



Government of the People's Republic of Bangladesh  
WTO Cell, Ministry of Commerce  
**Bangladesh Regional Connectivity Project-1**  
Probashi Kollayan Bhaban  
Eskaton Garden, Dhaka-1000

Policy Review/Policy Study/Policy Paper Preparation  
on  
National Digital Commerce Policy, 2018



March 2022

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on  
National Digital Commerce Policy, 2018**

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**Submitted to**

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## Preface

The final report intends to respond to the requirement according to the provision of the contract agreement signed between Bangladesh Regional Connectivity Project-1 (BRCP 1) and South Asian Network on Economic Modeling (SANEM) for conducting **“Policy Review/Policy Study/Policy Paper Preparation under the Bangladesh Regional Connectivity Project 1”** in collaboration with International Development Association (IDA), The World Bank. The objective of this technical assistance project is to review the existing government policies related to trade to strengthen cooperation in trade, transport, and transit facilities and facilitate the economic empowerment of women traders. The ongoing context and challenges are compared with the existing policies. It has also analyzed the best practices of regional comparators to promote and improve trade-related activities as well as the relevance of SHE trade with the existing policies. Finally, based on the findings, the recommendation for future policy has been identified.

Consultancy services for conducting the **“Policy Review/Policy Study/Policy Paper Preparation under the Bangladesh Regional Connectivity Project 1”** was provided by the South Asian Network on Economic Modeling (SANEM), Bangladesh. The study team consists of four senior-level experts. The major objective of the study is to depict a clear picture of the current state of the implementation of the policies, challenges and to provide suggestions for future policies. Furthermore, Reviewing and identifying the gaps in the existing policies were also aimed to be found for this study.

Various issues have been identified upon the review of the **National Digital Commerce Policy 2018** which includes an overview of digital commerce, e-commerce of Bangladesh, the crisis of the e-commerce sector in Bangladesh, post-graduation challenges, consumer rights protection, problems in the logistic sector, and issues regarding implementation.

We hope that the policy recommendations would be advantageous for the policymakers and other stakeholders for the development of this fastest-growing digital commerce sector.

**Md. Mijanur Rahman**

Project Director (Joint Secretary)

Bangladesh Regional Connectivity Project-1

Ministry of Commerce

## Acknowledgments

It is indeed a great pleasure that Bangladesh Regional Connectivity Project 1 (BRCP-1), Ministry of Commerce has entrusted International Development Association (IDA), the World Bank to carry out “**Policy Review/Policy Study/Policy Paper Preparation**”. The report of the study has been prepared based on the mixed methodology. The studies are 1) Competition Act, 2012 2) Foreign Private Investment Promotion and Protection Act 1980, and 3) National Digital Commerce Policy, 2018.

The three policy papers contain objective, scope, and methodology for the studies, current context, and challenges, deviation from the international practices, the relevance of the policies with the SHE trade. The consultants also described the best practices of regional countries adapted to facilitate trade-related activities. In the end, the findings from the analysis and recommendations for the upcoming policy papers are portrayed.

The authors wish to thank Md Mijanur Rahman, Project Director, Bangladesh Regional Connectivity Project 1, and Md Munir Chowdhury, National trade expert, BRCP-1 for their valuable comments and continuous support in undertaking the study.

We are also thankful to all the officials and participants who took part in the consultation meetings, both online and in-person, for helping us with their constructive criticism and valuable suggestions during the study period.

This work would not have been possible without the participation of the relevant stakeholders in the Key Informant Interviews (KIIs) as well as in the Focus Group Discussion (FGD).

Thanks are also due to all respondents of interviews, FGDS, KIIs who helped us by providing their information during the data collection period.

The contribution and support provided by everyone for the study are greatly appreciated.



**Dr. Selim Raihan**  
Executive Director, SANEM

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## List of Acronyms

<i>AI</i>	<i>Artificial Intelligence</i>
<i>BASIS</i>	<i>Bangladesh Association of Software and Information Services</i>
<i>BB</i>	<i>Bangladesh Bank</i>
<i>BRCP</i>	<i>Bangladesh Regional Connectivity Project</i>
<i>COVID</i>	<i>Coronavirus</i>
<i>CRPA</i>	<i>Consumers Right Protection Act</i>
<i>e-CAB</i>	<i>e-Commerce Association of Bangladesh</i>
<i>E-commerce</i>	<i>Electronic Commerce</i>
<i>FDI</i>	<i>Foreign Direct Investment</i>
<i>FGD</i>	<i>Focus Group Discussion</i>
<i>FY</i>	<i>Fiscal Year</i>
<i>GDP</i>	<i>Gross Domestic Product</i>
<i>GoB</i>	<i>Government of Bangladesh</i>
<i>KII</i>	<i>Key Informant Interview</i>
<i>ICT</i>	<i>Information and Communication Technology</i>
<i>LDCs</i>	<i>Least Developed Country</i>
<i>MFS</i>	<i>Mobile Financial Services</i>
<i>MoC</i>	<i>Ministry of Commerce</i>
<i>MSME</i>	<i>Micro, Small, and Medium Enterprise.</i>
<i>NBR</i>	<i>National Bureau of Revenue</i>
<i>NGO</i>	<i>Non-Government Organization</i>
<i>SDG</i>	<i>Sustainable Development Goals</i>
<i>SOP</i>	<i>Standard Operating Procedure</i>
<i>SME</i>	<i>Small and Medium Enterprise</i>
<i>TIN</i>	<i>Taxpayer's Identification Number</i>
<i>UMIC</i>	<i>Upper Middle Income Country</i>
<i>UNCTAD</i>	<i>United Nations Conference on Trade and Development.</i>
<i>USA</i>	<i>United States of America</i>
<i>USD</i>	<i>United States Dollar</i>
<i>VAT</i>	<i>Value Added Tax</i>
<i>WDI</i>	<i>World Development Indicators</i>
<i>WTO</i>	<i>World Trade Organization</i>
<i>4D</i>	<i>Four Dimensional</i>
<i>4IR</i>	<i>4th Industrial Revolution</i>

## Executive Summary

The Government of Bangladesh (GoB) has launched the Bangladesh Regional Connectivity Project 1 (BRCP-1) in collaboration with the International Development Association (IDA), the World Bank, and this report has been produced as an outcome. The Ministry of Commerce (MoC) is responsible for implementing component two of the umbrella project. Reviewing the existing government policies related to trade is the primary concern of this technical assistance project to increase trade-related institutional capacity, ensure active and sustainable cooperation among trade-related stakeholders, and facilitate the economic empowerment of women traders. Also, as Bangladesh is on the verge of graduating from the LDC category in 2026, reviewing the existing trade-related policies is necessary for smoother post-graduation export performance. For the unencumbered performance in the post-graduation period, formulation of effective trade-related policies and proper implementation is of much importance.

By using a mixed methodology including desk research, KIIs, and FGDs, SANEM has conducted this policy review on National Digital Commerce Policy, 2018. Several aspects have been ascertained by this review paper considering the implementation challenges, relevance to the changing nature of the global perspective, and current trade scenario. This review has compared the National Digital Commerce Policy of Bangladesh with the policies of South Korea and China. The review has also considered the gender aspect of mainstreaming women traders by the existing provisions of the National Digital Commerce Policy, 2018.

In chapter two, of this paper, the current policy's context, challenges, general overviews, trade-related provisions are investigated. The relevance of the National Digital Commerce Policy, 2018, in the present changing trade scenario and the deviation of the policy provision from the regional comparators, are analyzed.

Chapter three has discussed the relevance of the current policy in promoting and mainstreaming women entrepreneurs in international trade and global value chains. In Chapter four, the findings of the study are portrayed based on the KIIs and FGDs. Chapter five provides possible recommendations and a way forward and chapter six states the concluding remarks of this policy review.

The elemental findings of this study have pointed out that the provisions of the current National Digital Commerce Policy 2018 are well thought out and crafted. The National Digital Commerce Policy 2018 doesn't have binding nature which makes it difficult to implement on a large scale. Some of the significant challenges of the effective function of the National Digital Commerce Policy 2018 are the shortfall of inter-ministerial coordination, low internet bandwidth, dependency on cash on the delivery system rather than digital payment procedure, aggressive marketing system, and policy harmony, etc.

Based on these findings, it can be seen that there is a need for a binding system for the smooth functioning of the digital commerce-related sectors. Formulating an act instead of a policy has become a prominent issue recently. In this regard, some specific recommendations for the upcoming National Digital Commerce Acts are mentioned in chapter five of the policy paper. Specific goals and objectives should be uttered in the future National Digital Commerce

Act reflecting the targets of the online consumer rights protection, promoting digital payment system, actions against outwit issue, aggressive marketing issues, 4IR, and LDC graduation. The development aspect of the national digital commerce act should be more focused on the employment generation aspect. Policy harmony, inter-agency coordination, easing trade license procedure for online business entrepreneurs, enhancing digital literacy of mass people through awareness-raising campaigns and programs, capacity building, concrete mention of penalties for contravention, are some significant recommendations for the upcoming national digital commerce act.

# 1. Introduction

## ***1.1 Background of this Study***

The emergence of the internet took place in Bangladesh in the late 1990s (e-CAB, 2016). The number of internet users was not that much before the present context. After 2014, the number of internet subscribers gradually has increased. At present, the number of internet subscribers in Bangladesh is about 123.74 million according to the data from Bangladesh Telecommunication Regulatory Commission. That means there is an enormous scope of digital commerce in Bangladesh. The term digital commerce refers to several elements such as digital payment, electronic auctions, electronic digital bureaucracies, etc. (Kimbrough, S. O., & Lee, R. M., 1998). Moreover, during the COVID-19 pandemic, the dependency on digital commerce has significantly risen. The behaviour of consumers towards more digitalised aspects has increased than in the past.

The WTO cell of the Ministry of Commerce formulated the National Digital Commerce Policy in 2018 which was approved by the cabinet in 2019. With 14 objectives and 61 targets, the policy guideline visions to improve and facilitate digital commerce in Bangladesh. A 24-member national committee also has been established under the chairmanship of the Honourable Commerce Minister. And its prime objective is to make the guideline as user-friendly as possible.

Meanwhile, UNCTAD has recently carried out "Bangladesh Rapid e-Trade Readiness Assessment identified some key findings on i) E-commerce strategies, ii) prevailing ICT Infrastructure and services, iii) Trade Logistics and Trade Facilitation, iv) Payment Solution, V) Legal and Regulatory Framework, and vi) e-Commerce Skills Development. Based on the available resources and policy documents, this study will try to identify the reforms needed in the existing guidelines as well as keep liaison with the technical committee and other pertinent stakeholders. The analysis will be based on these findings and will incorporate the reforms or changes that can be made in the current policies. Promotion and further facilitation of "SHE Trades" through this policy will also be examined in this study.

The South Asian Network on Economic Modeling (SANEM), has been assigned to provide consultancy services for the selected activities of the technical assistance project, which is to review the existing trade-related policies to strengthen cooperation in trade, transport, and transit facilities. The policy reviews will also address the barriers faced by women traders in becoming more integrated into the global supply chains and trading opportunities. As part of the project, SANEM will review 22 policy documents and critically scrutinise each of the policies to demonstrate the compatibility, objectives, challenges, future aspects, and possible recommendations for further improvement.

## ***1.2 Objectives and Research questions***

By reviewing the existing National Digital Commerce Policy 2018, the broad objective of this study is to provide feedback to the government to strengthen the concept of cooperation in trade, transport, and transit facilities. The review of this policy will also provide advocacy for

mainstreaming female traders, and facilitate policy coherence between national development priorities and international obligations on trade facilitation. The broad research questions of this particular policy review are as follows:

The key research questions for this study are as follows,

1. Based on the policy document, findings of the UNCTAD study, and other policy reports, what reforms can be made to the existing guidelines?
2. How can female entrepreneurship be promoted through this policy?
3. Are the objectives of the National Digital Commerce Policy 2018 in line with the present context? (LDC graduation, 8<sup>th</sup> five-year plan, graduating to Upper Middle Income Country (UMIC) category, and changing trade scenario due to Covid pandemic)?
4. Are the measures to achieve the objectives, stated in the National Digital Commerce Policy 2018 consistent with the present context?
5. What are the possible implementation/institutional challenges achieving the objectives?
6. Any country example that Bangladesh can follow in formulating its future policies?
7. Is the National Digital Commerce Policy 2018 gender-inclusive? Does it facilitate “She trade”?
8. What could be the necessary alterations, exclusions, and inclusions of the existing provisions of the National Digital Commerce Policy 2018 to make it more coherent and forward-looking?

### **1.3 Methodology**

Given the objectives and the key research questions of this study, the research team will primarily follow mixed methodologies presenting the deliverables. The methodology will be based on two significant tasks in general:

- (i) Rigorous desk research of all relevant policy documents, literature, and secondary data, and
- (ii) Primary data collection and analysis by conducting Key Informant Interview (KIIs) and Focus Group Discussions (FGDs) with stakeholders relevant for the study.

Therefore, the research methodology can be categorised as follows:

#### **1.3.1 Desk Research**

The study will conduct rigorous desk research focusing on the principal components of the study. The desk research will include a review of all relevant documents and literature on digital commerce, domestic and international law, and prevailing global best practices. Accordingly, the team will also examine and analyse the available secondary data. The research team will focus on the following documents for desk review. The research team will focus on the following documents for desk review,

- National Digital Commerce Policy documents
- Digital Commerce Policy guidelines and operational manual.
- The report of UNCTAD on the readiness of e-Trade of Bangladesh and relevant global literature
- Other relevant literature

During the desk research, the research team will follow the following steps,

- A thorough appraisal of existing policy documents, including all relevant and current policies, acts, ordinances, legislation, agreements, treaties, and literature.
- Formulating the KIIs and FGD checklists based on the review of the stated documents.
- Complementing the preliminary analysis with the findings from the primary data.
- Inspecting and analysing the trends in e-commerce product trade, using the UNCTAD database, as a part of secondary data analysis. Data from other sources, such as World Bank, IMF, etc. will also be examined.
- Weighing the policies of other countries with robust e-commerce industries within the Bangladesh context

### 1.3.2 Primary data collection

In collecting primary data, the research team has followed a qualitative approach. Social aspects that are mostly unrepresented in the quantitative data can be addressed through qualitative data, which are expected to provide in-depth information on social dimensions and characteristics. As part of the qualitative data, the team will conduct Focus Group Discussions (FGD) and Key Informant Interviews (KIIs).

#### ***Focus Group Discussion (FGD)***

For this study, the research team has carried out two FGDs comprising 8-10 participants. The participants of the FGD were E-commerce Business Entrepreneurs, representatives from BASIS, and some f-commerce women entrepreneurs.

Due to the global pandemic situation, the FGDs were mostly conducted via the virtual platform Zoom.

#### ***Key Informant Interview (KII)***

The KIIs will be helpful for an in-depth understanding of the policies, assessment of projects, and identifying gaps. The research team conducted the KIIs with the following stakeholders:

**Table 1 List of KIIs for the policy review**

Organisation/Association	Key informants
Representatives from the Ministry of Telecommunications and ICT	<ul style="list-style-type: none"> <li>• Rina Parveen, Additional Secretary (ICT Promotion &amp; Research Wing), Information and Communication Technology Division</li> </ul>
Relevant personnel from E-Commerce	<ul style="list-style-type: none"> <li>• Mr. Hashim Ahmed, Secretary, BASIS</li> <li>• Enamul Hafiz Latifee, Joint Secretary (Research Fellow), BASIS</li> <li>• Md Ziaul Haque Bhuiyan, Chief of Staff, ShopUp</li> </ul>
Representatives from the ministry of commerce	<ul style="list-style-type: none"> <li>• Mr. Md.Khalilur Rahman, Director-3 (Deputy Secretary), WTO Cell</li> <li>• Md. Sayed Ali, Deputy Secretary, WTO Cell (E-Commerce Cell)</li> </ul>
E-commerce entrepreneurs	<ul style="list-style-type: none"> <li>• Mr. Fahim Mashroor, CEO, Ajkerdeal.com.bd &amp; bdjobs.com</li> </ul>

### ***1.4 Evaluation and analysis***

All the gathered data and information will be evaluated and analysed at this stage. This process will include:

- Pointing the gaps of existing information through rigorous desk research.
- Exploring the potential provisions of the existing ordinance to mainstream women entrepreneurs.
- Assessing the opportunity, challenges of the e-commerce industry.
- Analysis of primary data through FGDs and KIIs to evaluate the actual activities of the pertinent organization and the actors of the current e-commerce trade.
- Identifying the weaknesses and implementation challenges of the existing policy from stakeholders' experiences, through FGDs and KIIs.
- Comparing international best practices with the current scope of the policy framework.
- Providing possible legal recommendations about changes, alterations, exclusion, and extension of the current ordinance through consultation with legal experts, and recommendations of key informants and FDG participants.

### ***1.5 Organization of the Study***

In chapter two, of this paper, the current policy's context, challenges, general overviews, trade-related provisions are investigated. The relevance of the National Digital Commerce Policy, 2018, in the present changing trade scenario and the deviation of the policy provision from the regional comparators, are analyzed. Chapter three has discussed the relevance of the current policy in promoting and mainstreaming women entrepreneurs in international trade and global value chains. In Chapter four, the findings of the study are portrayed based on the KIIs and FGDs. Chapter five provides possible recommendations and a way forward and chapter six states the concluding remarks of this policy review.

