

Consumer protection laws



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Part 1: Describe and contrast the laws of Australia and another country relating to consumer protection and offering goods for sale over the Internet. The aim of consumer protection laws is to address the grievances of the consumers and protecting them from the unethical practices/ behavior or unfair trade practices of the manufacturer/ supplier (Anonymous, 2003). The central issues of the sales of goods online and the law include the development of e-commerce, the role of consumers, and regulation of e-commerce in regards to consumer protection, as well as a general consideration of the international operation of e-commerce (Anonymous, 2003).

E-commerce can be considered a new way of conducting business that takes place in the intangible world of the internet. It has become an important economic activity across the world, since Internet technology develops rapidly. Australian governments have passed consumer protection legislation because they believe that the common law of contracts cannot adequately protect the consumer in today's complex market place (Australian Government, 2010). Both the Commonwealth and State governments have legislation to provide greater protection to consumers in contractual.

These include The Trade and Practices Act 1974(Cth) and The Sale of Goods Act 1923 (NSW) (Australian Government, 2010). These both deal with unfair contract terms law covering standard form contracts, guaranteeing consumer rights when buying goods and services, and civil penalties for breaches of the Australian Consumer Law (The Treasury, 2010). Any company that does business on the internet faces a variety of legal issues such as, forming contracts, abiding by consumer protection laws and

creating privacy policies (Mykytyn, 2005). These issues are global in nature and constantly evolving. When purchasing goods the buyer enters into an agreement that is regulated by the Sale of goods law 1979 (amendment), changed by the Sale and supply of products law, 1994 and the Sale and supply of products to customer's laws, 2002 (Australian Government, 2010). These Australian laws give the buyer particular implied, or self-regulating, statutory rights, under the agreement of a sale.

The agreement is a legally binding document between two sides, involving the replacement of something of worth, for instance, money for products (Australian Government, 2010). The issue of sufficiently determining a 'customer' has been a main difficulty in planning customer protection legislation in Australia (The Treasury, 2010). The notions of customer found in State and Territory customer protection legislation differ greatly. Some are relied on the cost or nature of the products or services bought, others are relied on the person acquiring the products or services or the objective for which the products or services are bought. For example in Queensland only a "person" can be considered a customer in instances where the cost of the products or services is more than \$40000, whereas other laws employ a broader notion based on "individuals", which can contain partnerships, businesses and companies (The Treasury, 2010). Conflicting state and national laws can confuse both the consumer and business In India, for many years the consumer was the most exploited segment of Indian society (Consumer Unity & Trust Society, 2008).

The consumer remained helpless because they did not have any organised body or union supporting them, and therefore remained helpless because of

the strength and power of Indian traders, manufacturers and industrialists (Consumer Unity & Trust Society, 2008). It is only recently that it has been recognised that the consumer has their own rights which need to be protected. The Consumers Protection Act was passed in December 1986. It seeks to provide for better protection of the interests of consumers and for that purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumer's disputes and for matters connected therewith (National Consumer Disputes Redressal Commission, unknown).

The purpose behind the law is prevention. The act tries to prevent consumers from being unfairly exploited by businesses and individuals. Councils made up of consumers and their chosen representatives work with the guidelines of this law to hear and settle disputes (National Consumer Disputes Redressal Commission, unknown). India's consumer protection laws differ from Australia, in terms of complexity. Australia has a large array of laws covering fair trading and consumer protection in both paper base and electronic format at both government and state levels.

Whereas Indian consumers can only rely on the clauses of the Consumer Protection Act (1986) to defend their case, mainly because consumer protection is a fairly new concept in India and consumer rights have only recently been recognised under Indian law. Part 2: In your view, which country offers the best protection for consumers? Could protections for consumers be extended in both countries? Are the legal requirements too onerous for business, and how could this be improved? In India only 4.

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Australia with 71 percent of the population using the internet and shopping and selling online has increased from 41 per cent of Internet users aged 14 years and over in September 2001 to 64 per cent in June 2006 (World Internet User Statistics, 2008). Online shopping is a fairly new concept to Indians and is very low compared to Australia because there is low internet penetration, low credit card population, non-willingness of people to use credit cards for online purchases and adverse taxation rules.

