between India and foreign countries have been precisely defined and generally do not cover the EL. Since EL has been introduced as a separate Chapter in the Finance Act and there appears to be a lack of clarity regarding the FTC claim facility for EL paid. FTC stands for Foreign Tax Credit system where an income on which foreign tax has been paid or deducted, if is offered to tax in more than one year, credit of foreign tax is allowed across those years in the same proportion in which the income is offered to tax or assessed to tax in India.

Thus, for countries with which India does not have a DTAA, if the country's ECO jurisdiction does not recognize EL as a type of direct tax and entitles the ECO to claim FTC, the ECO may not be able to claim it and end up paying more tax. This creates an unfavorable business environment.

Under the CGST Act 2017, Section 9(5) includes ECOs providing Restaurant Services under the list of taxation for the (specified services) marketplace-based e-commerce business model. An electronic commerce operator (ECO) shall be liable to pay GST on restaurant services provided, and they need not collect TCS and file GSTR in respect of restaurant services on which it pays tax in section 9(5).

[140] FTC, Rule 128; Available at: https://www.incometaxindia.gov.in/Rules/Income-Tax%20Rules/rule128.htm

Recommendation: We propose to categorize small food shops/eateries/kiosks based on their annual revenue, and mandatory GST should be implemented with an annual turnover threshold value so that small firms too can avail the benefit of ECO and grow their business. Once their annual turnover reaches that threshold value, taxation should be mandatory. This will not only bolster the tax collection but not hamper the business prospect of ECOs as well as small vendors.

Though many small restaurants use it to avoid tax payments and lead to a net loss to the exchequer, one cannot deny that many small eateries and food stalls too use it to sell their food through these ECO, especially during the Covid-19 pandemic. Under such circumstances, most of these small makeshift eateries and kiosks that earn less than 20 lakh per annum, too, will have to file GST now, for which they might not even have proper documentation. This will lead to negative reinforcement because the tiny shops will not be able to avail the benefit of ECO services. Even the National Restaurant Association of India (NRAI) agrees with this.

Conclusion

E-commerce is a complex domain which aims to transform one of the oldest practices of human, i.e., of buying and selling goods. Over the last two years our team at Bharti Institute of Public Policy have been involved in the research of the e-commerce policy landscape in India. During this period, we came across some topics related to e-commerce that need deeper research for the purpose of better policy making in the future. Digital transformation, internet penetration along with increasing disposable incomes in India have led to the rise of e-commerce in India. Large technological innovations are seen in the e-commerce sector both by foreign players and India grown start-ups making it an evolving landscape over the next few decades.

The fabric of Indian retail industry is based on several small sellers and mom-and-pop stores who serve customers in their nearby locality. The emergence of e-commerce has open avenues for some and threat for others – e-commerce players often tie-up with small sellers for fulfilling the orders by which they can take advantage of the ecosystem, while others seem to lose customers due to e-commerce. There are seller and SME (Small and Medium Enterprise) forums that seem to have divergent views on this aspect. There is a need for detailed government back research study that would look at the journey of small sellers in India across various locations (metros, Tier II-III cities, rural areas) to understand the impact of e-commerce on these sellers and challenges they face in this competitive environment.

Data on e-commerce platforms is another important topic. We have seen in this report that various entities spend time and resources in generating the data on the e-commerce platforms like manufacturers, sellers, customers, platform owner and logistics partner but the e-commerce platform has complete ownership of this data. The allowable usage of this data is not well defined as India does not have a Personal Data Protection (PDP) Bill and the draft bill was recently scrapped. In the absence of a personal data protection bill, it would be challenging to set the limits on the collection and usage of data on e-commerce platforms. The views of the customers on the ownership and control of data they generated are important to frame the data protection norms – this is an area that needs elaborate research and deliberation.

Emerging technologies would play an important role in the retail industry going forward. We experienced the transition of physical retail stores to online e-commerce with the advent of the internet which makes it more convenient to search for order products at the comfort of home. Other emerging technologies like Artificial Intelligence and Big Data are changing the way items are marketed to the customers such that we can reach out to customers with their specific needs. Retail business models now view Metaverse as having the potential to change how consumers interact and make purchase decisions. Metaverse can impact marketing, product interaction, commerce, supply chain, operations, employee training, and retention. As a result, many brands and retailers are jumping on the Metaverse bandwagon. Drones are being used for the faster delivery of items. The business aspects of these technologies are still in the nascent stages and there is a need for further in-depth research in these domains.