## 2. The National Digital Commerce Policy 2018- Context and Challenges

### 2.1 Brief Overview of the legislation

The main goal of this policy is to establish a Digital commerce system and create a local and international market by using information and communication technology for transforming the business in the digitalization process. For a better understanding of this policy, there are in total three chapters in this study. Chapter one consists of the names, peripheries, and definitions of the policies, Chapter two includes the goal and objectives of the policy and in chapter three the operation and management of Digital commerce such as operating manual for digital commerce, and how to protect consumer rights for digital commerce, digital transaction, risk management and safety, adjustment of the agencies that are related to digital commerce projects, framework of laws and implementation, digital commerce promotion, amendments of the policies, conventions, and work plans.

**Table 2 Objectives of the National Digital Commerce Policy 2018**

<b>Objectives</b>	Promoting, expanding, and developing business through digital commerce
	Creating a compatible environment in conducting digital commerce business
	Assuring transparency, credibility, and accountability in conducting digital commerce business
	Creating a compatible environment in conducting digital commerce business
	Building up faith and reliance with buyers and sellers in purchasing and selling through digital commerce
	Taking legal and legitimate actions in reserving the interests of entrepreneurs, buyers, and sellers
	Supporting in the protection of consumer rights
	Mitigating the risks in the digital transaction by coordinating among relevant institutions.
	Assisting in cooperating the essential infrastructures (such as broadband internet, hosting) in digital commerce
	Facilitating coordination and legal side in product transportation and supply
	Making suitable environment in operating inter border digital commerce
	Easing the access to finance for improving the digital commerce among the small and medium entrepreneurs
	Generating opportunities in expanding digital commerce at the marginal level
	Creating opportunities for entrepreneurs and employments through digital commerce
	Outreaching and extending local products in the international sphere
	Preserving Digital business copyrights

Source: National Digital Commerce Policy 2018

### 2.2. Trade related provisions: current state and bottlenecks

#### 2.2.1 Formulation of the digital commerce operation guidelines 2021<sup>1</sup>

In Clause 3.3.6 of the National Digital Commerce Policy 2018, it was mentioned that a guideline should be created taking into account the transactions and supply of products

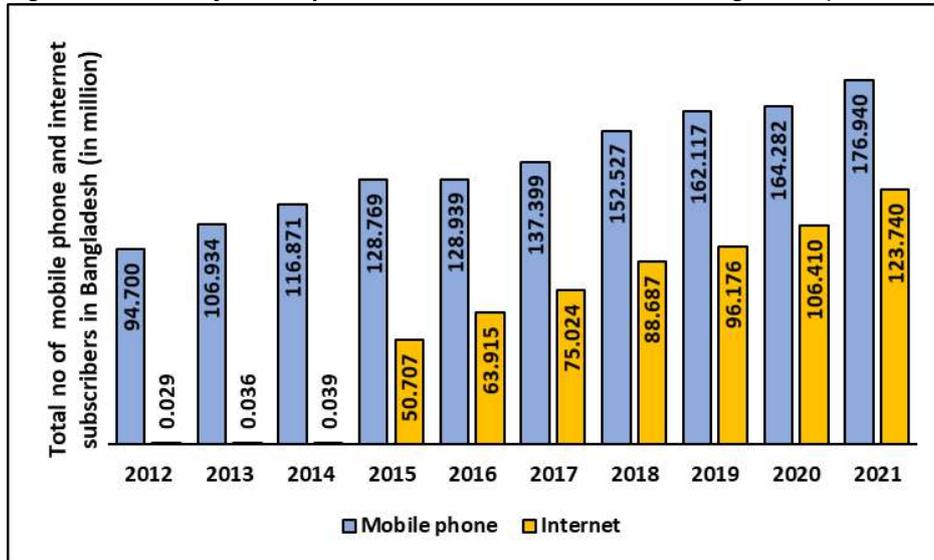
<sup>1</sup>Report |, F. E. (2021b, July 7). Digital commerce SOP may be amended: Minister. *The Financial Express*. <https://www.thefinancialexpress.com.bd/trade/digital-commerce-sop-may-be-amended-minister-1625629813>

related to digital commerce. Ministry of Commerce has successfully formulated the guideline which was published on July 4, 2021. This operation guideline can be amended depending on the requirement.

### 2.2.2 Mobile Phone and Internet Subscribers<sup>2</sup>

Figure-1 shows the trend of total mobile phone and internet subscribers in Bangladesh over the years. The internet subscribers were only 29415.693 thousand in 2012. The rate of internet subscribers was low till 2014 which significantly rose to 50.70 million in 2015. There is a significant rise in mobile subscribers and internet subscribers during 2020 and 2021 as the COVID-19 has increased the reliance on internet uses such as online classes, growth in e-commerce, etc.

**Figure 1 Total no of mobile phone and internet subscribers in Bangladesh (in million)**



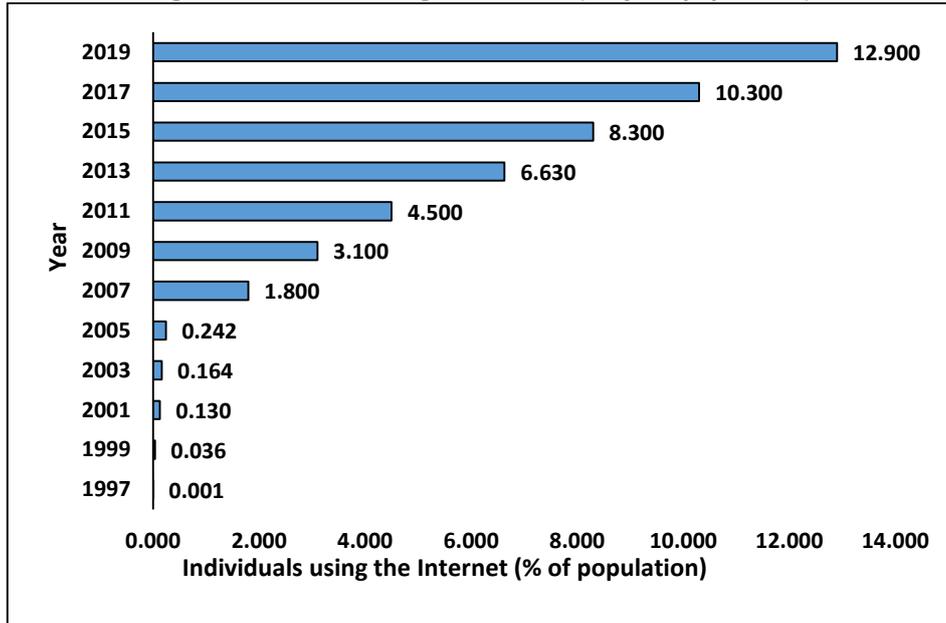
Source: Compiled by Authors from BTRC data

Figure-2 shows individuals using the internet (percentage of population). On June 4, 1996 internet was first launched in Bangladesh.<sup>3</sup> The percentage of the population using the internet was very low at the beginning. Only a few people had access to the internet. The percentage of the population using the internet was rising very slowly but after 2007 the rate began to rise. In 2019, 12.90% of the population was using the internet.

<sup>2</sup> Based on data from BTRC and World Bank Open Data

<sup>3</sup> *Internet History of Bangladesh*. (2009, April 8). Wireless Bangladesh. Retrieved October 31, 2021, from <http://wirelessbangladesh.blogspot.com/2009/04/internet-history-of-bangladesh.html>

**Figure 2 Individuals using the Internet (% of the population)**



Source: World Bank Open Data

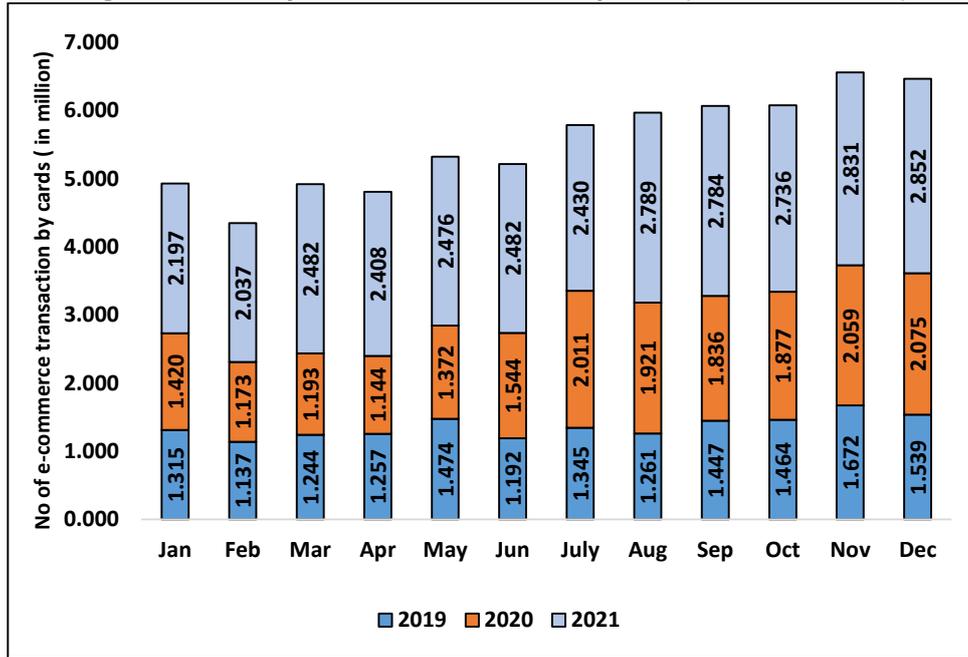
### 2.2.3 Transaction in E-commerce by cards<sup>4</sup>

The dependency on cash transactions has declined over the years. Dependency on card transactions has risen in recent years. Figure- 3 and 4 portrays the trend of transaction of e-commerce by cards (amount in millions) and the amount of e-Commerce Transaction by cards (in taka Billion).

In Figure-3, it can be seen that in January 2019, the number of transactions was 1.315 million which rose to 2.197 million in January 2021. If the number of e-commerce transactions (by cards) of June 2019 (1.192 million) is compared to June 2021 (2.482 million), it can be seen that the number of transactions has risen more than two times from 2019.

<sup>4</sup> Based on the data from Bangladesh Bank's website

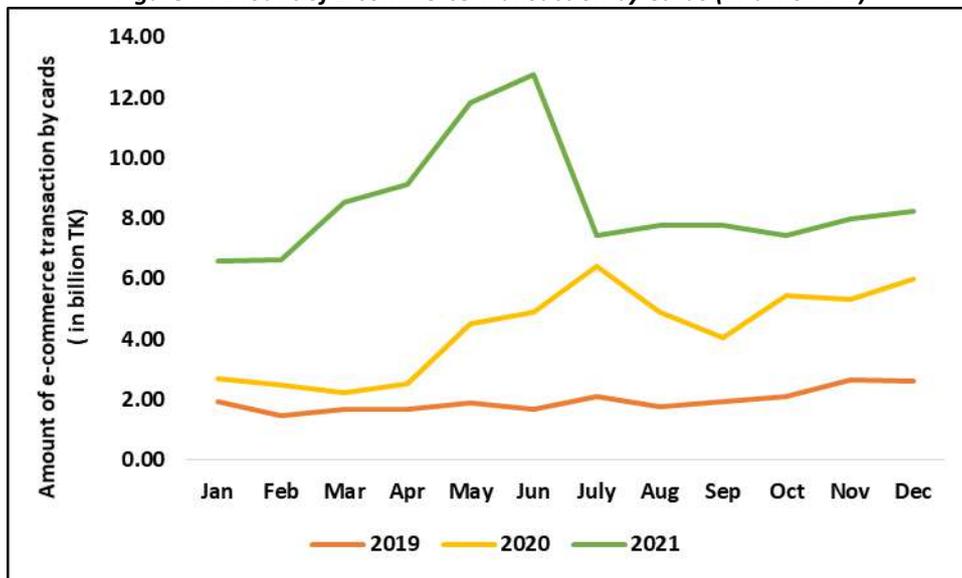
**Figure 3 Number of e-commerce Transaction by Cards (Amount in millions)**



Source: Authors' compilation based on the data from Bangladesh Bank

Figure-4 shows the number of transactions of e-commerce by the card of the year 2019 to 2021 (amount in billion Tk.). A significant rise is seen in the transaction from the year 2019 to 2021. In June 2019, the transaction was 1.70 billion takas that have increased almost 12% by June 2021 to 12.77 billion takas. It can be seen that in January 2021, the transaction amount was Tk. 6.60 billion which rose to 12.77 in June 2021.

**Figure 4 Amount of E-commerce Transaction by Cards (in billion Tk.)**



Source: Authors' compilation based on the data from Bangladesh Bank

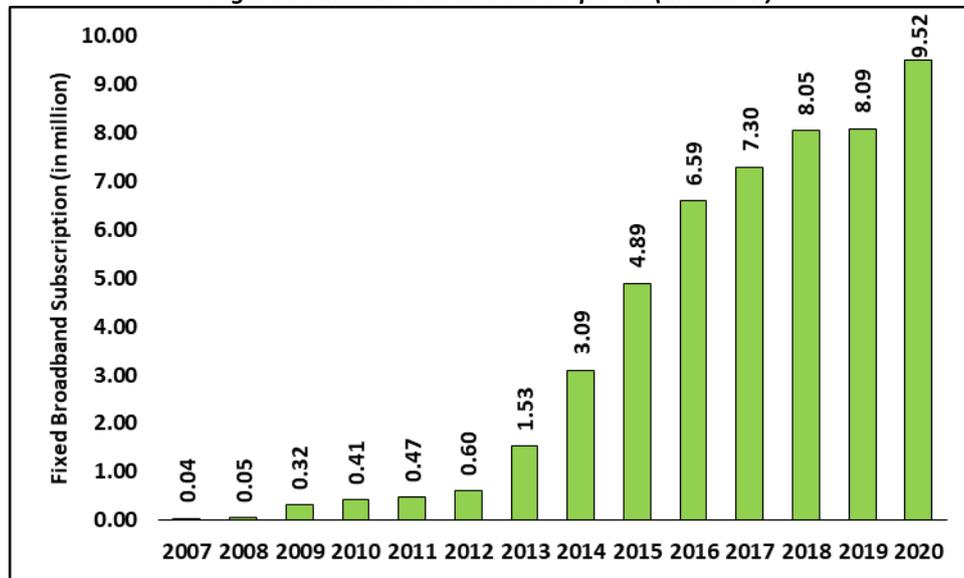
### 2.2.4 Fixed Broadband subscriptions<sup>5</sup>

The number of fixed-broadband subscriptions has increased tremendously. Figure-5 shows the increase in fixed broadband subscriptions over the past 14 years. In 2007 the only 40000

<sup>5</sup> <https://data.worldbank.org/>

people had fixed broadband subscriptions that rose to 50000 in 2008. The growth of fixed broadband subscriptions increased at a moderate level till 2012. The number rose significantly from 2013 to 2018. Only 40,000 subscriptions increased from 2018 to 2019. Due to the COVID-19 pandemic, there was a large dependency on the internet using that's why the number of fixed broadband subscriptions has increased to 9.52 million.

**Figure 5 Fixed Broadband Subscriptions (in million)**



Source: World Bank Open Data

### 2.2.5 Protection of local industries<sup>6</sup>

Foreign investors are allowed to engage in business which sometimes affects adversely the business environment of local industries. Several foreign technological platforms and e-commerce industries are restricted in China to protect their industries and as a result, they can develop Alibaba group. Bangladesh's pharmaceutical industries are highly protected industries and as a result, Bangladesh's pharmaceutical industries could be one of the competitive industries.

The higher capital and better technological advancement of the global industries often create an unequal business environment between them and the local industries. For the unequal level playing field between foreign industries and local industries, the local industries often have to destroy their own business as the global companies aim to destroy the local companies from the market to establish their market.

### 2.2.6 The Impacts of Foreign Direct Investment and Joint Venture

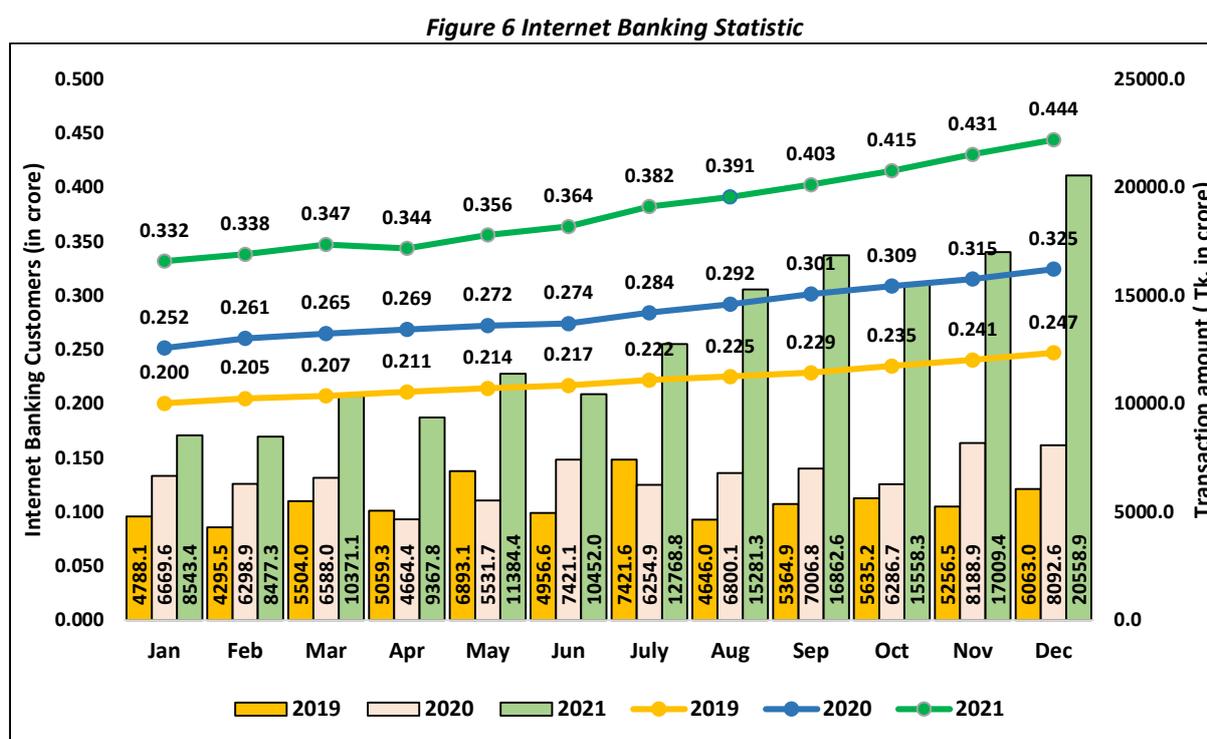
Foreign investors are allowed to engage in business which sometimes affects adversely the business environment of local industries. Several foreign technological platforms and e-commerce industries are restricted in China to protect their industries and as a result, they can develop Alibaba group.

