E-Pharmacies in India: Making A Case For Regulation

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India's e-pharmacies operate within older statutes - the Drugs and Cosmetics Act, 1940 (DCA) and its Rules (DCR), which regulate manufacture, sale and labelling of drugs, and the Pharmacy Act, 1948, which addresses pharmacist qualifications. None are designed for digital transactions, leaving the sector in a grey zone.

Inventory-model platforms sell directly, while marketplace platforms act as intermediaries under the Information Technology Act, 2000 (IT Act). Some platforms also operate a hybrid model. Given the legislative and regulatory gaps, this evolving ecosystem, is increasingly inviting regulatory attention, pushback from traditional chemists, and judicial scrutiny.

The first concrete regulatory signal came in 2015, when the Drugs Controller General of India clarified that the DCR makes no distinction between offline and online sales and that compliance requirements apply equally to both. In 2016, FICCI introduced a voluntary Self-Regulation Code requiring medicines to be dispensed only through licensed pharmacies and mandating valid prescriptions for scheduled drugs. However, it lacked legal force.

A more detailed attempt followed in 2018 with the draft Sale of Drugs by E-Pharmacies Rules. These proposed definitions for e-pharmacies, a mandatory registration system, inspection mechanisms and procedures for online sale and distribution. They also prohibited online advertising of drugs, created monitoring and grievance-redressal systems, and barred e-pharmacies from dealing in narcotics, psychotropics, tranquilizers and Schedule X substances.

The draft Rules sparked litigation. Petitions before the Delhi and Madras High Courts sought blanket bans on e-pharmacies citing public-safety risks. In Zaheer Ahmed v Union of India (2018), the Delhi High Court prohibited online sale of medicines without a licence. Around the same time, the Madras High Court (Tamil Nadu Chemists and Druggists Association v Union of India) also imposed a temporary ban, but a Division Bench later set it aside, holding that enforcement lay with authorities under the DCA and DCR. The cases also highlighted model-specific defences: inventory platforms claimed valid retail licences, while marketplace platforms argued they merely connected consumers to licensed pharmacies.

In 2022, the draft Drugs, Medical Devices and Cosmetics Bill proposed a modernised framework but missed an opportunity to substantively address e-pharmacies. It simply requires online sellers or distributors to obtain a licence and empowers the Government to frame rules for regulating online sale. At present, both the 2018 draft Rules and the 2022 Bill remain unnotified, keeping the legal status of e-pharmacies uncertain.

Judicial scrutiny

Indian courts, meanwhile, have repeatedly confronted the question: when does an online platform 'sell' a drug, and when is it only an intermediary? This distinction now sits at the core of enforcement actions involving e-pharmacies and online market-places.

Early concerns surfaced in 2017 in a case against Myra Medicines, where authorities and civil-society groups alleged that the platform enabled access to banned or prescription - only drugs without safeguards. These complaints highlighted fears around youth access, misuse of psychotropic substances and broader public-health risks.

Scrutiny escalated in 2023 when the Central Drugs Standard Control Organisation (CDSCO) issued show-cause notices to major platforms such a Amazon, Flipkart and Tata1mg, accusing them of enabling the illegal online sale of prescription drugs. The platforms uniformly responded that they were intermediaries, not sellers, and that liability lay with the licensed pharmacies or third-party vendors using their services.

Courts have generally accepted this position where platforms demonstrate adequate diligence. The Karnataka High Court's 2021 decision in Snapdeal Private Limited v State of Karnataka is a key example. A third-party vendor had listed a prescription-only drug on Snapdeal, prompting prosecution under the DCA. The Court held that Snapdeal could not be treated as a seller because it did not manufacture, stock or supply the drug. Crucially, Snapdeal had clear contractual prohibitions on such listings, maintained a banned-products policy and removed the listing upon notice - satisfying the requirements for safe harbour under Section 79 of the IT Act. Proceedings were thus quashed.

The Delhi High Court's interim order in IndiaMART Intermesh v The Central Drugs Standard Control Organisation & Ors. (2025) adopts the same analytical framework. IndiaMART described itself as a 'digital directory' outside the scope of the DCA and despite repeated regulatory notices, the Court granted temporary protection, indicating that marketplace liability must be assessed through intermediary-liability principles, not through traditional drug-sale concepts.

Together, these cases signal a judicial trend: liability for online drug listings depends on whether a platform controls inventory and maintains robust compliance, not on the mere presence of unlawful listings.

Addressing gaps

Alongside questions of platform liability, deeper structural issues require attention. Under the Pharmacy Act, 1948, only registered pharmacists may dispense medicines against a valid prescription, meaning e-pharmacies must ensure pharmacist oversight for every prescription order; a safeguard not always uniformly implemented. The Pharmacy Practice Regulations, 2015 also require pharmacists to counsel patients on dosage, usage and side effects, an interaction largely absent in online transactions.

Prescription authenticity is another challenge. Without a digital verification system, forged or duplicated prescriptions can be uploaded across multiple platforms, enabling over-purchasing and unsafe access. Although the DCR require pharmacists to mark prescriptions once dispensed, this safeguard is difficult to enforce online. Data-privacy concerns also persist, though India's new data-protection regime, notified in November 2025, is expected to strengthen standards for handling sensitive health information.

International models offer guidance. In the US, the National Association of Boards of Pharmacy's VIPPS (Verified Internet Pharmacy Practice Sites) accreditation system - supported by federal and state laws - ensures that online pharmacies meet strict standards for prescription authentication, safety compliance and third-party monitoring. The EU's Falsified Medicines Directive requires all legitimate online pharmacies to display a common EU logo linked to a national registry, enhancing consumer transparency and trust. In Japan, while certain OTC medicines may be sold online with real-time pharmacist involvement, for higher-risk products, prescription drug sales remain restricted. A 2025 legal revision will allow OTC pickup at convenience stores but with mandatory online pharmacist explanations.

Tapping into such models to shape its digital healthcare regime will enable India to promote innovation while protecting public health with clarity, consistency, and global best-practice alignment.