

e-commerce and consumer protection



**Market Analysis Division
Office of Consumer Protection
July, 2022**

INTRODUCTION

"E-Commerce" refers to transactions of goods or services through the internet, mobile devices or other information networks. Other modes of e-commerce activities such as providing financial products and services, news publications, audio and video programs, general publications, cultural products and other content through an information network shall also be governed by the respective laws and regulations in force (Guidelines on E-Commerce, 2019).

E-commerce is rapidly transforming the modern marketplace with the help of information and digital technologies. Technologies designed to improve business transactions are improving at a phenomenal rate. With the growing use of the internet coupled with many benefits and conveniences it offers to the consumers, the use of ecommerce is growing rapidly. The use of social media and e-commerce platforms has made it easier for business to business, business to consumers and business to government interactions and transactions.

E-commerce takes place through a range of different commercial relationships, involving any possible pairing of consumers (C), businesses (B) or governments (G). These include classical B2B transactions, business-to-government (B2G) transactions (e.g., government procurement). E-commerce transactions increasingly involve consumers directly, most notably business-to-consumer (B2C) transactions.

The benefits of e-commerce are manifold for both consumers and businesses. Consumers can save time and enjoy simplicity and comfort of shopping without leaving their workplace or home, it saves money in that costs are generally cheaper than those in shops and are able to get detailed information about the product and terms of business before ordering. Consumers residing in small markets have access to goods from suppliers all over the country and beyond.

Businesses on the other side benefit through lower costs as there is no need for brick-and-mortar shops and can employ lesser number of people and have access to affordable marketing saving significant time and money on advertising. It is easier and cheaper to scale up business and they can reach new customers easily. They are also able to gain customers' data which can be used to improve their marketing strategy.

But there are associated risks. Because of the mode of business, e-commerce operators are more likely to engage in unfair trade practices with impunity. They might supply fake products, defective or substandard products or even not deliver it at all; and seeking redressal and getting compensation may be extremely costly and may not be successful. Other disadvantages include longer waiting time and additional costs for shipping.

The Guideline on E-commerce, 2019 guides all business entities and other stakeholders participating in the e-commerce activities. It aims to promote and facilitate growth and development of e-commerce activities whilst ensuring that economic rights and interests of the consumers are protected from unfair trade practices. Further, the National Competition Policy, 2020 aims to promote and sustain competition in the market to enhance efficiency, innovation, and maximize consumer welfare, while the Consumer Protection Act, 2012 is the primary legislation that is designed to protect consumers from unethical trade practices and unscrupulous businesses including ecommerce operators.

RATIONALE OF THE STUDY

There are a total of 129 licensed E-commerce operators in the country. (Department of Trade); and may more operating informally using free social media platforms such as Facebook and Instagram. Though reliable data on the growth of informal e-commerce is not available, the frequency of advertisements that appear on social media indicates very fast growth and popularity of doing business in this way. Consumers complaints are also rising. In the In FY 21-22 alone, the office of consumer protection (OCP) received 14 complaints against unlicensed e-commerce entities; with complaints ranging from non-delivery of goods after making payment, products not matching as advertised and refusal of refund/ exchange products for defective products.

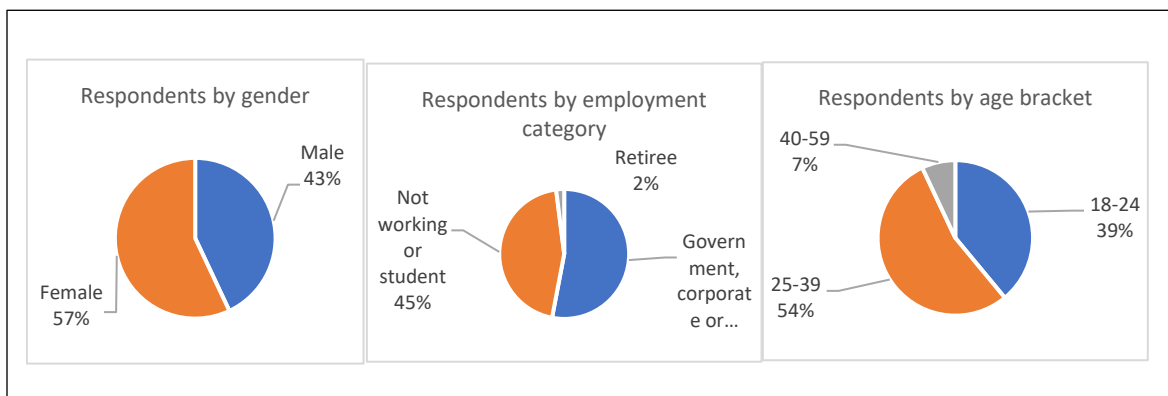
Therefore, it is against this backdrop that a study on the e-commerce operation from consumer safety and protection perspective is seen necessary; with the objective to study possible government interventions to offer better consumer protection services. There are concerns on the lack of system security, reliability, standards, unfair trade practices and consumer protection issues owing to poor implementation of e-commerce.