<sup>6</sup>Information from KII with stakeholders

Bangladesh's pharmaceutical industries are highly protected industries and as a result, Bangladesh's pharmaceutical industries could be one of the competitive industries.

### 2.2.7 Internet Banking Status

During the last three years, the number of internet banking customers and the amount of transactions has risen significantly. Figure-6 shows the internet banking statistics over the last three years 2019, 2020, and 2021 (From January to June).<sup>7</sup>



Source: Authors' compilation based on the data from Bangladesh Bank

### 2.2.8 Issues regarding complaints and fines<sup>8</sup>

Maximum numbers of the allegation on e-commerce platforms are due to the infringement of the contract and the fee for this is a maximum of 50000 taka. The consumer will get only 25% of the fine if it is imposed. It will be a loss for the consumer if he/she orders products that cost over 10 lakh taka.

### 2.2.9 The Effectiveness of 'National Digital Commerce Policy 2018' in the Context of 2021<sup>9</sup>

The policy was appropriate and well written for the year 2018, but the context of 2021 is quite different, and this policy is not feasible for the context. More specifically, the digitalization process and the era of the fourth industrial revolution demands more updated policy.

<sup>7</sup> Data from Bangladesh Bank

<sup>8</sup> Hasan, S. H. A. M. (2021, September 20). Chorus of complaints against rogue e-commerce firms. *The Daily Star*. <https://assetsds.cdnedge.bluemix.net/business/economy/e-commerce/news/chorus-complaints-against-rogue-e-commerce-firms-2180576>

<sup>9</sup> Information from KII and FGD

### **2.2.10 Implementation issue/Challenges<sup>10</sup>**

Though there are several challenges, the progress rate is higher. Due to the lack of a strong monitoring system and appropriate guidelines, the implementation is not up to the mark. Coordination failure among several responsible stakeholders is one of the major challenges behind the implementation of the policy. Though several aspects of the policy have been undertaken the impacts are not up to the mark. Several challenges also need to be addressed by the policy. Firstly, the payment system is not business-friendly. Secondly, the monitoring and verification and cash security system are also very poor in terms of quality. Cash on delivery is one of the major challenges as there is a high risk for the cash.

### **2.2.11 Lack of Customer Literacy on Digital Business**

Due to lack of digital literacy, several problems have been raised and the customers become a victim by using digital platforms. Union Digital Centre is one of the ideal examples by which the vulnerable and marginalized group of people are being benefitted through appropriate training on digital literacy.

### **2.2.12 Absence of a Regulatory Framework for the E-Commerce Sector**

Various e-commerce platforms already scammed more than a thousand crores worth of money of the consumers. It has affected the confidence and the perspective towards e-commerce negatively. Although e-commerce can create a huge potential for new employment as well as job creation which can contribute highly to economic growth. That's why it needs to be monitored.<sup>11</sup>

### **2.2.13 Mobile Financial Service (MFS)<sup>12</sup>**

Over the last few years, Bangladesh is moving towards the digital age through the impetuous growth in digitalisation. The contribution of MFS operators in formulating the digital economy is becoming crucial in transforming Bangladesh. Over the last three years, the dependency on mobile financial services has increased tremendously. An upward trend has been observed in the number of total mobile financial services accounts since December 2018 (Figure-7). The monthly total transaction amount through MFS also has increased more than double the amount in December 2021 (Figure-8).

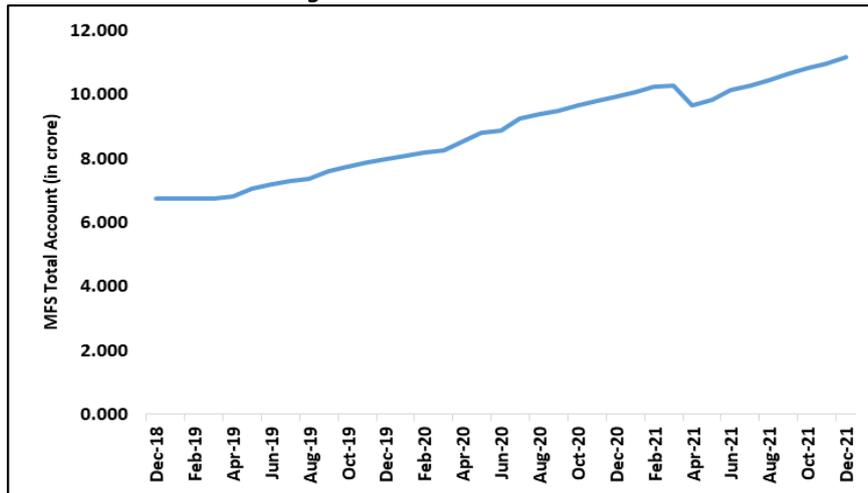
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<sup>10</sup>Information from KII with stakeholder

<sup>11</sup>CPD: The e-commerce sector does not need a new regulatory body. (2021, September 25). *Dhaka Tribune*. <https://www.dhakatribune.com/business/2021/09/25/cpd-the-e-commerce-sector-does-not-need-a-new-regulatory-body>

<sup>12</sup>Alam, M. R. (2021, December 7). MFS helping Bangladesh become digital economy. *The Daily Star*. <https://www.thedailystar.net/business/economy/news/mfs-helping-bangladesh-become-digital-economy-2912311>

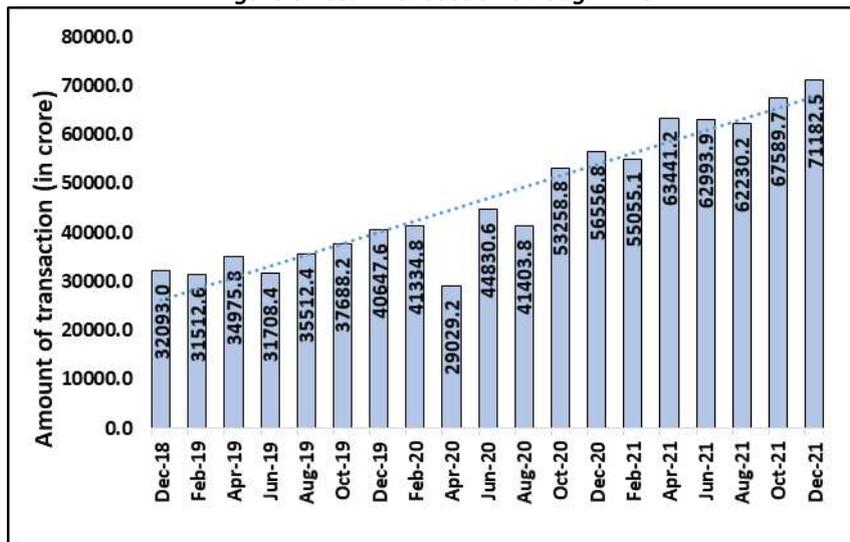
**Figure 7 Total MFS Accounts**



Source: Authors' compilation based on the data from Bangladesh Bank

An upward trend in total transactions amount has become apparent throughout these years. According to the statistics of Bangladesh Bank, in December 2018 the monthly transaction amount through MFS was 32093 crore which rose to 71182.5 in December 2021 ( Figure-8).

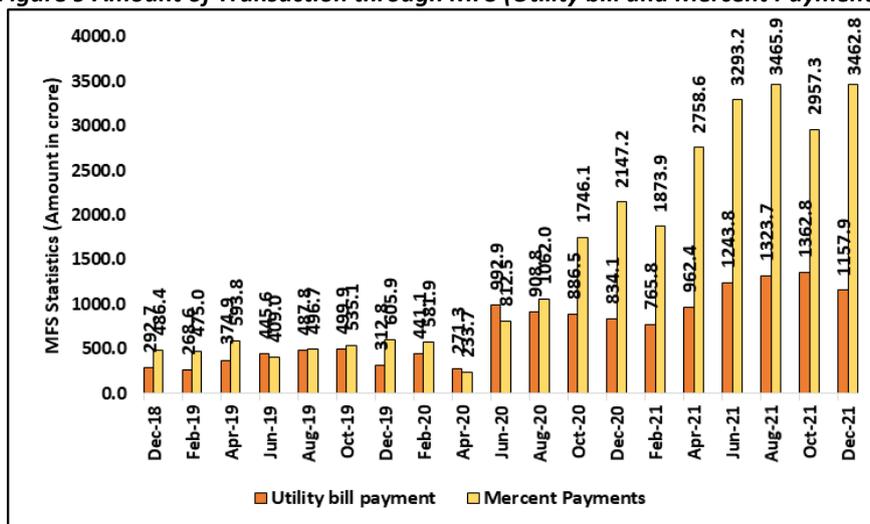
**Figure 8 Total Transaction through MFS**



Source: Authors' compilation based on the data from Bangladesh Bank

The payments of Digital bills such as utility bill payments through MFS are getting much popularity. The monthly transaction amount in December 2018 for utility bill payment was Tk. 292.7 crores which have increased more than three times the amount to Tk. 1157.9 crore in December 2021. In December 2021, the transaction amount of merchant payments rose approximately six times to 3462.8 crore taka which was 486.4 crore taka in December 2018. (Figure-9)

**Figure 9 Amount of Transaction through MFS (Utility bill and Mercant Payments)**



Source: Authors' compilation based on the data from Bangladesh Bank

## 2.3 Changing nature of the World Trade and Relevance of the National Digital Commerce Policy 2018

### 2.3.1 Post Graduation Challenges

The e-commerce sector has a great possibility in terms of revenue and employment generation for the growth and development of the LDCs and this sector can play a vital role in favoring and smoothening the graduation process. E-commerce deals with the production, advertisement, sale, and distribution of commodities via electronic means although the definition might differ. The main groups of the participants are nosiness, government, and, individuals. There is scope for domestic business as well as cross-border trade in e-commerce.

But to address the challenges that emerged after LDC graduation, lack of infrastructure development is one of the major needs. ICT sector should be more updated and dynamic to keep pace with the global context as well as to cope with the developed countries. Moreover, excessive vat and tax and knowledge gap about the appropriate amount of vat and tax is another major challenge that might create issues in post-graduation.

However, the e-commerce sector is contributing significantly to the growth of the employment rate which will help the country to address several challenges after LDC graduation.

### 2.3.2 Crisis in the E-commerce sector in terms of protecting consumers' right

Recently, fraudulence in the e-commerce sector is one of the major concerns. And the department of consumer rights protection in Bangladesh is responsible to protect the consumer's rights though due to inadequate manpower, problems arise in protecting the rights of the inline consumers.<sup>13</sup>

<sup>13</sup> Information from KIIs

### 2.3.3 Access to Finance<sup>14</sup>

E-commerce industries have to lack physical assets. E-commerce industries are run by Venture Capital Fund (VC Fund), which can be local or international. In Bangladesh, there is a lack of local VC funds and the amount of international VC fund is not significant as Bangladesh's e-commerce industries are strongly dominated by foreign companies (Daraz which is 100% subsidiary of Alibaba which is controlled 80% of the market) and therefore, the local industries cannot attract the foreign investors.

### 2.3.4 Growing necessity of laws and regulations<sup>15</sup>

Several risks are associated with cash on delivery and also in some cases, the right of customers sometimes cannot be ensured. A monitoring and regulation system for ensuring customers' rights is absent.

### 2.3.5 COVID-19 Pandemic and the growing importance of e-commerce

The dependency on e-commerce rose during the COVID-19 period. Before the pandemic, on average the number of deliveries of Chaldal was 2500 per day which has been increased to 10000 deliveries per day within one and a half years.<sup>16</sup>

### 2.3.6 Slow internet pace among the other countries

**Mobile data speed:** According to Ookla's Speedtest Global Index for mobile internet speeds, Bangladesh ranks 137 among the 140 countries mentioned in the list. The speed of mobile data is 12.92 Mbps. Among the South Asian countries, Nepal (114<sup>th</sup>) ranks higher than the other countries.<sup>17</sup>

**Fixed broadband:** The speed of fixed broadband is 38.98 Mbps in Bangladesh and it ranks 97 among the 180 countries in the list.<sup>18</sup>

### 2.3.7 Problems in logistics systems

Several problems are observed in logistic support. In the case of delivery of perishable goods or homemade foods, the complication arises if it is not delivered on time. The sellers and consumers both suffer in this case. The logistic support should be more updated and inlined with the global scenario.<sup>19</sup> Moreover, the transportation system creates constraints for the entrepreneurs to amplify the business. The faster delivery services require standard roads and highways which should be international standards. Furthermore, delays in the delivery of products occur due to the static traffic in the city.<sup>20</sup>

### 2.3.8 Payment Methods

In Bangladesh, most of the payments regarding online purchases rely on the cash-on-delivery system which is the most frequently used method. Although some payments are made

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<sup>14</sup> Information from KII and FGD

<sup>15</sup> Information from KIIs

<sup>16</sup> Star Business Report. (2021, September 16). Chaldal secures \$10m foreign fund for expansion. *The Daily Star*. <https://www.thedailystar.net/business/economy/news/chaldal-secures-10m-foreign-fund-expansion-2177086>

<sup>17</sup> <https://www.speedtest.net/global-index#mobile>, accessed on 22 September 2021

<sup>18</sup> <https://www.speedtest.net/global-index#mobile>, accessed on 22 September 2021

<sup>19</sup> Information from FGD

<sup>20</sup> Karim, M. T., & Qi, X. (2018). E-commerce Development in Bangladesh. *International Business Research*, 11(11). <https://doi.org/10.5539/ibr.v11n11p201>

through mobile financial services the rate is not that significant. The inclusion of MFSs and similar types of payment methods such as PayPal should be focused on.<sup>21</sup>

#### ***2.4 Deviation from the international practices (by comparators) South Korea, China and India***

In this section, we will look into the digital commerce legislation of some comparators that have achieved remarkable success. As Bangladesh is soon to graduate from the LDC status and possesses a vision to become a UMIC by 2031, a timely digital commerce policy must be designed to contribute to the economic growth of the country. Amending an act requires several legal procedures and at the same time, it is time-consuming. But a well-crafted act can have a huge impact on the regulation process. A critical analysis of the act on the consumers' protection in electronic commerce of South Korea, China 's law on e-commerce and Consumer Protection (E-commerce) Rules, 2020 conferred by sub-clause (zg) of subsection (1) of section 101 of the Consumer Protection Act, 2019 (35 of 2019) of India will be helpful to take learnings from them.

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<sup>21</sup> Islam, M. Z. (2015). Growth of e-commerce driven by youth. *The Daily Star*.  
<https://www.thedailystar.net/business/growth-e-commerce-driven-youth-144280>

### 2.4.1 South Korea<sup>22</sup>

Korea has developed several acts and policies and specified various aspects for the betterment of trade and business in the digital commerce sector. Table-3 shows several provisions on consumer protection in electronic commerce and specific takeaways for Bangladesh.