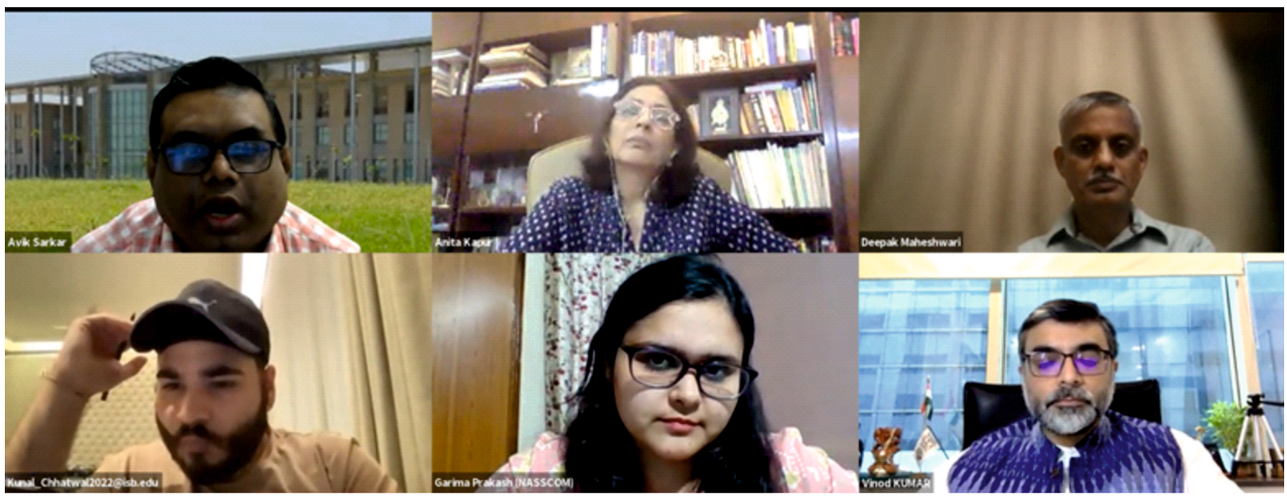
E-commerce growth has led to the development of other services related to warehousing, transportation, both long-haul and last-mile, and other value-added services which needs to be studied in detail for better policy formulation. E-commerce has generated employment for new class of workers who help in the manufacturing, delivery of items, packaging in warehouses, etc. Detailed study on the impact of e-commerce on the entire employment would be beneficial for policy makers to get a deeper understanding of the dynamics of the sector.

There are several other researchers and think tanks working on different aspects of the e-commerce policy landscape in India. Our work over the last one year covers four specific topics like foreign direct investment, data/search, business models and taxation. A holistic picture on the e-commerce landscape would help researchers, policy makers and foreign companies willing to enter the Indian market. Towards the same, we are now working on an edited book that captures the work of different academic institutions, government bodies, think tanks and researchers across a range of aspects in e-commerce starting from India's ecommerce journey, international comparison, technological innovation, fintech, employment, role of states, competition, data auditing, Open Network Digital Commerce (ONDC), future of ecommerce regulations, etc.