OBJECTIVES OF THE STUDY

The main objectives of this study was to understand the current situation of e-commerce operation in Bhutan, identify issues of ecommerce viz-a-viz consumer safety and what interventions can be made to enhance protection of consumers engaged in ecommerce.

METHODOLOGY

A sample size of 300 people consisting of students, government, corporate and private sector employees and retirees was surveyed through a structured questionnaire. Respondents were chosen randomly but they either had an e-mail account, a Facebook account or WhatsApp or a combination of those. The respondents' profile by age, employment and gender are as represented in Text Box below.



FINDINGS AND DISCUSSION

A vast majority (74%) of Bhutanese e-commerce consumers use unregistered online agents that advertise their products through free social media platform such as Facebook and Instagram. Only 26% purchase from the registered local, regional and global ecommerce companies.

Buying from unregistered and unknown sources exposes consumers to high risks of fraud and deception. As expected, all respondents who claimed to have been victims of unfair trade practices fall in this category.

In terms of frequency of online shopping, 54% of the respondents shop at least once in six months (rarely), while 9% of the respondents shop at least once in every two months (every now and then) and 7% at least once a month (often). Majority (70%) of the respondents appear to be frequent on-line customers; which does indicate the popularity and ubiquity of online shopping in Bhutan (Fig. I).

Garments, cosmetics and other accessories are the most commonly purchased items (82 %), followed by electronics & accessories at 12% (Fiig. II). A small percentage of Bhutanese also appear to be using online services to order grocery items; which may indicate a few things – Bhutanese people are getting busier and find it more convenient to order grocery items online and that local online companies are becoming more trusted in their capacity to provide such services. This trend is expected to grow in the future as the economy changes and more and more people find the need to take up employment.

Figure I: Frequency of online shopping

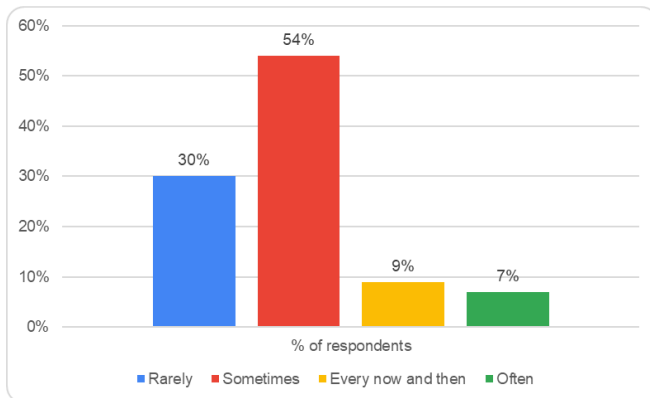
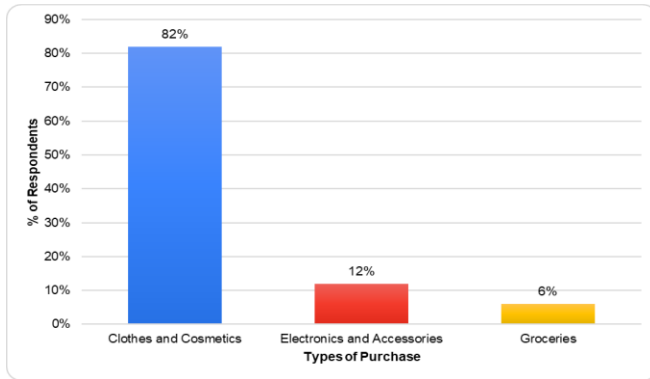