**Table 3 Act on the consumer protection in electronic commerce, etc.**

Chapters	Highlights	Takeaways
<b>Chapter One: General Provisions</b>	<ul style="list-style-type: none"> <li>The purpose of this Act is to protect the rights and interests of consumers and enhance market confidence by prescribing matters relating to the fair trade of goods or services by means of electronic commerce transactions, mail orders, etc., thereby contributing to the sound development of the national economy.</li> <li>Where a business operator intends to use an electronic document with a digital signature (referring to the digital signature as defined in subparagraph 2 of Article 2 of the Digital Signature Act; hereinafter the same shall apply), he/she shall notify the consumer of the validity, receipt procedures and methods, etc. of the relevant electronic document, as prescribed by Presidential Decree.</li> </ul>	<ul style="list-style-type: none"> <li>Specific guidelines on digital signature</li> <li>Instructions for preventing input errors by online customers</li> <li>Including several pieces of information in cyber mall indicating several aspects such as Trade name and name of the representative; Address of the business place (including the address where consumer's complaint can be resolved); Telephone number and e-mail address; Business registration number, Contractual terms, and conditions of the cyber mall, Other matters prescribed by Presidential</li> </ul>
<b>Chapter Two: Electronic Commerce Transactions And Mail Orders</b>	<ul style="list-style-type: none"> <li>Article 6.1 A business operator shall preserve the records on transactions, such as marks, advertisements, and contents of the contracts and execution thereof in connection with electronic commerce transactions and mail orders for a substantial period of time. In such cases, a convenient means of perusal and maintenance shall be provided to consumers.</li> <li>Article 7 (Prevention of Input Errors, etc.) A business operator shall prepare procedures necessary for the confirmation and correction of contents, before charging for the order or the subscription, to prevent any damage caused by the misrepresentation of will due to consumers' input errors, etc. in the course of electronic commerce transactions.</li> <li>Article 8.2 Where electronic payment is made, the business operator, electronic payment business operator, etc. shall notify the following to confirm whether the consumer's subscription is his/her true expression of intent and shall prepare procedures for the consumer to confirm the same, as prescribed by Presidential Decree: <ol style="list-style-type: none"> <li>1. Contents and types of goods, etc.;</li> <li>2. Prices of goods, etc.;</li> </ol> </li> </ul>	

<sup>22</sup> E-Commerce - Fair Trade Commission. (2017, November 28). <https://www.ftc.go.kr/eng/index.do>.  
[https://www.ftc.go.kr/eng/cop/bbs/selectBoardList.do?key=1477&bbsId=BBSMSTR\\_00000002445&bbsTyCode=BBST11](https://www.ftc.go.kr/eng/cop/bbs/selectBoardList.do?key=1477&bbsId=BBSMSTR_00000002445&bbsTyCode=BBST11)

Chapters	Highlights	Takeaways
	<p>3. Service period.</p> <ul style="list-style-type: none"> <li>• Article 10 (Operation of Cybermalls) (1) The operator of a cyber mall conducting electronic commerce transactions shall indicate the following, as prescribed by Ordinance of the Prime Minister, so that consumers may easily identify the business operator, etc.:               <ol style="list-style-type: none"> <li>1. Trade name and name of the representative;</li> <li>2. Address of the business place (including the address where consumer's complaint can be resolved);</li> <li>3. Telephone number and e-mail address;</li> <li>4. Business registration number;</li> <li>5. Contractual terms and conditions of the cyber mall;</li> <li>6. Other matters prescribed by Presidential Decree as necessary for consumer protection.</li> </ol> </li> </ul>	<p>Decree as necessary for consumer protection, etc.</p> <ul style="list-style-type: none"> <li>• Introduction of corrective measures when a business organisation fails.</li> <li>• Specifying penalty provisions with the proper justified amount.</li> <li>• Including penalty provisions for false information.</li> </ul>
<p><b>Chapter Three: Protection Of Consumers' Rights And Interests</b></p>	<ul style="list-style-type: none"> <li>• Article 23.2 Where the terms and conditions of a contract that the business operator employs are more disadvantageous to the consumers than those provided in consumer protection guidelines, the business operator shall indicate or notify the terms and conditions of the contract that are different from those in the consumer protection guidelines so that the consumers can easily recognize them.</li> </ul>	
<p><b>Chapter Four Investigation And Supervision</b></p>	<ul style="list-style-type: none"> <li>• Article 27.1 If necessary for securing a fair trade order and preventing damage to the consumers in electronic commerce transactions or mail orders, the Fair Trade Commission may, through the use of electronic means, search and collect information made public via the information communications network by the business operators or organizations relating to consumer protection in electronic commerce transactions or mail orders.</li> <li>• Article 28 In order to secure a fair trade order and prevent damage to consumers in electronic commerce transactions and mail orders, the Fair Trade Commission may, as prescribed by Presidential Decree, disclose business operators' violations of this Act and other relevant information necessary for the prevention of damage to consumers among the information searched and collected under Article 27 (1).</li> </ul>	
<p><b>Chapter Five: Corrective Measures And Imposition Of Penalty Surcharges</b></p>	<ul style="list-style-type: none"> <li>• Article 32 Several corrective measures are included here when a business operator fails to perform.</li> </ul>	

Chapters	Highlights	Takeaways
<b>Chapter Six: Supplementary Provisions</b>	<ul style="list-style-type: none"> <li>Article 35 (Prohibition of Contracts Disadvantageous to Consumers) A contract that violates Articles 17 through 19 and is disadvantageous to consumers shall become void.</li> </ul>	
<b>Chapter Seven: Penalty Provisions</b>	<ul style="list-style-type: none"> <li>Article 43 (Penalty Provisions) Any of the following persons shall be punished by a fine of up to ten million won:               <ol style="list-style-type: none"> <li>A person who provides false identification information on a business operator prescribed in Article 13 (1);</li> <li>A person who provides false information on the terms of a transaction prescribed in Article 13 (2).</li> </ol> </li> <li>Article 45 (Administrative Fines) (1) A person who continues his/her business in violation of Article 32-2 (1) shall be punished by an administrative fine not exceeding 100 million won.</li> </ul>	

Source: Compiled by Authors from E-Commerce - Fair Trade Commission. (2017, November 28). <https://www.ftc.go.kr/eng/index.do>. [https://www.ftc.go.kr/eng/cop/bbs/selectBoardList.do?key=1477&bbsId=BBSMSTR\\_00000002445&bbsTyCode=BBST11](https://www.ftc.go.kr/eng/cop/bbs/selectBoardList.do?key=1477&bbsId=BBSMSTR_00000002445&bbsTyCode=BBST11)

#### 2.4.2 China<sup>23</sup>

China has developed E-Commerce Law and specified various aspects for the betterment of trade and business in the digital commerce sector. Table-4 shows several provisions on the E-Commerce Law of the People's Republic of China and specific takeaways for Bangladesh.

**Table 4 E-Commerce Law of the People's Republic of China**

Chapters	Highlights	Take away
<b>Chapter One: General Principles</b>	<ul style="list-style-type: none"> <li>Article 3: The State encourages activities that develop new forms of e-commerce, innovate business models, promote technological R&amp;D and application of e-commerce, facilitate credibility system construction of e-commerce, create a market environment favorable for the innovative development of e-commerce, and give full play to the important role of e-commerce in boosting quality development, satisfying the ever-growing desire of the people for good life and building an open economy.</li> </ul>	<ul style="list-style-type: none"> <li>Promotion of credibility construction of the industry to ensure fair participation in market competition.</li> </ul>

<sup>23</sup> E-Commerce Law of the People's Republic of China. (2018, August 31). <https://ipkey.eu/en/china>. <https://ipkey.eu/en/china>

Chapters	Highlights	Take away
	<ul style="list-style-type: none"> <li>Article 4: The State shall accord equal treatment of online and offline commercial activities and promote their integrated development. People’s governments of various levels and relevant authorities shall not adopt discriminatory policies or measures or abuse their administrative power to eliminate or restrict market competition.</li> <li>Article 7: The State shall build up a coordination administration system tailored to the characteristics of e-commerce, and promote the formation of a governance system of the e-commerce market with the joint participation of relevant authorities, e-commerce industrial organizations, e-commerce operators, and consumers.</li> <li>Article 8 E-commerce industrial organizations shall conduct self-regulation, establish and improve industrial standards, promote credibility construction of the industry, and supervise and guide operators of the industry to fairly participate in market competition according to this articles of association.</li> </ul>	<ul style="list-style-type: none"> <li>Development of service agreement and transaction rules of the E-commerce platform operators including the principles of openness, fairness, and impartiality.</li> <li>Specification of the agreements and transaction rules that provide the rights and obligations in terms of entry into and exit from the platform, goods, and service quality protection, consumers’ interests’ protection, and personal information protection.</li> </ul>
<p><b>Chapter Two: E-commerce Operators Section I General Provisions Section II E-commerce Platform Operators</b></p>	<ul style="list-style-type: none"> <li>Article 10: E-commerce operators shall go through market entity registration according to laws. However, the preceding sentence shall not apply to the sale of self-produced agricultural products and/or cottage craft by individuals, labor services using his skills that require no license under the laws, and odd and petty transaction activities of an individual, or those not subject to industrial and commercial registration as provided by laws and administrative regulations.</li> <li>Article 14: E-commerce operators shall issue proof of purchase or service vouchers such as paper invoices or e-invoices for goods sold or services provided by it according to laws. An e-invoice shall have the same legal force as a paper invoice.</li> <li>Article 16: Where an e-commerce operator intends to terminate its e-commerce business, it shall announce the relevant information on a continuous basis at a conspicuous position of its homepage 30 days in advance.</li> <li>Article 26: When engaging in cross-border e-commerce, e-commerce operators shall comply with the laws, administrative regulations, and relevant rules of the State on import and export supervision and administration.</li> <li>Article 32: E-commerce platform operators shall develop the service agreement and transaction</li> </ul>	<ul style="list-style-type: none"> <li>Promotion of the formation of governance and regulatory system ensuring joint</li> </ul>

Chapters	Highlights	Take away
	<p>rules of the platform under the principles of openness, fairness, and impartiality, which shall provide for the rights and obligations in terms of entry into and exit from the platform, goods, and service quality protection, consumers' interests protection and personal information protection.</p>	<p>participation of relevant stakeholders (eg. e-commerce industrial organizations, e-commerce operators, and consumers)</p>
<p><b>Chapter Three: Conclusion and Performance of E-commerce Contract</b></p>	<ul style="list-style-type: none"> <li>Article 50: E-commerce operators shall clearly, fully, and expressly inform users of the steps, important cautions, download methods, and other matters of the conclusion of the contract, and ensure convenient and complete view, reading, and download for users. E-commerce operators shall ensure that users may correct any input error before submitting their orders.</li> <li>Article 54: Where the electronic payment services provided by an electronic payment service provider fail to conform with administrative requirements of the State on payment security and cause losses to users, it shall assume compensation liabilities</li> </ul>	<ul style="list-style-type: none"> <li>Comprising the provisions in case of termination of e-commerce operator.</li> </ul>
<p><b>Chapter Four: E-commerce Dispute Resolution</b></p>	<ul style="list-style-type: none"> <li>Article 59: E-commerce operators shall set up convenient and effective complaint and reporting mechanisms, disclose the complaint and reporting channels and other information, and timely accept and handle any complaint and reporting.</li> <li>Article 63: E-commerce platform operators may set up online dispute resolution mechanisms, formulate and publish dispute resolution rules, and fairly and impartially resolve the disputes between the parties on the principle of willingness.</li> </ul>	<ul style="list-style-type: none"> <li>Ensuring provisions regarding the correction of input errors before submitting their orders.</li> </ul>
<p><b>Chapter Five: E-commerce Promotion</b></p>	<ul style="list-style-type: none"> <li>Article 67: The State promotes the application of e-commerce in every field of the national economy and supports the convergence and common development between e-commerce and all industries.</li> <li>Article 69: The State maintains the e-commerce transaction safety, protects the information of e-commerce users, encourages e-commerce data development and application, and safeguards the legal, orderly and free flow of e-commerce data. The State takes measures to promote the establishment of public data sharing mechanism and facilitate e-commerce operators to legally use the public data.</li> </ul>	<ul style="list-style-type: none"> <li>Taking measures by the State in the promotion of the establishment of public data sharing mechanism and facilitating e-commerce operators to legally use the public data.</li> </ul>
<p><b>Chapter Six: Legal Liabilities</b></p>	<ul style="list-style-type: none"> <li>Article 74: If, in its sale of goods or provision of services, an e-commerce operator fails to perform any contractual obligation or its performance of contract fails the agreement, or causes damage to others, it shall legally assume civil liabilities.</li> </ul>	<ul style="list-style-type: none"> <li>Enabling issue of e-invoices for goods</li> </ul>

Chapters	Highlights	Take away
	<ul style="list-style-type: none"> <li>Article 86: Where an e-commerce operator commits any act in violation of this Law, its violation will be recorded in its credit file in accordance with relevant laws and administrative regulations, and made public.</li> </ul>	sold or services which may have the same legal force as a paper invoice.
<b>Chapter Seven: Supplementary Provisions</b>	<ul style="list-style-type: none"> <li>Article 89 This Law shall enter into force on January 1, 2019.</li> </ul>	

Source: Compiled by Authors from E-Commerce Law of the People's Republic of China. (2018, August 31). <https://ipkey.eu/en/china>. <https://ipkey.eu/en/china>

### 2.4.3 India<sup>24</sup>

On July 23, 2020, the central government of India formulated Consumer Protection (E-commerce) Rules, 2020 conferred by sub-clause (zg) of subsection (1) of section 101 of the Consumer Protection Act, 2019 (35 of 2019). Table-5 shows several provisions on the Consumer Protection (E-Commerce) Rules, 2020, and specific takeaways for Bangladesh.

**Table 5 Consumer Protection (E-Commerce) Rules, 2020**

Topic	Highlights	Take away
<b>Short title and commencement</b>	(1) These rules may be called the Consumer Protection (E-Commerce) Rules, 2020	<ul style="list-style-type: none"> <li>Inclusion of visible and clear information Every e-commerce entity on the platform such as the principal geographical address of the head office and other branches, name, and detail of the websites, contact details, customer care, information of the grievance officers, and all these should be made mandatory.</li> </ul>
<b>Scope and Applicability</b>	(1) Save as otherwise expressly provided by the Central Government by notification, these rules shall apply to: <ul style="list-style-type: none"> <li>(a) all goods and services bought or sold over the digital or electronic network including digital products;</li> <li>(b) all models of e-commerce, including marketplace and inventory models of e-commerce;</li> <li>(c) all e-commerce retail, including multi-channel single-brand retailers and single-brand retailers in single or multiple formats; and</li> <li>(d) all forms of unfair trade practices across all models of e-commerce</li> </ul>	

<sup>24</sup> <https://consumeraffairs.nic.in/theconsumerprotection/consumer-protection-e-commerce-rules-2020>

Topic	Highlights	Take away
	<p>Provided that these rules shall not apply to any activity of a natural person carried out in a personal capacity not being part of any professional or commercial activity undertaken on a regular or systematic basis.</p> <p>(2) Notwithstanding anything contained in sub-rule (1), these rules shall apply to an e-commerce entity that is not established in India but systematically offers goods or services to consumers in India.</p>	<ul style="list-style-type: none"> <li>• Addition of the definitions of “grievance”, “inventory e-commerce entity” and marketplace e-commerce entity.</li> </ul>
<p><b>Definitions</b></p>	<p>3.1 (b) “e-commerce entity” means any person who owns, operates, or manages digital or electronic facility or platform for electronic commerce, but does not include a seller offering his goods or services for sale on a marketplace e-commerce entity;</p> <p>3.1. (c) “grievance” includes any complaints to an e-commerce entity regarding violations of the provisions of the Act and the rules made thereunder;</p> <p>3.1. (f) “inventory e-commerce entity” means an e-commerce entity which owns the inventory of goods or services and sells such goods or services directly to the consumers and shall include single-brand retailers and multi-channel single-brand retailers;</p> <p>3.1. (g) “marketplace e-commerce entity” means an e-commerce entity that provides an information technology platform on a digital or electronic network to facilitate transactions between buyers and sellers;</p> <p>(j) “ranking” means the relative prominence or relevance given to the goods or services offered through a marketplace e-commerce entity as presented, organised, or communicated by such entity, irrespective of the technological means used for such presentation, organisation, or communication;</p>	<ul style="list-style-type: none"> <li>• Consent of the consumer for the purchase of goods or services through an explicit and positive action rather than any other methods such as an automatic record of pre-checked boxes.</li> <li>• Establishment of an adequate grievance redressal mechanism and appointment of a specific officer for every e-commerce platform.</li> <li>• Indication and display of total price in the single figure of any good or service along with the breakup price for the good or service, showing all the compulsory and voluntary charges, such as delivery charges, postage and handling charges, conveyance charges, and the applicable tax.</li> </ul>
<p><b>Duties of e-commerce entities</b></p>	<p>1. (b) An e-commerce entity shall appoint a nodal person of contact or an alternate senior designated functionary who is resident in India, to ensure compliance with the provisions of the Act or the rules made thereunder</p> <p>2. Every e-commerce entity shall provide the following information in a clear and accessible manner on its platform, displayed prominently to its users, namely:--</p> <p>the legal name of the e-commerce entity;</p> <p>(a) principal geographic address of its headquarters and all branches;</p> <p>(b) name and details of its website; and</p> <p>(c) contact details like e-mail address, fax, landline, and mobile numbers of customer care as well as of grievance officer. the legal name of the e-commerce entity;</p> <p>(d) principal geographic address of its headquarters and all branches;</p>	<ul style="list-style-type: none"> <li>• Inclusion of the ticket number system for each complaint lodged, so that the consumers can trace</li> </ul>

Topic	Highlights	Take away
	<p>(e) name and details of its website; and  (f) contact details like e-mail address, fax, landline, and mobile numbers of customer care as well as of grievance officer.</p> <p>3. No e-commerce entity shall adopt any unfair trade practice, whether in the course of business on its platform or otherwise.</p> <p>4. Every e-commerce entity shall establish an adequate grievance redressal mechanism having regard to the number of grievances ordinarily received by such entity from India, and shall appoint a grievance officer for consumer grievance redressal, and shall display the name, contact details, and designation of such officer on its platform.</p> <p>5. Every e-commerce entity shall ensure that the grievance officer referred to in sub-rule (4) acknowledges the receipt of any consumer complaint within forty-eight hours and redresses the complaint within one month from the date of receipt of the complaint</p> <p>6. Where an e-commerce entity offers imported goods or services for sale, it shall mention the name and details of any importer from whom it has purchased such goods or services, or who may be a seller on its platform.</p> <p>7. Every e-commerce entity shall endeavour on a best effort basis to become a partner in the convergence process of the National Consumer Helpline of the Central Government.</p> <p>8. No e-commerce entity shall impose cancellation charges on consumers canceling after confirming purchase unless similar charges are also borne by the e-commerce entity if they cancel the purchase order unilaterally for any reason.</p> <p>9. Every e-commerce entity shall only record the consent of a consumer for the purchase of any good or service offered on its platform where such consent is expressed through an explicit and affirmative action, and no such entity shall record such consent automatically, including in the form of pre-ticked checkboxes.</p> <p>10. Every e-commerce entity shall effect all payments towards accepted refund requests of the consumers as prescribed by the Reserve Bank of India or any other competent authority under any law for the time being in force, within a reasonable period, or as prescribed under applicable laws.</p> <p>11. No e-commerce entity shall--</p>	<p>and track down the progress and update of their complaint</p>

