



LEGAL PROTECTION IN VIRTUAL CONSUMER RELATIONS: AN ANALYSIS IN THE LIGHT OF THE PRINCIPLE OF CONSUMER VULNERABILITY



<https://doi.org/10.56238/levv16n47-031>

Submitted on: 03/14/2025

Publication date: 04/14/2025

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ABSTRACT

This study addresses the implications of the principle of vulnerability in virtual consumer relations, considering the main flaws and gaps in the legal protection of consumers in the context of e-commerce. Online commerce, with its growing impact, exposes the consumer to specific risks, which require an in-depth analysis of legal rules and the liability of suppliers to ensure the protection of consumer rights. The objective of the study was to analyze how the existing legal norms apply to new forms of consumption and what are the challenges faced by consumers, especially with regard to vulnerability in virtual relationships. The research followed a qualitative approach, characterized as a literature review, based on sources such as CAPES journals, Google Scholar and Brazilian and international legislation. Descriptors such as "legal protection", "virtual consumer relations" and "consumer vulnerability" were used to search for studies published between 2018 and 2025, which explored the legal aspects of online consumption. As a result, the study identified that, although there are norms such as the Consumer Protection Code and the General Data Protection Law, there are still significant gaps in the application of these laws in the context of e-commerce. Finally, it was concluded that the adaptation of legislation and legal practices is essential to ensure legal certainty and effective consumer protection in virtual transactions.

Keywords: Consumer vulnerability. E-commerce. Legal protection.

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INTRODUCTION

The rapid evolution of digital technologies and the growing adoption of e-commerce configure a new scenario for consumer relations in Brazil and in the world (Pasqualotto; Bublitz, 2018). The ease and practicality of buying and selling online have brought numerous benefits to consumers and suppliers, but they have also created an environment conducive to unfair practices and the exposure of consumers to situations of vulnerability (Ascar, 2021). In this context, the legal protection of the consumer in virtual transactions has become one of the main challenges of contemporary law, requiring a deeper analysis of the guarantees that must be offered to the target audience of online consumer relations.

The principle of consumer vulnerability is one of the pillars of Brazilian consumer law, and its application in virtual consumer relations takes on even greater relevance (Barbosa, 2017). This principle recognizes that the consumer, due to his disadvantageous position in relation to the supplier, must have special legal protection, in order to ensure conditions of balance and fairness in transactions. In the virtual environment, this vulnerability is enhanced by the lack of direct interaction between the parties, the asymmetry of information, and the difficulty of safeguarding effective rights and guarantees.

Virtual consumer relations, although regulated by various rules, still have gaps that need to be carefully analyzed. The complexity of e-commerce and the new modalities of interaction between consumers and suppliers require a reinterpretation of the traditional rules of the Consumer Protection Code (CDC), adapting them to the digital scenario. Brazilian legislation, although innovative in introducing protection mechanisms such as the "right of repentance" and the "strict liability" of suppliers, cannot always keep up with the rapid and changing dynamics of online commerce.

The analysis of consumer vulnerability in the digital context implies a broader understanding of the difficulties that this individual faces when faced with virtual commercial practices (Soares; André, 2023). Such difficulties are not limited only to the risk of fraud or non-compliance with contractual rules, but extend to the lack of transparency of information, the difficulty of access to service channels, and the imbalance in negotiation, which often occurs unilaterally. Such issues deserve special attention, considering that legal protection must be effective and broad, capable of preserving consumer confidence and security in the digital environment.

Therefore, the objective of this study is to analyze the implications of the principle of consumer vulnerability in virtual consumer relations, seeking to identify the main flaws and gaps in the existing legal protection and proposing possible legislative or jurisprudential solutions. To this end, it will be necessary to explore the rules applicable to e-commerce,

examine the judicial decisions that involve this topic and evaluate the initiatives that seek to ensure the protection of consumers in this new consumption model.