Roundtable Discussions

Roundtable on Foreign Direct Investment

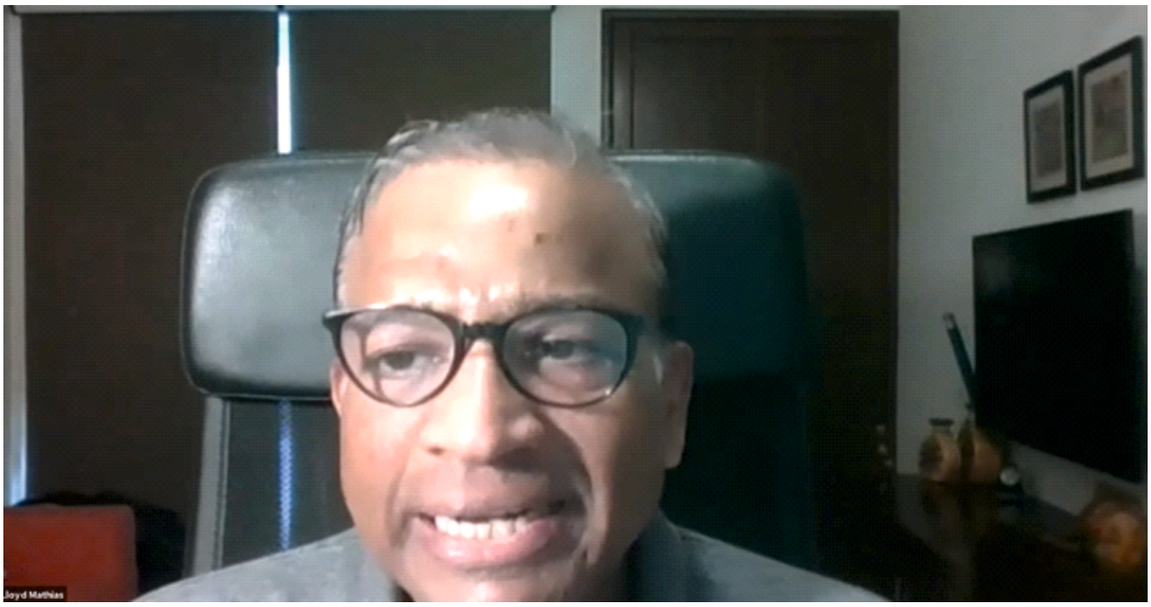




Roundtable on Business Models







Roundtable Data/Search & Taxation







Indian School of Business

The Indian School of Business was established in 2001, with the intention of putting India on the global map of accomplishments, adding to its credit of being the youngest school ever to consistently rank among the top Global MBA programmes, the first institution in South Asia to receive the prestigious AACSB accreditation and one of the largest providers of Executive Education in Asia. ISB also has the unique distinction of receiving accreditation from the Association of MBAs (AMBA), making it the 100th School in the world to achieve the 'triple crown' of accreditations from AMBA, EFMD Quality Improvement System (EQUIS), and the Association to Advance Collegiate Schools of Business (AACSB). The Indian School of Business has always been at the forefront of knowledge creation. Its strong pool of research-oriented faculty has helped the school emerge as one of the leading business schools, with cutting-edge research in the emerging areas of Business and Management. The original and distinctive research of ISB's faculty ensures that the content of its programmes is contemporary in nature and global in perspective.

Bharti Institute of Public Policy

The Bharti Institute of Public Policy is a research centre at Indian School of Business (ISB) which promotes high-quality research to guide policy formulation and implementation. The Institute stands tall as one of India's eminent public policy think tanks, engaging with policymakers and practitioners, and providing them with critical, data-driven evidence, insights, and analysis of pressing concerns. It works on policy challenges across diverse domains, including agriculture and food, legislative support, forest governance, environment and energy sector, education policy, financial sector, governance and digital identity, post- pandemic policy innovation, and leadership training. Among its many collaborations with state governments, and public and private entities to identify and address policy issues at international, national and regional level, the Institute has also undertaken noteworthy research initiatives to enrich the domain of public policy.

Advanced Management Programme in Public Policy:

The Advanced Management Programme in Public Policy (AMPPP) is the flagship programme of Bharti Institute of Public Policy and has been developed at the Indian School of Business in consultation with one of the world's leading public policy schools-- The Fletcher School, Tufts University, USA. It is designed specifically to address the needs of mid-career and senior-level professionals, and helps public servants, corporate professionals, and social sector professionals to gain a wider understanding of issues which impact business and society, and refine the depth and width of public policy wisdom. The 12-month, modular residential programme, is delivered in a blended learning format that minimises disruption at work.

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Three-fold Learning Framework:

The course's unique design and pedagogy enable a three-fold learning framework, fetching insights from:

- **Faculty experts at ISB and renowned policy practitioners & formulators:** The faculty for the programme is drawn from a pool of highly accomplished ISB resident faculty, faculty from The Fletcher School, and other leading schools and eminent policymakers. Some of India's most distinguished public policy, governance, and business leaders are invited to interact and speak during AMPPP residencies to share experiences in particular sectors. In-depth communication, formal classroom sessions, and informal interactions with eminent policymakers, influencers of public policy, and subject matter experts, are blended into the course's pedagogy.

- ***Policy Walk:*** *The unique AMPPP Policy Walks take participants through high-profile corridors of the National Capital, hosting a multitude of interactions with practitioners, formulators, and public policy influencers.*

- **Peers from diverse sectors and ISB alumni network:** The fellow participants bring in diversity and depth of experiences that span across multiple segments, infusing a valuable variety, dynamism, and inclusiveness in the programme design. At ISB, an AMPPP cohort gets further connected to the vast alumni community across the School's coveted management and executive education programmes.

- **Experiential and research-driven andragogical learning:** Team-building activities, in-class projects, group discussions, simulation learning, role plays, case studies, and research poster presentations contribute to enhancing the understanding of complex issues and bringing to the forefront new perspectives. This is enriched through a modular design consisting of balanced pre-sessions, virtual and in-person engagements, guest lectures, and unique visits.