Figure II: Types of purchase commonly made online



~ Customer satisfaction with on-line services in Bhutan:

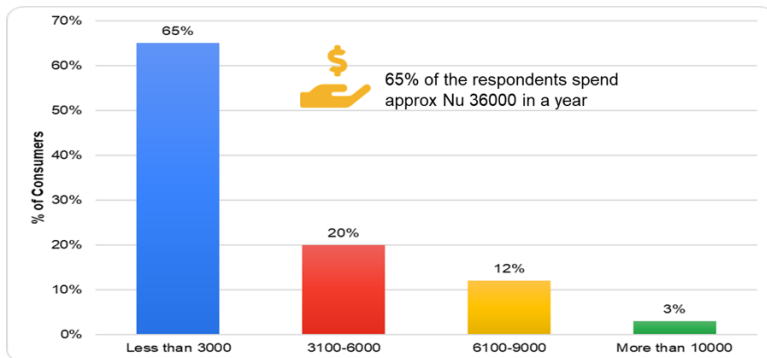
89% of the respondents were satisfied in terms of accessibility and treatment by the e-commerce operators; while the 11% displayed dissatisfaction over e-commerce service - stating reasons such as inequitable treatment, denial of goods and services and preferential treatment by service providers.

~ Consumer spending on e-commerce:

On the average, 65% of Bhutanese spend less than Nu 3,000 per month on online shopping through the e-commerce operators while about 3% spend more than Nu.10,000 per month (Fig. III). On an average, around 65% of the online consumers spend approximately Nu. 36,000 in a year on online shopping while 35% spend more than this amount.

Globally e-commerce sales are expected to grow and increase from \$3.3 trillion today to \$5.4 trillion in 2026. Further e-commerce is expected to reach 27% of retail sales by 2026 (Here why e-commerce growth can stay stronger for longer, 2022). Though Bhutan's economy in the last few years have been hit by pandemic during the last couple of years, with the end of the pandemic, economy is expected to pick up and similar upward trend is expected to occur in Bhutan too.

Figure III: Monthly spending on online shopping



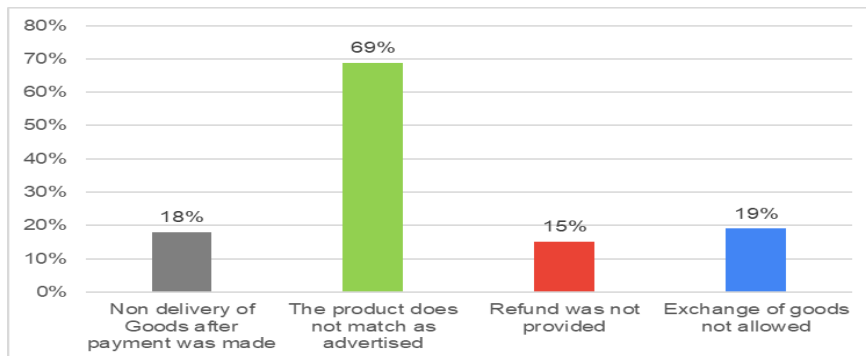
~ Consumer face risks when shopping online:

Though e-commerce has changed the way of doing business and brought positive changes to the life of consumers by making it easier; yet consumers encounter a variety of inconveniences and risks. Trustworthiness of ecommerce operators, vague contract terms, online payment security, data protection and privacy issues, misleading representation of products, false advertisement are some of the notable challenges faced in Bhutan.

One of the biggest issues with the e-commerce industry in Bhutan seems to be the mismatch between what is advertised and what is actually supplied. A majority (69 %) of shoppers had faced this problem (Fig. III). The goods supplied were either of inferior brand, fakes or were defective.

Further, exchange of goods that did not meet their expectation or were not as advertised were not entertained nor were refunds provided. Quite a substantial number (18 %) of online shoppers did not even receive the goods after making the payment; indicating substantial fraud and deception in the industry.