The methodological approach of this study is qualitative, with documentary analysis and literature review, as described by Yin (2016), using several sources for data collection. The research was carried out based on three main sources: the CAPES journal database, Google Scholar and the applicable Brazilian and international legislation. Descriptors such as "legal protection", "virtual consumer relations" and "consumer vulnerability" were used, the search was carried out in March 2025, focusing on articles that discuss legal aspects of virtual consumption and consumer vulnerability. The selection process followed the steps of the Review Manual (2014), including the identification of the theme, definition of inclusion and exclusion criteria, selection of relevant studies, and critical analysis of the results, excluding unrelated studies or those that were not available in full text.

THE PRINCIPLE OF CONSUMER VULNERABILITY IN VIRTUAL CONSUMER RELATIONS: CHALLENGES AND LEGAL GUARANTEES

The principle of consumer vulnerability, as expressed in the Consumer Protection Code (CDC), highlights the disadvantageous position that the consumer occupies in consumer relations. This principle is especially relevant in virtual relationships, since the digital environment imposes a series of challenges that increase consumer vulnerability, such as the lack of transparency in information, the difficulty of accessing complaint channels, and the complexity of electronic contracts.

According to article 2 of the CDC, the consumer is defined as "any individual or legal entity that acquires or uses a product or service as a final recipient", a broad definition that includes not only the acquisition of goods, but also the contracting of services on digital platforms. In this context, the Brazilian legislator recognized the need to create a specific protective framework for the consumer, seeking to balance the inequalities of power in consumer relations.

In e-commerce, the difficulties for the effective application of the principle of vulnerability increase due to the lack of physical interaction between the parties, which reduces the consumer's ability to verify the conditions of the product or service. Araujo (2019, p. 18) points out that, "with the growing evolution of e-commerce and the inclusion of Brazilians in this new virtual modality, a large part of the population still has fears when entering into contracts in this world." This fear, amplified by the sense of uncertainty and the possibility of fraud or unfair business practices, puts the consumer in an even more vulnerable position.

Brazilian law, however, guarantees these consumers a series of rights, such as protection against unfair terms and the right to repentance, as established in article 49 of the CDC, which allows the consumer to withdraw from the contract within seven days, without the need to justify their decision.

Despite these guarantees, the great challenge lies in the practical application of these rights, since the virtual environment makes it difficult for consumers to access effective means of complaint and conflict resolution. According to Araújo (2019, p. 19),

The great difficulty lies in the abandonment of national legislation to consumer rights, more especially contracting in the virtual environment, where the population does not perceive the solutions when they see themselves harmed by the virtual supplier or seller, not knowing where, when or with whom to claim their violated rights.

The absence of specific legislation that addresses all issues related to e-commerce and virtual contracting results in a legal vacuum that undermines the effectiveness of consumer rights. Although the CDC provides defense mechanisms, such as the possibility of resolving disputes in the special courts, difficulties in accessing and understanding the rules still persist.

The situation is even more serious when considering the technical hyposufficiency of the consumer in relation to the supplier, especially in e-commerce. According to Douglas Santin (2023, p. 8) "every consumer is vulnerable because of his or her own legal position as a consumer." This statement emphasizes that the consumer's vulnerability is a presumptive legal concept, and hyposufficiency is a factual condition that depends on the analysis of the specific case.

In the virtual environment, the asymmetry of information and the specialization of suppliers in relation to the consumer create a situation of technical hyposufficiency. Silva (2022, p. 20) illustrates this concept with the example of the relationship between doctor and patient, in which the consumer, a layman in medical matters, finds himself in a position of dependence on the professional, where the consumer comes into play with the notion of hyposufficiency. In e-commerce, this imbalance is reflected in the disparity in technical knowledge about the products or services offered, making it difficult for consumers to make informed decisions.

The analysis of the principle of vulnerability in virtual consumer relations reveals a complex scenario, where, although there are several legal guarantees for consumer protection, the effective practice of such rights faces numerous challenges. The Consumer Protection Code, which aims to balance consumer relations, is essential to ensure consumer protection, but the digital environment imposes new dynamics that hinder the full

application of these rules. The growing number of frauds and legal litigation demonstrates that legal solutions are still insufficient to deal with the reality of e-commerce, where consumers often do not know where or how to seek their rights (Pereira et al., 2019).