Topic	Highlights	Take away
	<p>(a) manipulate the price of the goods or services offered on its platform in such a manner as to gain unreasonable profit by imposing on consumers any unjustified price having regard to the prevailing market conditions, the essential nature of the good or service, any extraordinary circumstances under which the good or service is offered, and any other relevant consideration in determining whether the price charged is justified;</p> <p>(b) discriminate between consumers of the same class or make any arbitrary classification of consumers affecting their rights under the Act.</p>	
<b>Liabilities of marketplace e-commerce entities</b>	<p>(2) Every marketplace e-commerce entity shall require sellers through an undertaking to ensure that descriptions, images, and other content pertaining to goods or services on their platform is accurate and corresponds directly with the appearance, nature, quality, purpose, and other general features of such good or service.</p>	
<b>Duties of sellers on marketplace</b>	<p>4(d) provide to the e-commerce entity its legal name, principal geographic address of its headquarters and all branches, the name and details of its website, its e-mail address, customer care contact details such as fax, landline, and mobile numbers, and where applicable, its GSTIN and PAN details.</p> <p>4(g) accurate information related to terms of exchange, returns, and refund including information related to costs of return shipping in a clear and accessible manner;</p>	
<b>Duties and liabilities of inventory e-commerce entities</b>	<p>7(e) total price in the single figure of any good or service along with the breakup price for the good or service, showing all the compulsory and voluntary charges, such as delivery charges, postage and handling charges, conveyance charges, and the applicable tax;</p> <p>(f) a ticket number for each complaint lodged, through which the consumer can track the status of their complaint.</p>	
<b>Contravention of rules</b>	<p>The provisions of the Consumer Protection Act, 2019 (35 of 2019) shall apply for any violation of the provisions of these rules.</p>	

Source: Compiled by Authors from <https://consumeraffairs.nic.in/theconsumerprotection/consumer-protection-e-commerce-rules-2020>

## 2.4.4 UNCTAD Model<sup>25</sup>

Topic	Key Findings	Recommendation	Take away
<b>E-commerce readiness assessment and strategy formulation</b>	<ul style="list-style-type: none"> <li>E-commerce has no ministerial niche, and there is a lack of inter-ministerial coordination – preventing a unifying vision of e-commerce and making it difficult for policymakers to engage in national, regional, and international e-commerce discussions.</li> <li>Development of e-commerce policies, initiatives, and activities – when they exist – is fragmented and inadequately measured, with many start-ups operating in the informal economy.</li> <li>Public-private dialogue is underutilized, critically undermining the development of fit-for-purpose e-commerce policies.</li> </ul>	<ul style="list-style-type: none"> <li>Build national capacities to understand digital economic developments and their implications and strengthen overall stakeholders’ perception of e-commerce.</li> <li>Improve inter-ministerial coordination and appoint an e-commerce ‘champion’ to elevate the e-commerce agenda to inter-ministerial committees and streamline the policy development process.</li> <li>Develop a national coordinated and comprehensive e-commerce strategy to have a holistic governmental approach to e-commerce.</li> <li>Enhance and structure public-private dialogue for e-commerce ecosystem development.</li> <li>Enhance private sector coordination and women’s participation in e-commerce activities</li> </ul>	<ul style="list-style-type: none"> <li>Capacity building in both the private and public sector</li> <li>Increasing the coordination of public and private sector as well as mainstreaming the women entrepreneurs.</li> <li>Promoting affordable, secure, and feasible internet connection both in urban and rural areas</li> <li>Uplifting the mobile financial services, encouragement of innovations regarding e-banking systems</li> </ul>
<b>ICT infrastructure and services</b>	<ul style="list-style-type: none"> <li>ICT investments are increasing, but broadband connectivity remains limited and expensive. As a result, disparities in Internet access and digital opportunities are widening.</li> <li>Mobile connectivity is fueling mobile-driven e-commerce, but opportunities remain largely untapped since many countries continue to use basic telephone technology.</li> </ul>	<ul style="list-style-type: none"> <li>Increase access to fast, affordable, and reliable Internet, as well as last-mile connectivity in rural and less-populated areas to reduce disparities in Internet access and open e-commerce opportunities for larger segments of the population.</li> <li>Support public-private partnerships (PPPs) to strengthen backbone infrastructure.</li> </ul>	<ul style="list-style-type: none"> <li>Uplifting the mobile financial services, encouragement of innovations regarding e-banking systems</li> </ul>
<b>Payment solutions</b>	<ul style="list-style-type: none"> <li>Cash transactions remain prevalent, impairing the development of mobile payments and other cashless solutions in the market</li> </ul>	<ul style="list-style-type: none"> <li>Promote the adoption of mobile payments and other cashless solutions. On the one hand, awareness-raising programs should highlight the benefits of mobile payments and cashless solutions, as well as the hidden</li> </ul>	<ul style="list-style-type: none"> <li>Emphasizing the monitoring and regulatory process to reduce fraud</li> </ul>

<sup>25</sup> *Bangladesh Rapid eTrade Readiness Assessment*. (2019). [https://unctad.org/system/files/official-document/dtlstict2019d6\\_en.pdf](https://unctad.org/system/files/official-document/dtlstict2019d6_en.pdf)

Topic	Key Findings	Recommendation	Take away
	<ul style="list-style-type: none"> <li>• Lack of trust is a critical barrier for e-commerce payment uptake and prevent consumers to move from cash-on-delivery to e-payments</li> <li>• Financial inclusion is improving, but e-payment development faces key challenges</li> <li>• Low banking literacy limits the use of banking solutions such as credit cards, mobile money services, and other cashless solutions</li> </ul>	<p>costs and risks associated with handling cash. On the other hand, digital financial literacy among MSMEs will need to be improved.</p> <ul style="list-style-type: none"> <li>• Encourage e-banking innovations and enable inter-bank money transfers and payments to facilitate e-commerce transactions.</li> <li>• Increase interoperability among e-payment platforms by reducing operating costs and enhancing the ease of use for consumers.</li> <li>• Create an enabling regulatory environment to encourage investment and ensure secured payments through innovative solutions for local consumers and businesses.</li> <li>• Adopt consumer protection e-payment laws and regulations.</li> <li>• Develop and roll out awareness campaigns on payment solutions.</li> </ul>	<p>activities regarding e-commerce.</p> <ul style="list-style-type: none"> <li>• Raising awareness and building up trust for the costs and benefits of cashless transactions.</li> <li>• Providing and promoting financial literacy and business training so that MSMEs can develop bankable business plans, in line with the requirements of commercial banks.</li> </ul>
<p><b>Trade logistics and trade facilitation</b></p>	<ul style="list-style-type: none"> <li>• Last-mile delivery continues to pose a challenge since postal services in remote areas have problematic delivery times and costs. Local entrepreneurs are developing local and innovative logistic solutions, such as the introduction of drones in some East African countries.</li> <li>• Transport, logistics, and regulatory bottlenecks hamper e-commerce growth mainly due to red tape</li> <li>• in customs clearance and prohibitive transport costs</li> </ul>	<ul style="list-style-type: none"> <li>• Develop a physical address and postal code system through a multi-pronged approach, including improving the road infrastructure, developing forward-looking postal service strategies, and increasing the capacity of national postal service and private sector couriers.</li> <li>• Streamline custom clearance, particularly for cross-border shipment of small parcels, through automation of procedures and digitalization of documents.</li> <li>• Support the development of e-commerce delivery solutions through public-private partnerships and enhance the role of Postal Offices to increase their e-commerce operational readiness.</li> </ul>	

Topic	Key Findings	Recommendation	Take away
		<ul style="list-style-type: none"> <li>Continue the rehabilitation of physical infrastructure, as well as the modernization of transport and supply-chain sectors.</li> </ul>	
<b>Legal and regulatory frameworks</b>	<ul style="list-style-type: none"> <li>The lack of adapted or up-to-date legal frameworks on e-commerce affects the ability of LDCs to engage with global business partners, attract investors, to increase the domestic uptake of e-commerce, leading eventually to the reduced impetus for e-commerce.</li> <li>Lack of awareness by policy and law-makers of the latest global legal developments.</li> <li>Regulatory and institutional coordination remains a challenge.</li> <li>Low level of awareness by the private sector and consumers about existing legal frameworks.</li> </ul>	<ul style="list-style-type: none"> <li>Carry out a legal and regulatory gap analysis for e-commerce to develop a holistic and updated approach in line with the latest developments.</li> <li>Adopt baseline e-commerce legislation or update relevant laws and regulations.</li> <li>Build capacities of lawmakers and judiciary to enforce and increase awareness of existing e-commerce laws.</li> <li>Strengthen business and civil society engagement to foster an e-commerce enabling environment.</li> <li>Consider the establishment of quality labels to boost confidence and set up certification trust-mark schemes for trusted e-commerce operators.</li> <li>Increase awareness of commerce regulations– including server localization, data protection, cross-border data transfer, and taxation.</li> </ul>	
<b>E-commerce skills development</b>	<ul style="list-style-type: none"> <li>E-commerce awareness is growing but still weak–young consumers using social media applications could play an important role in this effort.</li> <li>The workforce lacks adequate e-commerce skills, since education is unsuited to the digital economy, and the e-commerce sector is deprived of skills related to such areas like application development, search engine optimization, data analytics, and web-based marketing.</li> <li>The start-up environment is growing, but the development of tech-based MSMEs remains</li> </ul>	<ul style="list-style-type: none"> <li>Include e-commerce courses in tertiary education and vocational training.</li> <li>Refocus Business Service Organization (BSO) strategies to develop relevant Business Development Strategies (BSD) for e-commerce development.</li> <li>Encourage the establishment of national e-procurement platforms to stimulate market-learning processes and improve the economic sustainability of e-commerce SMEs.</li> <li>Raise awareness and build trust for the costs and benefits of cashless transactions.</li> </ul>	

Topic	Key Findings	Recommendation	Take away
	<p>a challenge—notably due to limited e-commerce business development services and scarce funding capacities.</p>		
<p><b>Access to financing</b></p>	<ul style="list-style-type: none"> <li>• Access to financing remains costly and constrains the ability of MSMEs to emerge and expand.</li> <li>• Banks typically lend to big firms in traditional industries, whereas e-commerce and start-up companies are viewed by commercial banks as risky investments. As a result, most e-commerce MSMEs rely on alternate sources of funding.</li> <li>• Low financial literacy among MSMEs exacerbates challenges to pursuing formal financing channels.</li> </ul>	<ul style="list-style-type: none"> <li>• Provide financial literacy and business training so that MSMEs can develop bankable business plans, in line with the requirements of commercial banks.</li> <li>• Increase awareness of incubators, business accelerators, and venture capitalists.</li> <li>• Develop tailored lending standards and products. Commercial banks should be encouraged to adopt broader terms for evaluating the creditworthiness of e-commerce entrepreneurs and MSMEs, particularly women-owned businesses.</li> <li>• Build capacities of businesses and women-led associations and increase financial inclusion, especially of women and youth. Banks should be encouraged and given incentives to provide innovative products for all segments of the population.</li> </ul>	

#### **2.4.5 Learnings from the global experiences**

Based on the act on the consumers' protection in electronic commerce of South Korea, China's law on e-commerce and Consumer Protection (E-commerce) Rules, 2020 conferred by sub-clause (zg) of subsection (1) of section 101 of the Consumer Protection Act, 2019 (35 of 2019), Bangladesh can follow the provisions for the improvement of the digital commerce sector. Provisions regarding digital signature, instruction for the prevention of the input errors for the online customers, the inclusion of overall information about the cyber mall such as Trade name and name of the representative business place address, active telephone number and email address, Business registration number (if there is any), Contractual terms, and conditions of the cyber mall, Other matters prescribed by Presidential Decree as necessary for consumer protection, etc. can be followed. Moreover, if an organisation fails, what would be the corrective measures it can also be included in the policy. Inclusion of penalty provision considering the current economic context, penalty provision for wrong and false information should be more clarified. Enabling the issue of e-invoices for goods sold or services that may have the same legal force as a paper invoice also be included. Promotion of the formation of governance and regulatory system ensuring joint participation of relevant stakeholders (eg. e-commerce industrial organizations, e-commerce operators, and consumers). Bangladesh can take in the promotion of the establishment of public data sharing mechanism and facilitating e-commerce operators to legally use the public data. Moreover, the focus should be given to the development of service agreements and transaction rules of the E-commerce platform operators including the principles of openness, fairness, and impartiality. The addition of the definitions of "grievance", "inventory e-commerce entity" and marketplace e-commerce entity should also be included in the policy. Also, the monitoring and regulatory process to reduce fraud activities regarding e-commerce should be given much priority. Furthermore, the cash on the delivery system is very much popular in Bangladesh, so raising awareness and building up trust for the costs and benefits of cashless transactions is also needed.

### 3. The National Digital Commerce Policy 2018 and Relevance to the SHE Trades

The MasterCard Index of Women Entrepreneurs (2020), shows that out of 58 countries, Bangladesh ranks 58 in terms of the women's entrepreneurship index. In 2019, Bangladesh ranked 57 out of 58 countries. The report mentions that the bottom three performers Bangladesh, Algeria, and Egypt have deeply rooted socio-cultural barriers, lack of effective government support, lack of access to finance, and lack of working opportunities, which makes it tougher for these economies to foster women's entrepreneurial activities.<sup>26</sup>

The provisions of the National Digital Commerce Policy 2018 are not gender discriminatory. However, there often lies problems regarding women's business knowledge, social outlook, and structural barriers that limit the women entrepreneurs to actively participate in trade and business-related activities. During the KIIs and FGDs, a handful of bottlenecks has been addressed by the women entrepreneurs which indirectly relates to digital commerce and trading activities. However, it is to be noted, that the problems are not caused by the provisions of the National Digital Commerce Policy 2018. The bottlenecks are presented here so that the new National Digital commerce policies of Bangladesh can at least, address the issues and formulate proactive provisions to remedy the issues and make a more women-friendly business environment in the country. Some significant barriers to "She trade," that can be related to the National Digital Commerce Policy 2018 are briefly mentioned below.

Though this wish list seems perfect and sincere, however, in reality, there are plenty of implementation challenges and bottlenecks addressed while conducting KIIs and FGDs. Some significant bottlenecks to mainstreaming women in trade and entrepreneur activities are as follows:

**Table 6 Challenges of e-commerce women's entrepreneurial development**

Issues	Remarks
<p><b>Product delivery system/logistic support</b></p>	<ul style="list-style-type: none"> <li>• The major challenge that the women entrepreneur has to face is the problems associated with the product delivery system and they badly have to suffer for that reason.</li> <li>• The women who are engaged in the business of homemade food items/perishable products, suffer a lot. Due to the negligence of some product delivery organizations, entrepreneurs face a lot of problems such as product loss/damage,</li> </ul>

<sup>26</sup> MasterCard Index of Women Entrepreneur (2020), ma\_miwe-report-2020.pdf (mastercard.com)

Issues	Remarks
<p><b>Policy Support for Female Entrepreneurs</b></p>	<ul style="list-style-type: none"> <li>• The profit of the female entrepreneurs in digital commerce platforms is higher than those of male entrepreneurs but as the majority of the women entrepreneurs do not have trade licenses and other documents hence, they cannot contribute to the formal sector of the economy.</li> <li>• Recently, Bangladesh Bank also provides loans and facilities to open a “Person Retail Account” for those who do not have trade licenses, which is one kind of merchant account. But without a trade license, SME loans cannot be achieved and the small-medium enterprises must suffer a lot. They also have a lack of capital to invest which also needs to address by feasible policy support.</li> </ul>
<p><b>Problems for F-commerce entrepreneurs</b></p>	<ul style="list-style-type: none"> <li>• A large number of online women entrepreneurs in Bangladesh rely on the Facebook platform. Recently a global shutdown of Facebook caused a great loss for the entrepreneurs involved in the f-commerce platform.</li> </ul>
<p><b>Lack of financial and business knowledge</b></p>	<ul style="list-style-type: none"> <li>• Women entrepreneurs mostly lack business knowledge regarding how to plan projects, legal procedures to start a business, how to avail special incentives, customs procedures, and knowledge of HS code, etc.</li> <li>• Due to these knowledge gaps often women entrepreneurs perceive these procedures as complex business registration processes and refrain from formal trading.</li> <li>• Many women entrepreneurs have insignificant or no knowledge about maintaining proper accounting books which is crucial for receiving finances.</li> </ul>
<p><b>Bank loans/ SME loans and cumbersome process</b></p>	<ul style="list-style-type: none"> <li>• Women entrepreneurs fail to avail even the 15% total allocated credit amount allocated towards them due to cumbersome procedures, and lack of appropriate documents.</li> <li>• As commercial banks disburse these loans, there are often high mortgage requirements that many women entrepreneurs don't have. Also, they fail to manage bank guarantees.</li> <li>• Often small businesses run by women have full or a majority of transactions in cash, therefore there is no proper accounting and financial traceability. This makes it difficult for banks to provide loans to small businesses run by women.</li> <li>• Women entrepreneurs often fail to provide mandatory documents such as VAT and TIN certificates, and trade licenses.</li> </ul>
<p><b>The reluctance of bankers to provide loans to women</b></p>	<ul style="list-style-type: none"> <li>• As the commercial banks are directed by the Bangladesh Bank and SME Foundation to provide concessional loans to women entrepreneurs, therefore banks are often reluctant to disburse loans to a woman compared to a male entrepreneur.</li> <li>• The interest rate at which women entrepreneurs are getting low is lower than the interest rate borne by their male counterparts. Therefore, the banks perceive a loss in disbursing the loans to the female entrepreneurs.</li> <li>• Though a minimum of 15% of the total SME loans is to be disbursed to the women entrepreneurs it is often unfulfilled. The commercial banks report to the Bangladesh Bank and SME foundation, that no eligible women entrepreneurs were applying for loans.</li> </ul>

Issues	Remarks
<b>Social stigma</b>	<ul style="list-style-type: none"> <li>• Women entrepreneurs often cannot operate their business after evening due to social outlooks.</li> <li>• Harassments in the banks and various registration processes are constantly faced by women entrepreneurs.</li> </ul>
<b>Access to finance</b>	<ul style="list-style-type: none"> <li>• The bankers also have lack of willingness to provide loans to women as according to several government policies, the women must need to be provided loans with a low-interest rate and therefore, the bankers have less likely to provide loans to women entrepreneurs and they also claim that women entrepreneurs also were not able to fulfill all the requirement to get the loans.</li> <li>• Moreover, it is often difficult for the women to manage a guarantor for their bank loans and specific documents for the bank loans</li> </ul>
<b>Coordination failure</b>	<ul style="list-style-type: none"> <li>• Coordination failure among authorities in charge of the promotion of women's entrepreneurship is another significant bottleneck to mainstreaming women in entrepreneur activities.</li> <li>• The officials in charge of implementing the provisions of the policies often lack capacity which makes the provisions inefficient.</li> </ul>

*Source: Authors' compilation from different sources, KIIs, FGDs with stakeholders*

## **4. Findings of this Study<sup>27</sup>**

The National Digital Commerce Policy 2018 is a very recent policy that covers several aspects though several issues have been unfolded with the extensive desk review through various literature, KIIs, and FGDs. Moreover, KIIs and FGDs with relevant stakeholders also helped to disclose the practical consequences and the real-time scenarios.