Figure III: Percentage of unfair trade practices faced by the consumers



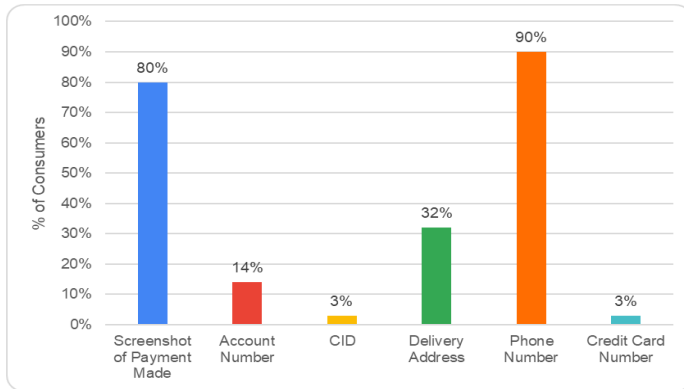
~ Privacy and Data Security:

Identity protection is concerned with the privacy, confidentiality, and safety of the data that customers disclose during an online purchase. In most circumstances, the customer may be required to supply specific information before any transaction can be completed in order to conduct the transaction.

Typically, the buyer will provide his name, address, phone number, etc. All of these are necessary to complete the transaction, but the issue is the lack of safeguards in place to prevent misuse of the information. There are three main ways that it may be abused: first, the information might be used for things that the customer hadn't intended when they asked for it. Secondly, the information gathered for legal reasons may be treated carelessly by the person who has access to it. The third and most harmful way that a customer's information might be utilized is for fraudulent activities; for example, it could be accessed fraudulently in order to steal money from the customer's account or for some other malicious reason.

Though most e-commerce operators in Bhutan ask for non-confidential information such as the screenshot of payment made, delivery address and account number of the customer, 20 % of the respondents had furnished sensitive private information such as their credit card number, account number and their CID number (Fig. IV).

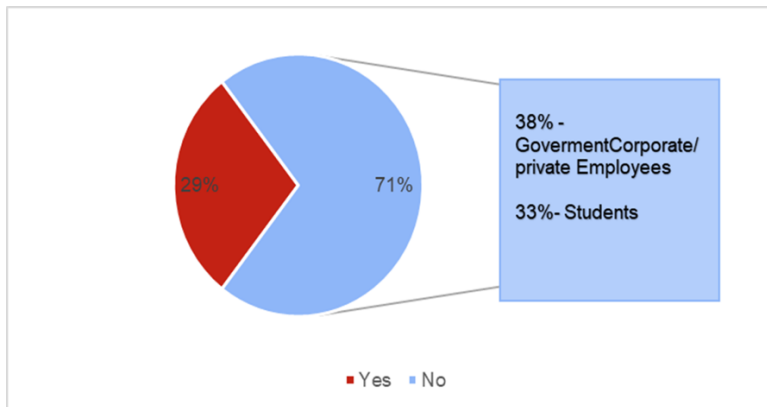
Figure IV: Personal information asked by ecommerce businesses for online shopping



~ Consumer Education and awareness:

Awareness of their rights and responsibilities, advantages and risks of ecommerce and how to protect themselves is crucial. Despite vigorous education and awareness programs by the Office of Consumer Protection (OCP), around 71% of the shoppers were still not aware of their rights and responsibilities as a consumer. Of these, 38% were government, corporate or private sector employee and 33% students (Fig. V). This strongly suggests the need to step up education and advocacy programs on e-commerce.