The idea of vulnerability, according to the CDC, is intrinsically linked to the inequality of power between consumer and supplier. This inequality, when transported to the virtual environment, is intensified by the lack of physical contact, the absence of clarity in information, and the complexity of electronic contracts. As Araujo (2019, p. 19) points out, the legislation has not yet fully followed the needs of the digital consumer, leaving him at the mercy of suppliers who are not always transparent or respect the rights established by the CDC. Therefore, it is essential that consumer rights in the digital environment are constantly reviewed and updated to ensure that the principle of vulnerability is effectively protected, offering consumers not only legal guarantees, but also practical and accessible means of defending their rights.

With regard to technical hyposufficiency, it is crucial to understand that the consumer not only suffers from the lack of information, but also from the complexity of the products and services offered in e-commerce. The dichotomy between legal vulnerability and technical hyposufficiency requires a differentiated approach on the part of legal operators. As highlighted by Miragem (2016, p. 129), the asymmetry of information in online transactions can be as significant as the inequality of power in face-to-face relationships. From this perspective, it is possible to say that, in order to ensure effective protection for the virtual consumer, a continuous legislative effort is necessary, in addition to the expansion of conflict resolution channels, so that the principle of vulnerability is treated with the seriousness that the evolution of e-commerce requires.

These challenges can be addressed through legislative reforms, expanding legal education for consumers, and adapting case law to address the specificities of the digital environment. The vulnerability of the consumer, therefore, is not a static condition, but a dynamic situation that requires constant vigilance on the part of legal operators and consumers themselves. Thus, for e-commerce to develop in a fair and balanced manner, it is essential that the legal guarantees provided for in the CDC are effectively applied, promoting real consumer protection in virtual consumer relations.

CONSUMER LEGAL PROTECTION ON DIGITAL PLATFORMS

The legal protection of consumers on digital platforms is a central theme in contemporary times, given the exponential growth of e-commerce and the new forms of interaction between consumers and suppliers (Marques; Mucelin, 2022). The Consumer

Protection Code (CDC), since its creation, seeks to balance consumer relations, granting special protection to consumers, considered vulnerable in commercial interactions. In the digital environment, this vulnerability is amplified by the asymmetry of information and the complexity of online contracts.

In this context, the Federal Constitution of 1988, in its article 5, item XXXII, guarantees consumer protection as a fundamental right, recognizing its fragility in the market and ensuring the State's duty to promote consumer protection. This constitutional recognition is a crucial step in ensuring that consumers on digital platforms are also protected from unfair and abusive commercial practices.

Digital platforms, as intermediaries in consumer relationships, exert significant power over consumers, as they hold valuable information about their consumption habits, preferences, and personal data. As Rahman (2018) rightly observes, different forms of power are exercised by internet intermediaries, and online platforms stand out in this scenario for their ability to manipulate and control data. This power is amplified by the lack of specific regulation for commercial relations in the digital environment, which hinders the effective enforcement of consumer rights.

In view of this, Brazilian legislation has sought to adapt to protect consumers, either with the General Law for the Protection of Personal Data (LGPD), which regulates the use and processing of personal data, or with the introduction of new provisions in the Consumer Protection Code, such as Law 14.181/2021, which deals with consumer harassment, complementing consumer protection against abusive practices.

Consumer vulnerability in the digital context is amplified by the lack of clarity in information and the difficulty of accessing effective complaint channels. According to Marques and Miragem (2012), the CDC was designed to protect a vulnerable group, seeking to rebalance the consumer relationship through fundamental rights, such as the right to information, choice, reflection and transparency. These rights apply directly to consumer relations on digital platforms, where transparency and clarity in information are essential to ensure consumer autonomy. Digital vulnerability requires a more comprehensive approach, ranging from the privacy of personal data to freedom of technological choice, as proposed in Bill 3,514/2015, which suggests changes to the CDC to deal with the new needs of e-commerce. This regulatory flexibility, combined with the CDC's ability to adapt, allows the consumer protection system to remain relevant and effective in the face of constant technological changes.

However, the advancement of virtual consumer relations is not without challenges. The large volume of litigation involving consumers in the digital environment, as highlighted

by the CNJ (2018), is a reflection of the ineffectiveness of conflict resolution mechanisms and the overload of the judicial system, which hinders the effective protection of consumer rights.