### ***4.1 Aggressive Marketing System***

In recent days, several e-commerce sites offered lucrative offers with their aggressive marketing system which in turn led to scams.

For example, If the cost of the product is 10 taka, they were selling the products for 1taka which is not sensible or realistic but the condition is delayed delivery. A great number of people fell into this and their money got stuck, even they haven't got the products either.

This kind of action should be controlled. As it inspires other e-commerce platforms to decrease their prices to keep pace with. But in the long run, this doesn't create benefits for all.

### ***4.2 Cyberbullying in F-Commerce Platforms Discouraging Women Entrepreneurs***

F-commerce has become eminent in the COVID-19 pandemic. But cyberbullying has become a very usual issue by both males and females in the online platform which is discouraging women entrepreneurs.

### ***4.3 Bandwidth Issue***

In rural areas, there lies a problem in bandwidth and the rank of Bangladesh in broadband internet is not satisfactory. Without the proper internet, the development of the digital commerce becomes questionable.

### ***4.4 Scam Issues and Accountability***

Several scams have occurred in recent days causing a great loss for the consumers. The absence of proper regulatory bodies and lack of accountability have negatively affected the trust of the consumers of the e-commerce sites. Different platforms such as e-commerce platforms, facebook pages, sites etc are displaying captivating offers and these are often resulting in scam issues. As this sector is growing tremendously, proper regulatory bodies are needed to maintain the accountability issue.

### ***4.5 Challenges for SMEs in the Digital Commerce Sector***

There is a huge scope for development for small and cottage industries if we can interlink small and cottage industries to digital commerce. In the context of Bangladesh, the cost of doing business for SMEs is higher and this is also true in the case of the digital commerce sector. As the majority of the owners of the e-commerce sector do not have trade licenses

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<sup>27</sup> Information from KIIs and FGDs

and other necessary documents for accessing financial assistance from Banks, therefore, their cost of business becomes higher.

#### **4.6 LDC Graduation Perspective**

The digital commerce sector of Bangladesh will face challenges after the LDC graduation. Although this sector is now contributing greatly to the creation of employment all over the country which has been observed since the pandemic period. If Bangladesh wants to maintain sustainability in this sector, preparation for the post-graduation period should be emphasized. Significant growth has been observed in the pandemic period in the e-commerce sector of Bangladesh. The purchase and selling of goods and services through the internet are known as electronic commerce or e-commerce as well as it can be described as a changing way of doing business. Four types of e-commerce are much popular which are Business to Business (B2B), Business to Consumers (B2C), Consumer to Consumer (C2C), and Business to Government (B2G). (Islam, 2018). Bangladesh should focus on improving the diversified sides of e-commerce as B2C is much popular in Bangladesh. After graduating from LDC only this B2C type would not be enough to keep pace with the rest of the world.

Developing countries seem to have lackings in ICT skills and education which are responsible for the decrease in the overall situation of the ICT-enabled services as a whole this lacking will hinder the growth of e-commerce. Facilitation of the ICT curriculum is a must for the development of the ICT and it will ease the process for adaption with the e-commerce services. Moreover, the infrastructure of ICT should be developed to improve the digital commerce sector for flourishing. Before fully graduating from the LDC status, the current infrastructure of the ICT should be updated inlining with the other developed and developing countries. Since the rapid growth of e-commerce can be the main reagent for graduating from LDC status, Bangladesh needs to work on the advancement of IT-enabled services and infrastructure. For engaging with trade, securing market information, expanding markets locally and across the borders, development, and promotion of Internet-based platforms and global data flows are becoming much more important. Moreover, numerous challenges will be faced by the LDCs after their graduation as there is a skill gap as well as a technological gap, especially in terms of cross-border digital commerce. Also, the major e-commerce sites and businesses of Bangladesh are product-based. Before graduation the exacerbation of the service-based digital platforms is essential. That means priorities should be given to addressing the digital divide and the enabling issues such as infrastructure, technology transfer, skills, etc. of developing countries in e-commerce discussions in the WTO.

Furthermore, the speed of the internet is not up to the mark so Bangladesh needs to work on this issue. To cope with the countries that are progressing remarkably in e-commerce as well as in the digital commerce sector, Bangladesh needs to develop the logistics and service delivery system, payment methods, cross-border trade through e-commerce, etc. Moreover, the sector will face trouble if the development of infrastructure is absent. Also, excessive vat and tax and knowledge gap about the appropriate amount of vat and tax is another major challenge. Furthermore, it can be said that improvement of the payment methods, reduction of the dependency of cash on delivery systems, flourishing of the different types of logistic sectors, development of cross border e-commerce, service-based digital commerce platforms should be given much priority before graduation from LDC. Although, the e-commerce sector

is contributing significantly to the growth of the employment rate which is helping and contributing to the development of Bangladesh. It is high time we focused on the challenges first that will help to mitigate the constraints in the future.

#### ***4.7 Alternative gateway for F-Commerce/ Facebook Entrepreneurs***

During the COVID-19 pandemic, a lot of people especially a lot of women entrepreneurs were formed via the Facebook platform. On October 4, 2021, Facebook was shut down for about six hours which created a huge loss for the entrepreneurs of the f-commerce. The alternative gateways for f-commerce entrepreneurs might be able to save them from this sudden loss in their business.<sup>28</sup>

#### ***4.8 Challenge for Implementation***

The policy is well-drafted and documented. The problem lies in the implementation. The accomplishment of the action points mentioned in the policies remains questionable.

Though several aspects of the policy have been undertaken the impacts are not up to the mark. Several challenges also need to be addressed by the policy. Firstly, the payment system is not business-friendly. Secondly, the monitoring and verification and cash security system are also very poor in terms of quality. Furthermore, Cash on delivery is one of the major challenges as there is a high risk for the cash.

#### ***4.9 Less Focused Service Sector***

Bangladesh has relied only on the product sector. Priorities should be given to the service sector. Several e-commerce sites have been formulated based on the products. To cope with the global context focusing on the service sector has become crucial.

#### ***4.10 Lack of Essential Laws and Regulations***

Several risks are associated with cash on delivery and also in some cases, the right of customers sometimes cannot be ensured. A monitoring and regulation system for ensuring customers' rights is absent.

Law, regulations, and immediate response, for example, the mobile court are needed to be undertaken to ensure security and safety in the digital commerce sector.

Policy, monitoring, and strict control mechanisms are also needed to be undertaken to protect the rights of customers. Monitoring in the Banking channel also needs to be undertaken.

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<sup>28</sup> KII with stakeholder

## 5. Recommendation and Way Forward

This chapter will provide some recommendations for the upcoming national digital commerce policies. The recommendations are mostly based on the primary information gathered during KIIs and FGDs. The policies of Bangladesh, in general, are well crafted. A lot of effort, consultation, and stakeholder opinion are considered while formulating the policies.

However, the implementation of the provisions and measures mentioned in the National Digital Commerce Policy, 2018 is a challenge. The legal non-binding nature of the policy often makes it difficult for the implementing entities to ensure the implementation of the proposed measures to achieve the stated goals. In addition, the National Digital Commerce Policy, 2018 is formulated three years back and the global trade and business dynamics have rapidly shifted. New issues have come up that need to be addressed in the future National Digital Commerce Policy, 2018 of the country.

The National Digital Commerce Policy 2018 is a relatively new and updated policy document. The document is well articulated pointing out the key constraints to the expansion of the digital commerce sector in Bangladesh as well as recommending the necessary solutions. The policy document contains the detailed action plans to implement the proposed solution identifying the relevant stakeholders. The key issue with the policy is the lack of implementation. Moreover, in the changing global trade pattern, some new challenges such as LDC graduation emerge, or the existing challenges come in different forms. In this context, this chapter tries to provide some specific recommendations for each of the existing and emerging challenges to the expansion of the digital commerce of Bangladesh.

### ***5.1 The reasons for formulating the Digital Commerce Act instead of policy***

E-commerce or online-based marketplace has seen tremendous growth even during the Covid-19 pandemic. The growth of digital commerce not only contributes to the economy but also creates opportunities for enthusiast entrepreneurs. However, in the recent past, the e-commerce business has witnessed some uncertainty and anomalies that hamper the growth of this emerging sector while leaving the concerns of both traders and consumers unaddressed. To address the concerns relating to e-commerce, the government has formulated the National Digital Commerce Policy 2018 which provides comprehensive guidelines regarding the management, operation, and expansion of e-commerce in Bangladesh. The policy pledges to ensure safe digital transactions while restoring the trust of buyers and purchasers in digital commerce.

It is noted that to create a viable atmosphere in terms of management and operation of digital commerce, the policy deserves significance; however, the policy without having any binding effect fails to protect the interests of both buyer and seller. The language of the policy usually remains aspirational which fails to generate any sense of obligation. The policy without being enforceable cannot prevent possible deviation or violation of the objectives for which the policy has been formulated. It is noted that the policy covers a few significant areas in its objectives that are aimed to facilitate the growth of digital commerce in Bangladesh. However, it should not be forgotten that the growth of digital commerce also carries some inconsistencies and even grievances from the part of the consumers which the policy fails to

address. It is mentionable that the policy contains an action plan to actualize the objectives of the policy; however, the status of the implementation of the action plan based on a concrete assessment is not found anywhere which raises the question regarding enforcement of the policy. Such assessment could also facilitate the formulation of the forthcoming policy addressing any missing area or implementation challenge of the existing policy.

It is mention-worthy that to respond to the emerging challenges, the government has formulated the Digital Commerce Operation Guidelines, 2021 under the National Digital Commerce Policy, 2018. The Guidelines pledges to ensure transparency and accountability in the digital commerce sector while guaranteeing the rights of the consumers under a regulatory framework. However, the 2021 Guidelines being promulgated within the mandate of Digital Commerce Policy, does not have any legally binding effect in case of non-compliance with its provisions.

It is noted that currently there are only administrative regulations or executive instruments guidelines from Bangladesh Bank, Ministry of Commerce, or policies mentioned above to deal with the digital commerce sector. Few existing laws are related to trade and consumer rights, however, these are found to be inadequate and outdated. To constitute a contract (offline) there are some essential elements including offer, acceptance, and consideration which are supposed to be fulfilled for an online contract also. However, the existing laws concerning contracts including the Contract Act 1872 and the Sale of Goods Act, 1930 are found to be silent regarding online transactions and as the contract for the sale of goods. The Sale of Goods Act being the primary law to regulate sale contracts also fails to recognize online transactions as the contract for the sale of goods.<sup>29</sup>

## **5.2 Protection of online consumer rights**

The primary law concerning the protection of consumer rights is the Consumers' Rights Protection Act, 2009 which provides preventive and remedial measures against anti-consumer right practices. However, the Act does not contain any explicit provisions dealing with digital commerce and online services. The Act is also silent about the rights of online consumers.

The 2021 Guidelines contains provisions on complaint and redress mechanism. As per the Guidelines, each digital commerce establishment shall appoint a compliance officer who is responsible to communicate and coordinate with the Directorate of Consumer Rights Protection and other concerned organisations. Though the Directorate of Consumer Rights Protection is empowered to take complaints arising out of online transactions, the remedies against the grievances of online consumers are found to be inadequate and vague. In addition, the Directorate is empowered to take administrative actions of imposing only a fine or cancellation of trade license or suspending commercial functions, permanently or temporarily, without imposing any punishment and taking any action to file a criminal case against the convicted person. It cannot impose a fine exceeding the amount of fine prescribed under the CRPA. It is noted that considering the evolving and dynamic nature of online

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<sup>29</sup> Anju, S. (2021, July 20). E-Business in Bangladesh: Need for a Legal Framework. *The Daily Star*. <https://www.thedailystar.net/law-our-rights/law-watch/news/e-business-bangladesh-the-need-legal-framework-2134561>

transactions, the amount of fine prescribed under the Act of 2000 seems inadequate. The perpetrators of those online transactions also remain beyond the ambit of criminal punishment even if their activities constitute the elements of the crime.

The CRPA also imposes a bar for the consumers to go to the court directly and the law requires to take the endorsement of the Director-General of the Consumer Protection Directorate before filing any criminal cases for any anti-consumer right practices prescribed under this Act. Therefore the practical implication is that only competent government officers are entitled to institute a case against violations of any provisions of the Act.

This is a very uncommon feature of consumer protection laws in other parts of the globe, as most of the legislation on consumer protection allows receipt of complaints directly from the consumers. The imposition of such limitation on lodging complaints hinders the access to justice of the consumers which is contradictory with the constitutional provisions of equality before the law, equal protection of the law, and right to a fair trial. The extent of access to justice has been explained in such a way that “access to justice, in its general term, means an individual's access to a court or a guarantee of legal representation. It has many fundamental elements such as identification and recognition of grievance, awareness, legal advice or assistance, accessibility to court, claim for relief, adjudication of grievance, and enforcement of relief; of course, this may be the ultimate goal of a litigant public”.<sup>30</sup> The elements of access to justice have been compromised under the provision in question.

It is frustrating to note that the Directorate of Consumer Rights Protection is already overburdened with a huge number of complaints and in the recent past, they are receiving thousands of complaints regarding online trade grievances. However, due to a lack of infrastructural facilities and shortage of manpower, this institution fails to respond to those huge volumes of complaints. Lack of institutional accountability also crippled this organization which is the primary state agency to hear and dispose of complaints regarding goods and services.

It is noted that the cases of fraud, misrepresentation, breach of contract, breach of trust, misappropriation of property may be remedied under the existing laws including the Contract Act 1872, the Penal Code, 1860, the Money Laundering Prevention Act, 2012, the Digital Security Act, 2018, etc. However, the mandates and objectives of these laws differ from each other which might not be feasible to address the nature of digital commerce which is constantly evolving with the help of technology and social media platforms. It is observed that it will be difficult to prosecute the offense relating to digital commerce without identifying the concrete elements of a crime under a specific law.<sup>31</sup> For example, the 2021 Guidelines refer that no arrangement for online betting or online gambling may be made; no lottery or raffle-draw may be made in contravention to the existing provisions under the Penal Code, 1860 and without the approval of Bangladesh Bank. However, the essential elements to constitute the offenses of online betting or online gambling are not specified in the old dated Penal Code which may cause uncertainties to prosecute those offenses.

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<sup>30</sup> Srikakulam Sravanthi vs Srikakulam Anasaravalli Kumar, Telangana High Court, 6 December, 2018, referred in <https://indiankanoon.org/doc/32768094/>.

<sup>31</sup> Anju, S. (2021b, August 23). Business through Internet: A Quest for Legal Framework. *The Daily Star*. <https://www.thedailystar.net/law-our-rights/news/business-through-internet-quest-legal-framework-2159241>

Considering the evolving nature of digital commerce it is the demand of time to enact a comprehensive law that can effectively address the concerns of both traders and consumers.

### ***5.3 Issues that may be considered in drafting the new Digital Commerce Act***

#### **5.3.1 Definition of online business**

There should be a clear definition outlining the features of online business. The law should recognize online transactions as the contract for the sale of goods.