Figure V: Percentage of awareness on consumer rights and responsibilities

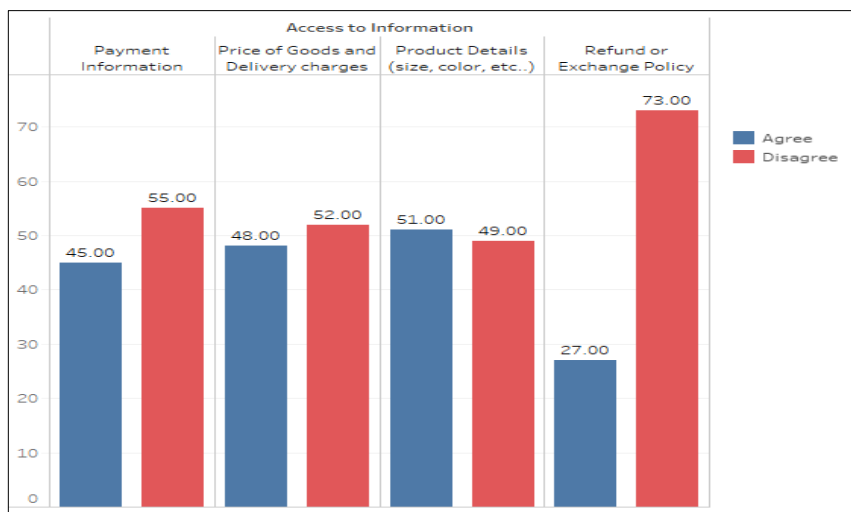


~ Information and Transparency:

Consumer have the fundamental right to any information related to the product or service before making a purchase and the business has the obligation to provide truthful, unambiguous and as much detailed information as is possible. This display of information is critical in ecommerce, since there is no direct interaction between the buyer and seller and choice are made based on information available online and payments are often made in advance.

In Bhutan, 73% of online shoppers say that ecommerce operator does not display their policy on refund/exchange policy. 52% also say that payment information is inadequate and often misleading (Fig. VI); since they do not include or specify additional fees and charges that is levied on them on delivery such as packaging, freight and handling charges.

Figure VI: Display of information by the e-commerce operators



RECOMMENDATIONS:

Ecommerce will continue to grow in Bhutan as internet connectivity coverage enlarges and improves, mobile device ownership increases and as the population and economy improves. While ecommerce offers substantial advantages to both businesses and consumers in terms of cost, choice and convenience, consumers will need to be vigilant and beware of possible fraud and deception.

There are several progressive policies and legislation that guides and regulates ecommerce industry in the country. Furthermore, the adoption of the ecommerce policy (which is pursued by the Ministry of Economic Affairs) in the future would provide further impetus towards the sustainable growth of ecommerce business. Meanwhile, agencies such as the OCP will need to step up monitoring and inspection of the e-commerce operators and businesses to identify suspicious marketing advertisement and operators and take corrective actions.

The principle of caveat emptor - where the buyer alone is responsible for checking the quality and suitability of goods before a purchase is made - is particularly relevant to consumers of ecommerce goods or services; because decisions are made looking at photographs and specifications and goods are often sourced from long distance; wherein replacement and redressal, even if viable can be tricky and time consuming. Dissemination of information to consumers on how ecommerce operates, risks involved including data privacy and security and how to mitigate those risks will have to be given priority.

Relevant agencies will need to encourage and support local registered ecommerce businesses to market and improve their service, so that consumers give them preference over unregistered informal businesses. The focus areas should be online display of accurate information, advertisement, data protection, return & refund policy and contract terms.

The principle of caveat venditor - where the seller is responsible for any problem that the buyer might encounter with a service or product - must be inculcated in the e-commerce operators - with the focus on fair trade practices, displaying of required information, incorporating refund and replacement policy and truthful advertising.

REFERENCE:

1. OECD (2016), "Online product safety: Trends and challenges", OECD Digital Economy Papers, No. 261, OECD Publishing, Paris, <http://dx.doi.org/10.1787/5jlnb5q93jlt-en>
2. UNCTAD (2017), "Consumer protection in electronic commerce", http://unctad.org/meetings/en/SessionalDocuments/cicplpd7_en.pdf
3. UNCTAD (2017), Consumer protection in electronic commerce, Trade and Development Commission, Geneva, https://unctad.org/system/files/official-document/cicplpd7_en.pdf
4. OECD (2018), "Consumer protection enforcement in a global digital marketplace", OECD Digital Economy Papers, No. 266, OECD Publishing, Paris, <https://doi.org/10.1787/f041eead-en>
5. OECD (2019), An Introduction to Online Platforms and their Role in Digital Transformation, OECD Publishing, Paris, <https://doi.org/10.1787/53e5f593-en>
6. Heres why e-commerce growth can stay stronger for longer, Morgan Stanley Research, 2022