In a scenario where the congestion rate of lawsuits is high, consumer protection on digital platforms becomes an even greater challenge, requiring the implementation of alternative dispute resolution measures, such as online mediation and arbitration, as well as the creation of specific bodies to supervise commercial practices on digital platforms. The creation of a robust consumer protection system in the digital environment involves the integration of laws such as the Civil Rights Framework for the Internet, the LGPD, and future regulations on artificial intelligence, ensuring that the consumer continues to be protected, even in the face of technological innovations.

Consumer protection on digital platforms is a reflection of the legal evolution necessary to deal with market changes, especially in a globalized context, as defended by Saldanha (2018, p. 19), who observes the relevance of legal cosmopolitanism in the search for solutions to problems of globalization. The adoption of a flexible legal system, which adapts to the new realities of e-commerce, is essential to ensure that consumer rights are effectively protected.

The power of digital platforms over consumers, identified by Rahman (2018), requires stricter regulation, capable of ensuring that commercial practices are transparent and that consumers' personal data is treated with respect and responsibility. Brazilian legislation has been attentive to this need, with the inclusion of new rules in the CDC and the creation of laws such as the LGPD, which aim to ensure the privacy and security of consumers on online platforms.

The vulnerability of the digital consumer, as discussed by Soares and André (2023), requires an approach that goes beyond simple market regulation, covering aspects such as the clarity of information and the accessibility of complaint channels. Bill 3,514/2015 is a clear example of how the legislation seeks to evolve to meet the new demands of e-commerce, providing consumers with greater freedom of choice and control over their personal information. As a result, Brazilian legislation is in the process of adaptation, with the CDC functioning as a dynamic system that guarantees comprehensive and adequate protection for the consumer, regardless of technological changes. This plasticity of the CDC is essential to ensure that the consumer protection system continues to be relevant, effective and capable of facing the challenges imposed by digital platforms.

Finally, the high rate of congestion of judicial proceedings, as demonstrated by the CNJ (2018), reveals the overload of the judicial system and the urgent need for alternatives

for conflict resolution in the digital environment. The implementation of out-of-court mechanisms, such as mediation and arbitration, as well as more effective regulation of online business practices, is essential to ensure that consumer rights are effectively protected. The integration of new laws, such as the Civil Rights Framework for the Internet and the LGPD, and the implementation of a robust consumer protection system are fundamental steps to ensure that, even in a globalized and digital scenario, consumers continue to be protected from unfair and abusive practices.

THE RESPONSIBILITY OF SUPPLIERS IN E-COMMERCE

E-commerce, although it represents a great technological advance, brings with it significant challenges with regard to the security of consumer relationships. In the virtual environment, suppliers have the responsibility to ensure that transactions are carried out based on good faith, transparency, and respect for consumer rights. In this context, Brazilian legislation, especially the Consumer Protection Code (CDC), Law No. 8,078/90, plays a fundamental role.

The CDC establishes, in its article 14, the strict liability of suppliers for damages caused to the consumer, regardless of fault, which covers both material and moral damages. This principle of strict liability is essential to ensure trust in e-commerce, ensuring that consumer rights are respected, even when the transaction takes place in a digital environment (Lucena, 2021).

In the 1990s, e-commerce began to expand globally, and in 1994, Pizza Hut made the first online sale, selling a pizza, a historic milestone in the sector (ABE, 2018). In Brazil, about fifteen years later, Livraria Cultura was a pioneer in internet sales, starting its activities in e-commerce in 1995 (TOMÉ, 2018). In this context of transformations, e-commerce, through its virtual retail platforms, has been able to overcome challenges such as building trust and disseminating information through feedback, rating systems, in addition to offering escrow mechanisms and dispute resolution methods, as highlighted by the World Bank (2016, p. 12).

With the exponential increase in online shopping, especially in the context of the Covid-19 pandemic, trust in the digital environment has become a crucial factor for the success of e-commerce. Therefore, it is imperative that suppliers not only comply with their legal obligations but also anticipate the needs of an ever-evolving market by creating a safe, transparent, and accountable virtual environment.