#### **5.3.2 Easy Registration procedure**

The law should stipulate the procedures of registration of online business. For registration, online traders should be categorized based on the nature of the business. It is noted that the same registration procedure may disproportionately impact small online traders. The registration process should be made easy and transparent. Considering the complexities in the registration process, most online traders feel reluctant in applying for an electronic business identification number (e-BIN and remain outside the scrutiny of revenue authorities and other watchdog bodies.

#### **5.3.3 Anti-online consumer rights practices**

There should be a list of anti-online consumer rights practices. The list prescribed under CRPA 2009 may be taken into account in this regard. The evolving nature and dynamics of fraudulent activities or malpractices concerning digital business should be categorized as anti-online consumer rights practices.

#### **5.3.4 Integrated payment system**

Under the existing framework, the payment system relating to online transactions is run by the directives and guidelines of the Bangladesh Bank. The new law should consolidate all the rules, regulations, and directives regarding payment systems integrating the modern payment systems.

#### **5.3.5 Establishment of regulatory authority**

Considering the limitations of existing regulatory authority including the Directorate of Consumer Protection and digital commerce cell, a new regulatory authority should be established under the new law. The law should not only prescribe the powers of the authority but also reflect the responsibilities of the authority to hold the authority accountable in case of any irregularities. The members of the authority should have expertise and skills relating to online business.

#### **5.3.6 Grievance mechanisms for online consumers**

The remedies against the grievances of online consumers are inadequate, vague, and governed by the policies and guidelines which are not enforceable before the court of law. There is no statutory legal framework that directly allows online consumers to get a remedy from the court. The new should address grievance mechanisms for online consumers. The grievance mechanism may be in two stages: (i) administrative mechanism conducted by the regulatory authority (ii) judicial mechanism administered by the court. The law may also incorporate the provisions of alternative dispute resolution in disposing of petty disputes relating to digital business.

### **5.3.7 Specialized commercial courts**

One of the core reasons for poor ranking in the World Bank's Doing Business Reports is the lack of regulatory transparency along with administrative and juridical delay in resolving corporate disputes. Our judicial system is overburdened with a huge backlog of cases (3.7 million) which causes the excessive delay in adjudicating disputes. The complex nature of procedural law also creates challenges for the speedy disposal of cases. To make the judicial system effective, it is imperative to establish specialized courts where the litigants will receive time-bound disposal of cases. Considering the nature of online disputes, the complaint filing system should be automated which will save the time of both the courts and justice seekers. It is noted that if the aggrieved online consumer takes the path of the traditional judicial system then he or she might again be trapped with the inherent problems of the existing justice delivery system.

Against this backdrop, the new law can refer to establishing specialized commercial courts to ensure speedy and effective disposal of commercial disputes concerning digital business. It is noted that the effective judicial system through special commercial courts will not only ensure the rights of online consumers but also facilitate the establishment of a robust trade protection mechanism that is instrumental for traders, buyers and investors. Table-6 provides some recommendations for the upcoming future.

**Table 7 Recommendations for Future**

Chapter	Stated Provision in National Digital Commerce Policy 2018	Unchanged	Proposed Extension	New inclusion
Chapter one (Name of the policy, circumstance, and definitions)	1.1 Brief Headline, implementation, and inauguration	Yes	N/A	N/A
	1.2 Definitions	Yes	N/A	<ul style="list-style-type: none"> <li>• Introduction of f-commerce</li> <li>• Definition of online business</li> </ul>
Chapter Two( Goal and Objectives)	2.1 Goal	Yes	N/A	N/A
	2.2.1 Promoting, expanding, and developing business through digital commerce	Yes	N/A	N/A
	2.2.2 Creating a compatible environment in conducting digital commerce business	Yes	N/A	N/A
	2.2.3 Assuring transparency, credibility, and accountability in conducting digital commerce business	Yes	N/A	N/A
	2.2.4 Building up faith and reliance with buyers and sellers in purchasing and selling through digital commerce	Yes	N/A	N/A
	2.2.5 Taking legal and legitimate actions in reserving the interests of entrepreneurs, buyers, and sellers	Yes	N/A	N/A
	2.2.6 Supporting in the protection of consumer rights	Yes	N/A	N/A
	2.2.7 Mitigating the risks in the digital transaction by coordinating among relevant institutions.	Yes	N/A	N/A

Chapter	Stated Provision in National Digital Commerce Policy 2018	Unchanged	Proposed Extension	New inclusion
	2.2.8 Assisting in cooperating the essential infrastructures (such as broadband internet, hosting) in digital commerce	Yes	N/A	N/A
	2.2.9 Facilitating coordination and legal side in product transportation and supply	Yes	N/A	N/A
	2.2.10 Making suitable environment in operating inter border digital commerce	Yes	N/A	N/A
	2.2.11 Easing the access to finance for improving the digital commerce among the small and medium entrepreneurs	Yes	N/A	N/A
	2.2.12 Generating opportunities in expanding digital commerce at the marginal level	Yes	N/A	N/A
	2.2.13 Creating opportunities for entrepreneurs and employments through digital commerce	Yes	N/A	N/A
	2.2.14 Outreaching and extending local products in the international sphere	Yes	N/A	N/A
	2.2.15 Preserving Digital business copyrights	Yes	N/A	N/A
Chapter three	3.1 Management system of digital commerce	Yes	N/A	N/A
	3.2 Ensurance of protection of Digital commerce protects consumer rights	Yes	N/A	N/A
	3.3 Digital Transaction	N/A	N/A	N/A
	3.3.2 Introduce digital transactions and mobile payments / digital wallets in all fields and take steps to facilitate and secure digital transactions	N/A	<ul style="list-style-type: none"> <li>Encouraging the digital payment method for mitigating the risks of cash on delivery services.</li> </ul>	N/A

Chapter	Stated Provision in National Digital Commerce Policy 2018	Unchanged	Proposed Extension	New inclusion
			<ul style="list-style-type: none"> <li>Digitalization of payment should be taken place to address the challenges of cash on delivery.</li> </ul>	
	3.4.3 If the crime related to digital commerce is identified, it will be taken action through the relevant law prevailing in the country	N/A	<ul style="list-style-type: none"> <li>Mentioning specific fines and regulatory bodies for specific crimes</li> </ul>	N/A
	3.5 Coordination among digital commerce-related institutions	Yes	N/A	N/A
	3.6 Legal Framework	N/A	N/A	<ul style="list-style-type: none"> <li>Harmonization of several policies or formulation specific provisions or acts regarding online consumers</li> </ul>
	3.7 Law enforcement procedures	Yes	N/A	<ul style="list-style-type: none"> <li>Establishment of the mobile court or similar type of regulatory body for controlling issues or frauds relating to cash on delivery system</li> </ul>
	3.8 Digital commerce promotion	Yes	N/A	N/A
	3.9 Policy amendment	Yes	N/A	N/A
	3.10 Conventions	Yes	N/A	N/A
<b>3.11 Action Plan ( Appendix-1)</b>	<b>Action plan-1:</b> To undertake training programs, to provide detailed information to the general public, established business organizations, new business, entrepreneurs, government officials, and employees about digital commerce and the practical aspects of this business.	Yes	N/A	N/A

Chapter	Stated Provision in National Digital Commerce Policy 2018	Unchanged	Proposed Extension	New inclusion
	<b>Action plan-2:</b> Inclusion of digital commerce in the curriculum of universities and different training institutions should include relevant topics and training programs for digital commerce.	Yes	N/A	N/A
	<b>Action plan-3:</b> To take measures to encourage people to engage with the digital commerce sector	Yes	N/A	N/A
	<b>Action plan-4:</b> Different educational institutions will arrange training programs for the expansion of the activities related to digital commerce.	Yes	N/A	N/A
	<b>Action plan-5:</b> To develop the coordination between the national digital commerce sector with the existing system of the world and research should be taken place to identify the problems and recommend possible solutions for ensuring long-term and sustainable development. For this purpose, an advisory committee with the member of relevant authority of government, the largest business association, members of the Department of Information and Communication Technology, and the representative of digital commerce industry would be made.	Yes	N/A	N/A
	<b>Action plan-6:</b> A technical advisory committee with the representatives of the concerned department (law enforcement agencies, Bangladesh Banks, and Experts) resolve the problems associated with the related activities of e-commerce such as business, the dissatisfaction of the sellers and buyers and other technical problems will take place.	Yes	N/A	N/A

Chapter	Stated Provision in National Digital Commerce Policy 2018	Unchanged	Proposed Extension	New inclusion
	<b>Action plan-7:</b> To ensure investment in the digital commerce sector by foreigners and local companies in 51:49 based ownership system.	Yes	N/A	N/A
	<b>Action plan-8:</b> To motivate the insurance sector, to develop and approve various insurance packages to support the digital commerce sector.	Yes	N/A	N/A
	<b>Action plan-9:</b> To take initiative for introducing digital signatures in all government and private offices.	Yes	N/A	N/A
	<b>Action plan-10:</b> To develop confidence and respect for the policy and ensure that all types of business can run in digital platforms along with the existing traditional process of doing business.	Yes	N/A	N/A
	<b>Action plan-11:</b> To achieve the desired growth and trust in the digital commerce sector, the appropriate infrastructure development, knowledge-based development, and a participative business environment will take place.	Yes	N/A	N/A
	<b>Action plan-12:</b> To control and supervise the transaction security of the digital commerce sector of the country, action should be taken according to the guideline of the World Trade Organization and different policies in the country, law, and plans.	Yes	N/A	N/A
	<b>Action plan-13:</b> Mobile operators should have compliance with rules and regulations about Net Neutrality.	N/A	<ul style="list-style-type: none"> <li>BTRC may create a regulatory body</li> </ul>	N/A
	<b>Action plan-14:</b> To create a safe environment for the consumer of Digital commerce, rules and regulations regarding the protection of consumer interests should be provided.	N/A	<ul style="list-style-type: none"> <li>Introduction of anti-consumer rights practices</li> </ul>	N/A
	<b>Action plan-15:</b> Steps should be taken to implement the cash on delivery system, simplify Digital	Yes	N/A	N/A

Chapter	Stated Provision in National Digital Commerce Policy 2018	Unchanged	Proposed Extension	New inclusion
	Commerce, and resolve the dissatisfaction of the buyer and seller.			
	<b>Action plan-16:</b> In cash on delivery service system, steps should be taken so that the company or buyer is given back the money as per the rules of the Bangladesh post office or courier (in case of return).	N/A	<ul style="list-style-type: none"> <li>• Specification of the steps</li> <li>• To avoid fraud issues, enable a mobile court system to take urgent actions.</li> </ul>	N/A
	<b>Action plan-17:</b> Under the national digital commerce policy communication of the customer, priority-based choice, Merchant banks should take initiatives to protect the privacy of the consumer information.	Yes	N/A	N/A
	<b>Action plan-18:</b> A Risk Factor Management Committee should be formed with a concerning management committee to identify different risks of purchasing and selling products and services at the national and international level through Digital Commerce.	Yes	N/A	N/A
	<b>Action plan-19:</b> To ensure the safe transaction of consumers and businessmen, steps should be taken to implement the application's strong multi-layered Authentication and Encryption process.	Yes	N/A	N/A
	<b>Action plan-20:</b> To identify the existing and emerging risk in mobile banking, crime related to digital commerce, piracy steps should be taken to train concerned officers.	Yes	N/A	N/A
	<b>Action plan-21:</b> Fast steps should be taken to provide the victim or organization justice at the international level, according to the direction given by WTO to solve crimes related to electronic payments.	Yes	N/A	N/A
	<b>Action plan-22:</b> To determine the time limit for payment by consumer and refund in case of dissatisfaction.	Yes	N/A	N/A

Chapter	Stated Provision in National Digital Commerce Policy 2018	Unchanged	Proposed Extension	New inclusion
	<b>Action plan-23:</b> Ensuring high-quality bandwidth at a low cost across the country.	N/A	<ul style="list-style-type: none"> <li>Attachment of private institutions as a regulatory body to monitor net neutrality</li> </ul>	N/A
	<b>Action plan-24:</b> Union Digital Centre should ensure sufficient internet service.	Yes	N/A	N/A
	<b>Action plan-25:</b> Establish a suitable cyber cafe at Union Digital Center.	Yes	N/A	N/A
	<b>Action plan-26:</b> Establish a digital commerce helpdesk similar to the ICT-based help desk in every digital center across the country.	Yes	N/A	N/A
	<b>Action plan-27:</b> To increase the tele density fast and effective steps should be taken.	Yes	N/A	N/A
	<b>Action plan-28:</b> To take steps to make all websites accessible to citizens of all walks of life, including women, disabled, following the international standards.	N/A	<ul style="list-style-type: none"> <li>An integrated national database/platform may be introduced.</li> </ul>	N/A
	<b>Action plan-29:</b> To supply products of Digital commerce to the consumer and to develop communication systems at the field level to ensure universal access.	Yes	N/A	N/A
	<b>Action plan-30:</b> To take immediate actions to construct paved roads at Union and Ward level and repair existing roads so that they sustain for a long time.	Yes	N/A	N/A

Chapter	Stated Provision in National Digital Commerce Policy 2018	Unchanged	Proposed Extension	New inclusion
	<b>Action plan-31:</b> Effective initiatives should be taken to improve logistics services for the benefit of trade of any product at the national and international level through digital commerce.	Yes	N/A	N/A
	<b>Action plan-32:</b> To get integrated with international digital commerce, Bangladesh trade policy, law, etc., need to be added, modified, and expanded according to the guidelines provided by WTO.	Yes	N/A	N/A
	<b>Action plan-33:</b> Steps should be taken to facilitate trade and commerce through digital commerce following the guidelines issued by the WTO and to ensure equity between trusted transactions in international, regional, and domestic legal frameworks.	Yes	N/A	N/A
	<b>Action plan-34:</b> To have trusted transactions through Digital Commerce, an e-payment policy should be implemented according to international standards, and accountability, anonymity, convertibility, efficiency, integration, scalability, reliability, and usability should be ensured.	Yes	N/A	N/A
	<b>Action plan-35:</b> To provide digital commerce-based digital along with metropolitan cities, at district, Upazila, and Union level to the lower-income people, backward class, and educated or uneducated unemployed regardless of their gender.	Yes	N/A	N/A
	<b>Action plan-36:</b> To create platforms for selling agriculture-based products at union digital centers.	Yes	N/A	N/A

Chapter	Stated Provision in National Digital Commerce Policy 2018	Unchanged	Proposed Extension	New inclusion
	<b>Action plan-37:</b> To take initiatives to implement mechanisms on market connectivity, value addition, the establishment of the supply chain, quality check of products, solve the issues between buyer and seller about the quality of the products of agricultural products.	Yes	N/A	N/A
	<b>Action plan-38:</b> To broaden the horizon of digital commerce, women entrepreneurs should be provided private and public training on digital commerce, especially	Yes	N/A	N/A
	<b>Action plan-39:</b> To take initiatives to make SME (Small and Medium Enterprise) loans easier.	Yes	N/A	N/A
	<b>Action plan-40:</b> To provide cash incentives to the entrepreneurs who are involved in rural small-scale businesses.	Yes	N/A	N/A
	<b>Action plan-41:</b> To implement the vision of 'Internet Everywhere,' 'Internet for All' as soon as possible through the desired development of ICT infrastructure.	Yes	N/A	N/A
	<b>Action plan-42:</b> To take steps for training programs for marginalized people across the country to provide knowledge and raise awareness about digital commerce.	Yes	N/A	N/A
	<b>Action plan-43:</b> To create and expand markets based on agriculture, farm, and other small-scale industries at home and abroad for the rural under-educated, or educated unemployed youth (including women and disabled).	Yes	N/A	N/A

Chapter	Stated Provision in National Digital Commerce Policy 2018	Unchanged	Proposed Extension	New inclusion
	<b>Action plan-44:</b> To take adequate steps to encourage companies with showrooms in the country to conduct business in traditional ways and the Digital Commerce sector.	Yes	N/A	N/A
	<b>Action plan-45:</b> To create an aware community by providing basic IT training to teachers and students of secondary schools and colleges across the country.	Yes	N/A	N/A
	<b>Action plan-46:</b> To take adequate measures to create more entrepreneurs based on digital commerce.	Yes	N/A	N/A
	<b>Action plan-47:</b> To develop skilled professionals in ICT such as computer programmers, web developers, graphics designers, digital marketing experts, cyber experts, supply chain management experts, etc.	Yes	N/A	N/A
	<b>Action plan-48:</b> To take steps to include courses on digital commerce in all types of government training programs, including youth development and cooperatives suitable for domestic and international markets.	Yes	N/A	N/A
	<b>Action plan-49:</b> Introduce short and diploma courses in all country polytechnic institutes in various digital commerce subjects like digital security, web design, digital marketing, etc.	Yes	N/A	N/A
	<b>Action plan-50:</b> Encourage the development of small and medium scale industries in rural and small towns across the country and take steps to include them in the digital commerce sector and provide necessary financial and other assistance	Yes	N/A	N/A