- ***Capstone Project:*** *As a substantial research component of AMPPP, the Capstone project entails a rigorous analysis of a policy challenge or pressing issue in public policy. The report submitted at the end explores potential interventions to achieve specific objectives by applying concrete insights from the courses they were taught in the academic year.*













GOVERNMENT ENGAGEMENTS AND RESEARCH COLLABORATIONS















































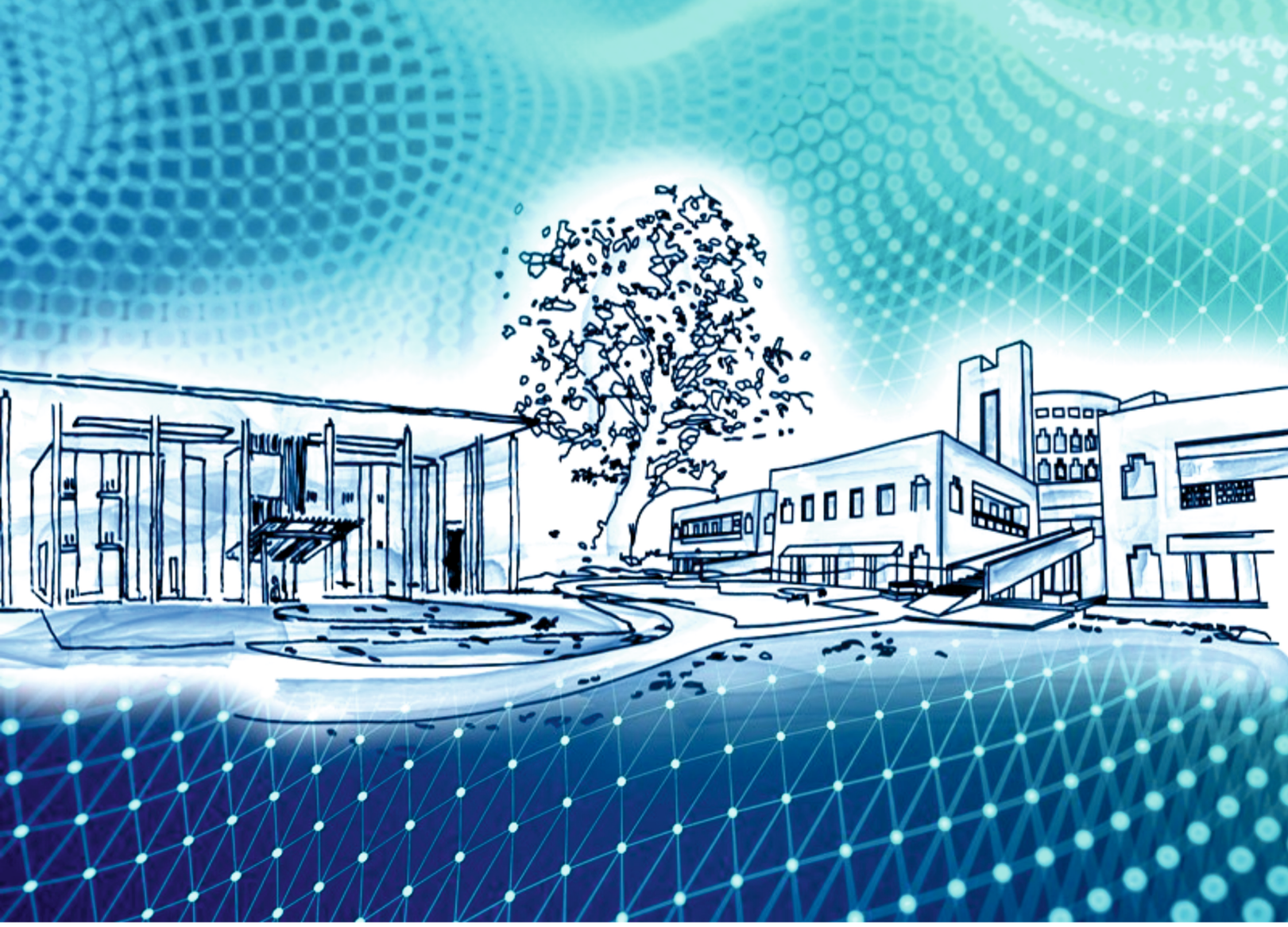

CONTACT US

HYDERABAD CAMPUS
Indian School of Business Gachibowli,
Hyderabad, Telangana - 500 111
Ph +91 40 2300 7000

MOHALI CAMPUS
Knowledge City, Sector 81, SAS Nagar,
Mohali, Punjab - 140 306
Ph +91 172 459 0000

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