This expansion was significantly accelerated by the Covid-19 pandemic, which imposed several restrictions on physical interaction between consumers and suppliers,

resulting in a significant increase in transactions carried out electronically. In this context, Miragem (2022, p. 33) highlights that:

What seemed to be an unavoidable consequence of the advancement of information technology accelerated with the pandemic: internet consumption — e-commerce — began to include a series of products and services traditionally offered in the physical world. Social distancing has made the acquisition of more diverse products, medical consultations and consultations with a series of other professionals, education services, professional meetings and congresses, among others, to be carried out over the internet. The equation of advantages and disadvantages allows us to perceive the tendency for many of these activities that started to be carried out through the digital environment to continue like this in the post-pandemic.

However, e-commerce practices must follow consumer protection standards, which are spread across several provisions of the Brazilian legal system. Among these rules, the application of the Consumer Protection Code (CDC), Law No. 8,078/90, stands out, which establishes the basis for any consumer relationship, whether carried out over the internet or by other means.

In addition, Decree No. 7,962/13, which regulates e-commerce practices in Brazil, imposes additional obligations on suppliers, such as the need to provide clear and accessible information about products and services, including price, characteristics, delivery times, and return policies. Transparency in information is not only a recommendation, but a legal requirement, aiming to protect the underprivileged party in the consumer relationship, the consumer. Failure to provide this information places the supplier in a situation of legal vulnerability, with the possibility of liability for damages resulting from the lack of clarity. This duty of information is reinforced by article 6 of the CDC, which ensures the consumer's right to adequate and clear information about the products and services offered.

The responsibility of suppliers in e-commerce goes beyond the mere delivery of accurate information; It also involves the security of the digital platforms used for transactions. According to the General Law for the Protection of Personal Data (LGPD – Law No. 13,709/18), suppliers have a duty to ensure the protection of consumers' personal and financial data. The failure in the security of the platforms, which results in data leakage or theft, can generate the supplier's liability. This is because the privacy and integrity of the information provided by consumers are fundamental rights that must be respected during the transaction. The responsibility, therefore, extends to cybersecurity, and it is crucial that suppliers adopt appropriate measures to prevent any type of data breach.

E-commerce in Brazil does not have specific legislation, but the practices must follow consumer protection rules that are spread across several provisions of the Brazilian legal system. The Consumer Protection Code (CDC) provides the basis for any consumer

relationship, whether carried out over the internet or by other means. The CDC is applicable not only to Business-to-Consumer (B2C) relationships, but also to Business-to-Business (B2B) relationships, as long as the end user is an individual or legal entity, as established by Law No. 8,078/90. Thus, the e-commerce supplier, even if it deals with companies, is still responsible for ensuring that the final consumer has his rights respected, under penalty of violating consumer rules. With the increase in online transactions, especially during the Covid-19 pandemic, the responsibility of suppliers in e-commerce has become even more strategic, being essential for consumer confidence in virtual platforms.

The expansion of e-commerce began in the 1990s, with important milestones, such as the first online sale of Pizza Hut in 1994, which sold a pizza, and the entry of Livraria Cultura into e-commerce in Brazil in 1995 (TOMÉ, 2018). However, the industry faced initial challenges related to building trust between consumers and suppliers. E-commerce, with its virtual retail platforms, has overcome these hurdles through feedback, rating systems, as well as offering escrow mechanisms and dispute resolution forms, as noted by the World Bank (2016). With the increase in online shopping and the strengthening of legal regulations, suppliers need to adopt responsible practices to ensure the legal certainty of their operations, adapting to legal requirements and consumer expectations.

In short, the responsibility of suppliers in e-commerce is multifaceted and involves both the provision of clear and accurate information and the adoption of security measures to protect consumers' personal and financial data. Brazilian legislation, such as the Consumer Protection Code, the LGPD, and specific decrees, offers a robust legal framework to ensure consumer protection in virtual transactions.