Chapter	Stated Provision in National Digital Commerce Policy 2018	Unchanged	Proposed Extension	New inclusion
	<b>Action plan-51:</b> For foreign investors, online registration and work permit should be arranged.	Yes	N/A	N/A
	<b>Action plan-52:</b> To take immediate steps to issue an e-visa and renewal system for foreign investors or businessmen who are willing to invest.	Yes	N/A	N/A
	<b>Action plan-53:</b> To expedite filing income tax returns, including online TIN, VAT registration, and online bill of entry/ export submission arrangements	Yes	N/A	N/A
	<b>Action plan-54:</b> To take steps to expedite the implementation of the decisions of online payment related to income tax, VAT, customs duty.	Yes	N/A	N/A
	<b>Action plan-55:</b> To expedite the information coordination of online custom clearance and warehouses.	Yes	N/A	N/A
	<b>Action plan-56:</b> To keep opportunities for digital commerce traders in high-tech/ electronic parks.	Yes	N/A	N/A
	<b>Action plan-57:</b> To take steps to conduct campaigns on all types of electronics and print media related to the activities of Digital Commerce.	Yes	N/A	N/A
	<b>Action plan-58:</b> To facilitate the process of online payment of customs duties, other fees, and speedy unloading of goods, necessary amendments, additions, and refinements to the relevant legal framework.	Yes	N/A	N/A

Chapter	Stated Provision in National Digital Commerce Policy 2018	Unchanged	Proposed Extension	New inclusion
	<b>Action plan-59:</b> Inclusion of digital commerce in all import and export activities of goods and services through digital commerce to meet the demand for goods and services in the domestic and foreign markets to increase revenue from foreign trade and attract foreign investment.	Yes	N/A	N/A
	<b>Action plan-60:</b> To take appropriate measures to modernize the national and international arena's effective and competitive logistics environment.	Yes	N/A	N/A
	<b>Action plan-61:</b> Transform all trades into digital trade.	Yes	N/A	N/A

Source: Authors' compilation from various sources (KII, FGD with stakeholders, policy paper)

**Table 8 Further way forwards for future National Digital Commerce Act**

Key issues	Reflection in the National Digital Commerce Policy, 2018	Extension/modifications
<b>Issues regarding complaints and fines</b>	Not specified	<ul style="list-style-type: none"> <li>A specific fine should be imposed in case of failure in the delivery of the products. Such as equivalent money (Time value of money should be considered.)</li> <li>Fines should be adjusted with the nominal interest rate</li> </ul>
<b>Strengthening the e-commerce cell</b>	Not specified	<ul style="list-style-type: none"> <li>The human resource of the e-commerce cell of the ministry of commerce should be increased.</li> </ul>
<b>E-trade licensing system</b>	Not specified	<ul style="list-style-type: none"> <li>A national platform should be created for the e-trade licensing system. Moreover, this should be included in the digital center. The whole practice should be followed all over the country.</li> </ul>
<b>LDC Graduation</b>	Not specified	<ul style="list-style-type: none"> <li>Business and IT-enabled services should be promoted.</li> <li>Infrastructure development and a quick transportation system need to be undertaken.</li> </ul>
<b>Introducing different categories for f-commerce/ Facebook entrepreneurs</b>	Not specified	<ul style="list-style-type: none"> <li>There should be some alternative systems for the entrepreneurs of f-commerce such as formalizing them from this informal sector.</li> </ul>

<b>Key issues</b>	<b>Reflection in the National Digital Commerce Policy, 2018</b>	<b>Extension/modifications</b>
<b>Aggressive marketing system</b>	Not specified	<ul style="list-style-type: none"> <li>This type of aggressive marketing for any kind of e-commerce site should be banned and the competition commission should regulate and monitor this properly. They should be functional and should have kept track earlier in this matter and should be more active in dealing with this type of issue.</li> </ul>
<b>Category wise trade licensing system</b>	Not specified	<ul style="list-style-type: none"> <li>The inclusion of such a category is necessary. An online business category may be introduced for the entrepreneurs who are involved in online business.</li> </ul>
<b>Small and cottage industry</b>	Not specified	<ul style="list-style-type: none"> <li>Priority should be given to small and cottage industries to encourage the entrepreneurs</li> </ul>
<b>Separate VAT for local and foreign investors</b>	Not specified	<ul style="list-style-type: none"> <li>The protectionist policy should undertake which is indispensable to protect the local industries and to general employment by this sector.</li> <li>Government should develop different tax policies for the foreign companies and the government should support the local companies by tax policies</li> </ul>
<b>Enabling loans with PRA</b>	Not specified	<ul style="list-style-type: none"> <li>Special loans should be provided for e-commerce entrepreneurs that do not require trade licenses. Loans with PRA should be enabled.</li> </ul>
<b>Team Coordination/Information Exchange with the drafting team</b>	Not specified	<ul style="list-style-type: none"> <li>The drafting team should meet up for exchanging information with inter-ministerial bodies. That can lessen the maximum problems that can arise further. This process should be done in the drafting stage.</li> </ul>
<b>Readiness of the ICT sector/ Why Bangladesh is not proactive?</b>	Not specified	<ul style="list-style-type: none"> <li>The changes in ICT occur every 3 years. The ICT sector should be that much ready to keep up the pace with the global context.</li> </ul>
<b>Digital literacy</b>	Not specified	<ul style="list-style-type: none"> <li>Awareness about using digital platforms should be raised.</li> <li>Need to develop digital literacy through training and capacity-building programs to assure digital security.</li> <li>Human resource in the IT sector needs to be enhanced.</li> </ul>

Key issues	Reflection in the National Digital Commerce Policy, 2018	Extension/modifications
<b>Women Entrepreneurs in Digital Commerce Sector</b>	Not specified	<ul style="list-style-type: none"> <li>• The policy should be updated in that way by which women can get equal access to the IT sector.</li> <li>• Access to finance or bank loans needs to be ensured for women entrepreneurs.</li> <li>• Moreover, the government should be the bank grantors for women.</li> <li>• For delivering appropriate service, digitalization needs to develop which can reduce incapacity and assure accountability.</li> </ul>
<b>Reconsidering the fines regarding Consumer Protection</b>	Not specified	<ul style="list-style-type: none"> <li>• Punishment should be given to the fake and illegal e-commerce companies who are violating the rights of consumers.</li> <li>• Consumer Rights Protection Act 2009 should be updated to address the concerns of e-commerce industries or need to specify the punishment for fraudulence in the e-commerce sector.</li> <li>• Strict rules and regulations should be undertaken and specific acts or appropriate remedies by the consumer rights association should be undertaken.</li> <li>• To protect the customer's rights Bangladesh Bank should arrange an auditory cell or wing which will monitor the financial activities every three months of the e-commerce industry. Moreover, the competition commission should undertake the anti-competition act</li> </ul>
<b>Implementation issue</b>	Not specified	<ul style="list-style-type: none"> <li>• This policy is one of the comprehensive policies but without the feasible implementation, the prime goals of the policy cannot be able to ensure.</li> <li>• Strong monitoring and the regulatory system should be undertaken for implementing the policy. Moreover, for ensuring security, a specific committee for taking the complaints should be developed.</li> </ul>

Key issues	Reflection in the National Digital Commerce Policy, 2018	Extension/modifications
<b>Modification of existing laws</b>	Not specified	<ul style="list-style-type: none"> <li>• Specific guidelines and action plans for protecting the local digital commerce industries should be undertaken.</li> <li>• The major priority of this policy should generate employment and become producers. Consequently, foreign companies can ensure benefits for the consumer but in the long run the local producers are being affected adversely, more protectionist policies should undertake for generating local employment by e-commerce industries.</li> </ul>
<b>Restriction on price dumping/ product and service subsidy</b>	Not specified	<ul style="list-style-type: none"> <li>• Relevant authority should restrict for those who are selling products by subsidy</li> </ul>
<b>SME financing for Women entrepreneurs</b>	Not specified	<ul style="list-style-type: none"> <li>• SME loan policy should be formatted for ensuring support for women entrepreneurs. But without a trade license, SME loans cannot be provided which should be alleviated.</li> </ul>
<b>Bandwidth issue</b>	Not specified	<ul style="list-style-type: none"> <li>• Internet systems should be facilitated so that this sector can boom especially in the rural sector to attract the people of rural areas in the digital commerce sector.</li> </ul>
<b>Scam issues and accountability</b>	Not specified	<ul style="list-style-type: none"> <li>• Government should be accountable for a certain percentage if any companies go bankrupt and fail to deliver their products.</li> </ul>
<b>Harmonization of several governing bodies</b>	Not specified	<ul style="list-style-type: none"> <li>• Several governing bodies should work together to lessen the issues regarding fraud in the e-commerce sector.</li> </ul>
<b>Specification of VAT and Tax</b>	Not specified	<ul style="list-style-type: none"> <li>• Excessive vat and tax also need to be reduced.</li> <li>• The policy should specify the vat and tax on specific products.</li> </ul>
<b>The necessity of Laws and Regulations</b>	Not specified	<ul style="list-style-type: none"> <li>• Law, regulations, and immediate response, for example, the mobile court are needed to be undertaken to ensure security and safety in the digital commerce sector.</li> <li>• Policy, monitoring, and strict control mechanisms are also needed to be undertaken to protect the rights of customers. Monitoring in the Banking channel also needs to be undertaken</li> </ul>

Key issues	Reflection in the National Digital Commerce Policy, 2018	Extension/modifications
<b>Opportunities for Women Entrepreneurs</b>	Not specified	<ul style="list-style-type: none"> <li>• Small loans with simple conditions need to be provided. The “Buy now, pay later” process for women should undertake. More, banks should work together for providing loans.</li> <li>• To develop women's entrepreneurship, coordination and specific action plans between different sectors are needed to implement special treatment for the women entrepreneurs.</li> <li>• Training programs on digital literacy for women also need to be undertaken.</li> </ul>
<b>Upgradation of product delivery system/logistic support</b>	Not specified	<ul style="list-style-type: none"> <li>• The product delivery system and the safety and security of the products and delivery system should be monitored strictly by the relevant authorities of the government.</li> </ul>
<b>Access to finance for women entrepreneurs</b>	Not specified	<ul style="list-style-type: none"> <li>• Government should take urgent action for providing loans to women entrepreneurs. Moreover, the process of accessing loans from Banks should be simplified.</li> <li>• Banking literacy needs to be provided to the women entrepreneurs and also the bankers to reduce the hassles to provide loans to the women entrepreneurs.</li> <li>• Women entrepreneurs also should enhance their capacity for loans and maintain proper procedures for collecting required documents for loans.</li> </ul>
<b>Enforcement of competition act</b>	Not specified	<ul style="list-style-type: none"> <li>• Enforcement of the competition act also needs to implement to reduce the unequal conflict between large and big industries.</li> </ul>
<b>The Impacts of Foreign Direct Investment and Joint Venture</b>	Not specified	<ul style="list-style-type: none"> <li>• The major priority of this policy should generate employment and become producers. Consequently, foreign companies can ensure benefits for the consumer but in the long run the local producers are being affected adversely, more protectionist policies should undertake for generating local employment by e-commerce industries.</li> </ul>
<b>Cross border e-commerce</b>	Not specified	<ul style="list-style-type: none"> <li>• Encouragement should be given in cross-border e-commerce focusing on the service sector as well.</li> </ul>

Source: Authors' compilation from various sources (KII, FGD with stakeholders)

## 6. Conclusion

In conclusion, we have provided a thorough review of the National Digital Commerce Policy, 2018 using mixed methodology. From desk review, KIIs and FGDs we have pointed out some interesting issues of the National Digital Commerce Policy, 2018, the challenges of implementation, and its relevance to the current global trade and business scenarios. This review has also compared the National Digital Commerce Policy of Bangladesh with some of the significant industrial successes of East and South-East Asian countries.

Our primary findings point out that the provisions of the current National Digital Commerce Policy, 2018 are well thought out and crafted. However, there is a lack of coordination among the implementing agencies, which limits the effectiveness of the policy. The current National Digital Commerce Policy also does not properly address the present changing trade dynamics (COVID-19 recovery, 4IR, LDC graduation, 8<sup>th</sup> Five-Year plan, and perspective plan 2021-2041) as it was formulated back in 2018. The legal non-binding nature of the Industrial Policy 2016 also acts as a significant hurdle for effective implementation of the policy, as there is no legal responsibility among the implementing agencies for fruitful implementation of the policy. Along with these issues, slow bandwidth internet, poor internet facilities in rural areas, fraud in e-commerce platforms, problems in logistics support are some of the significant bottlenecks for the effective implementation of the National Digital Commerce Policy 2018.

To create a viable atmosphere in terms of management and operation of digital commerce, the policy deserves significance; however, the policy without having any binding effect fails to protect the interests of both buyer and seller. The language of the policy usually remains aspirational which fails to generate any sense of obligation. The policy without being enforceable cannot prevent possible deviation or violation of the objectives for which the policy has been formulated. It is noted that the policy covers a few significant areas in its objectives that are aimed to facilitate the growth of digital commerce in Bangladesh. However, it should not be forgotten that the growth of digital commerce also carries some inconsistencies and even grievances from the part of the consumers which the policy fails to address. It is mentionable that the policy contains an action plan to actualize the objectives of the policy; however, the status of the implementation of the action plan based on a concrete assessment is not found anywhere which raises the question regarding enforcement of the policy. Such assessment could also facilitate the formulation of the forthcoming policy addressing any missing area or implementation challenge of the existing policy. Several countries have had great success by formulating acts and laws in promoting digital commerce.

Considering the evolving nature of digital commerce it is the demand of time to enact a comprehensive law that can effectively address the concerns of both traders and consumers.

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## Annexure

### List of KIIs for the policy review

Organisation/Association	Key informants
Representatives from the Ministry of Telecommunications and ICT	<ul style="list-style-type: none"> <li>Rina Parveen, Additional Secretary (ICT Promotion &amp; Research Wing), Information and Communication Technology Division</li> </ul>
Relevant personnel from E-Commerce	<ul style="list-style-type: none"> <li>Mr. Hashim Ahmed, Secretary, BASIS</li> <li>Enamul Hafiz Latifee, Joint Secretary (Research Fellow), BASIS</li> <li>Md Ziaul Haque Bhuiyan, Chief of Staff, ShopUp</li> </ul>
Representatives from the ministry of commerce	<ul style="list-style-type: none"> <li>Mr. Md. Khalilur Rahman, Director-3 (Deputy Secretary), WTO Cell</li> <li>Md. Sayed Ali, Deputy Secretary, WTO Cell (E-Commerce Cell)</li> </ul>
E-commerce entrepreneurs	<ul style="list-style-type: none"> <li>Mr. Fahim Mashroor, CEO, Ajkerdeal.com.bd &amp; bdjobs.com</li> </ul>

### Participants of FGD:

<b>Members from Women e-commerce Forum(WE)</b>	Shahida Akter Supti, Owner of Supti's Collection
	Sadia Islam Mou, Owner of Mj fashion mart
	Suhana Siddique Chumki, Owner of Suhana's Kitchen
	Samia Afrin Lisa, Owner of Shop of Purity
	Rina Khanum, Owner of Holde Ghor
	Salma Alam, Owner of H&F food
	Fahima Supria, Owner of Shororitu
	Tahmina Ali, Co-owner of Shororitu
	Razia Kabir, Owner of Razia Agro Farm
Monalisa Alam, Owner of iicchepuron	

### Members from BASIS:

Serial	Company_Name	Participant	Designation
1	Software Shop Limited	Mr. Reazul Islam	CEO
2	eCourier Limited	Mr. Biplob Ghosh Rahul	CEO
3	Bikroy.com Limited	Eshita Sharmin	Managing Director
4	Shurjomukhi Ltd.	Mr. Fida Haq	CEO & MD

## Team Composition

Name of staff	Area of expertise relevant to the assignment	Designation for this assignment	Assigned tasks or deliverables
Dr. Bazlul Haque Khondker	Economist, Institutional analysis expert, Survey expert, FGD and KII expert	Team Leader	Finalize questionnaire, FGD, and KII checklists, Evaluation, and analysis, Draft synthesizing summary, Draft short summaries Finalizing reports
Dr. Selim Raihan	Economist, Political economy and institutional analysis expert, Survey expert, FGD and KII expert	Co-Team Leader, Trade Expert	Coordinating and monitoring the team, monitoring all the activities performed by the team members, finalizing questionnaire, FGD, and KII checklists, Evaluation, and analysis, Draft synthesizing summary, Finalizing reports.
Mahtab Uddin	Policy analysis and evaluation, Survey expert, FGD and KII expert	Policy Analyst	Monitoring all the activities performed by the team members, finalizing questionnaire, Coordinating FGDs and KIIs, Evaluation and analysis, Draft synthesizing summary.
Mohammad Golam Sarwar	Legislative consultant, development law practitioner	Legal Expert	Analyzing the legal terms and provisions of the study, identifying the possible grounds of alterations, extensions, and exclusion of current legal provisions, providing legal recommendations.
Recardo Saurav Antor Halder	Data analyst, Survey Experts	Senior Research Associate	Desk review, analyzing secondary data, designing questionnaires for KIIs, supervising and conducting FGDs, analyzing primary data, and drafting the reports.
Sakil Ahmed	Data analyst, Survey Experts	Research Associate	Desk review, analysing secondary data, designing survey questionnaires for KIIs, supervising the survey, conducting FGDs, analysing primary data, and drafting the reports.
Zareen Tasnim	Data analyst, Survey Experts	Research Associate	Research and analysis of relevant literature, primary and secondary data, supervising and conducting KIIs and FGDs.
Afia Mubasshira Tiasha	Data collection and Supervision	Research Assistant	Desk Review, developing KII questionnaire, assisting in conducting the KIIs, conducting FGDs.
Shithee Ahmed	Data collection and drafting	Intern	Conducting KIIs and FGDs, and transcribing
Halima Binte Islam	Data collection and drafting	Intern	Conducting KIIs and FGDs, and transcribing



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