For this reason, at this moment in time, consumer protection laws in India deal with face-to-face sales of goods rather than online purchases, whereas Australia has a high online purchasing percentage, therefore its laws are more developed. There have been many cases reported in India of delayed delivery, damaged or inferior goods, quality issues and even cheating where the goods were never shipped. In general Indian consumers do not have a good experience with online shopping and have little protection when it comes to the law and the sale of goods online (GFA Consulting Group, 2008). Therefore Australia offers its citizens better protection when buying goods online. Also Australian consumers can turn to the Australian Competition and Consumer Commission (ACCC) for protection. They are responsible for enforcing the Trade Practices Act by responding to complaints and inquiries and by observing market conduct and initiating action when required (ACCC, 2010).

Having a government organisation dealing with consumers gives them a sense of security when issues arise regarding the sales of goods over the internet. The Australian government also has other policies in place to protect the online consumers, such as the One-Stop-Shop for Consumer

Protection in Australia, which provides information on making complaints about goods and services purchased in Australia and overseas, product safety and recalls, plus many links to online consumer resources (Federal Trade Commission, 2009). The Australian Consumers Handbook also provides over 730 private, community and government organisations that offer complaint handling services to consumers (Australian Government, 2010). India have yet to establish a government organisation to that deals with the issue of consumer protection, which leaves room for further development. Currently Indian citizens can seek protection through the International Consumer Rights Protection Council who give guidance and help consumers to take action through the Indian Court, also the United Nations has been developing the foundations of online dispute resolution most particularly since the 2003 United Nations Conference on Trade Development (Reinsch, R, 2005).

Therefore if Indian citizens cannot seek guidance on a national level there are international bodies that aim to protect consumers around the world. With this analysis it is clear that Australia currently offer better protection to its consumers, although India is still developing (in terms of online shopping) and there is room for future growth. One broad example of how the development of e-commerce has affected the law is to be found in Australian contract law. Many transactions involve a contract being formed.

A contract is only valid if it fulfills certain requirements and there are certain measures to enforce them (Reinsch, R, 2005). However, these requirements and measures were originally formulated without contemplation of the Internet as a medium for forming contracts. It is for this reason that in recent

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years as e-commerce has developed and become more widespread, the law has had to develop to accommodate for it, particularly in Australia. However, this has been a slow process and is as yet far from being conclusive since such development in the law is dependent on the Government's support as well as cases emerging that need these new issues to be solved in court, which seems to be the case in India (Beard, 2000). New technologies are also an example of why the law needs to keep developing.

The Internet has created an entirely new environment in which traditional principles and concepts dealing with consumer protection do not apply, and are subsequently reshaped (Anonymous, 2003). Since the Internet is a global medium, there needs to be uniform global regulations on online shopping, and although a number of international organisations are now trying to resolve issues of e-commerce to protect consumers, they have to contend with national laws. One of the advantages of online business is the ability for businesses to access larger markets. It allows for fast customer relations, less transaction and labour costs, smaller start up costs, ease of reinvention and upgrade, greater consumer access and low barriers to entry (Reinsch, 2005). While these advantages attract consumers, there are a number of disadvantages. One of these disadvantages includes the onerous legal requirements surrounding e-commerce argues that the cyber legal environment is an unknown, and can only be known once a law suit develops (Reinsch, 2005).

This is due to the fact that businesses on the internet are subject not only to the consumer protection laws from their country of origin, but also potentially subject to many international laws, therefore must be very careful

when dealing with consumers. Overall both India and Australia have laws that deal with consumer protection, although there is still room for development of these laws to take into consideration the new concept of cyberspace and online transactions. With India's fast growing economy and urbanisation it is certain that its population will begin to understand the benefits of online shopping and at that point in time laws will need to be amended so consumers feel safe when making online transaction and also encourage sales of goods online.