FINAL CONSIDERATIONS

The study was able to offer an in-depth analysis of the implications of the principle of vulnerability in virtual consumer relations, demonstrating the need to improve the existing legislation. From the review of the rules applicable to e-commerce and the evaluation of the relevant court decisions, it became clear that, despite the advances achieved so far, there are legal gaps that still compromise the effective protection of consumers in the digital environment. The analysis of suppliers' responsibilities and legal guarantees revealed that, although there are provisions such as the Consumer Protection Code and the General Data Protection Law, the application of these rules faces practical challenges in the face of the speed of technological transformations and the complexity of new forms of consumption.

The principle of consumer vulnerability, which finds its support in the Consumer Protection Code (CDC), is essential to ensure the protection of the underprivileged party in

consumer relations, especially in the digital environment. In this sense, the Federal Constitution of 1988, by recognizing the vulnerability of the consumer as a fundamental right (art. 5, XXXII), establishes a framework for the protection of the individual in commercial relations. Vulnerability in the virtual context, however, requires more specific measures, since consumers are subject to commercial practices that are often far from their ability to evaluate, especially with regard to information security and transparency of offers.

The legal protection of the consumer on digital platforms is a central theme to ensure that virtual consumer relations are not harmful to the user. The Consumer Protection Code, despite being a robust tool, needs to be constantly adapted to the new realities of e-commerce. The Brazilian legislation, by recognizing the vulnerability of the consumer and adopting the strict liability regime of suppliers, brings an important advance, but there is still a need to improve the specific regulations for the internet. Law No. 10,962/04 and Decree No. 7,962/13, for example, regulate the display of prices and transparency in the information provided to the consumer, but legal gaps are still evident, especially with regard to the protection of personal data and cybersecurity.

The responsibility of suppliers in e-commerce, as established by the CDC (art. 14), is also shown to be a crucial point in consumer protection on digital platforms. The supplier, when operating in the virtual environment, assumes strict liability for the damages caused to consumers, regardless of fault. This includes material and moral damages resulting from failures in the provision of information, security in transactions and in the storage of personal data. The responsibility of suppliers extends to the implementation of effective information security systems, as provided for in the General Law for the Protection of Personal Data (LGPD – Law No. 13,709/18), being an essential measure to ensure that consumers are not victims of fraud or data leaks in the digital environment.

Despite regulatory and jurisprudential advances, e-commerce still faces challenges in terms of implementation and enforcement. The accelerated expansion of e-commerce, driven by the Covid-19 pandemic, has further exposed the weaknesses of the consumer protection system. With the increase in online transactions, the performance of suppliers and the creation of new consumption platforms require a constant review of legal and commercial practices. The lack of specific legislation for e-commerce is one of the main gaps that hinders the uniform application of consumer protection rules in the digital environment, which generates legal uncertainty for both consumers and suppliers.

The failures in consumer legal protection on digital platforms are not limited to the issue of transparency in information or the security of personal data, but also to the lack of conflict resolution mechanisms that meet the growing demand for quick and effective

solutions. In this sense, virtual consumption platforms should be encouraged to adopt clear dispute resolution policies, such as mediation or arbitration systems, which allow consumers to solve their problems without resorting to the judiciary, ensuring agility and avoiding the overload of the judicial system.

In a scenario of constant technological innovation, the responsibility of suppliers in e-commerce goes beyond the simple delivery of products or services. It involves creating a safe, transparent, and reliable environment for consumers, which must be backed by a set of clear rules that are appropriate to the digital reality. The evolution of e-commerce demands a continuous adaptation of legal rules, with a view to ensuring equity in consumer relations, respecting the principle of vulnerability and ensuring consumer protection in the face of unfair commercial practices and damages resulting from the lack of security and transparency.

Finally, this study reaffirms the urgent need for a more robust and specific legislation for e-commerce, which can fill the identified legal gaps and offer a level of protection consistent with the complexity of virtual consumer relations. Regulation must be clearer about consumer rights, the responsibility of suppliers and the security of digital platforms, so that the virtual environment can become a safe, efficient and fair consumption space for all involved. The role of judicial and legislative authorities is crucial for the principle of consumer vulnerability to be effectively complied with, thus ensuring a balance in digital consumer relations and, consequently, trust in e-commerce as a viable and sustainable market model.

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