

Consumer Protection Act, 2019

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Abstract

The new Consumer Protection Act was passed by Parliament in 2019. It came into force in July 2020 and replaced the Consumer Protection Act, 1986. Consumer Protection Act, 2019 is a law to protect the interests of the consumers. This Act provides safety to consumers regarding defective products, dissatisfactory services, and unfair trade practices. The basic aim of the Consumer Protection Act, 2019 is to save the rights of the consumers by establishing authorities for timely and effective administration and settlement of consumers' disputes.

Consumer Protection is not a new concept. It was embedded in our ancient texts too. In India, around 2500 years ago, during the period of Kautilya, there were guidelines for the government regarding how trade should be regulated and the interest of the consumers be protected. The Consumer Protection movement in modern India began with the Consumer Protection Act of 1986 which built in many clauses for the protection of the consumer for both purchase of goods and availing of services. The Act is since sought to be amended by the government through the Consumer Protection Bill 2018 (taken up in the winter session).

The government has also introduced various standards and measurements for checking of goods and services. Ex: ISI Mark, Hallmark for jewellery, Silkmark for Silk products and the recent Real Estate Regulatory Authority – a landmark regulatory measure for safeguarding the consumers from malpractices in the real estate sector. Other measures such as DBT, Ujjawala etc. are also intended at protecting the common man from becoming the victim of frauds as a beneficiary of the government schemes. Consumer redressal has also been built into the Consumer Protection Act. There are various fora like the National Consumer Disputes Redressal Authority for grievance redressal.

Keywords : Consumer, Protection, administration, Services & Act.

Need of the new act

The Digital Age has ushered in a new era of commerce and digital branding, as well as a new set of customer expectations. Digitization has provided easy access, a large variety of choices, convenient payment mechanisms, improved services and shopping as per convenience. However, there are also associated challenges related to consumer protection.

To help address the new set of challenges faced by consumers in the digital age, the Indian Parliament passed the landmark Consumer Protection Bill, 2019 which aims to provide timely and effective administration and settlement of consumer disputes.

The salient features of the New Consumer Protection Bill :

1. The establishment of an executive agency **Central Consumer Protection Authority (CCPA)** to promote protect and enforce the rights of consumers it will make interventions when necessary to prevent consumer detriment arising from unfair trade practices and to initiate class action including enforcing recall, refund and return of products.
2. Provisions for “product liability” action for or on account of personal injury, death, or property damage caused by or resulting from any product with basis for product liability action and the liability of a manufacturer to a claimant.

3. Provision for “mediation” as an Alternate Dispute Resolution (ADR) mechanism making the process less cumbersome, simple and quicker.
4. Making clear the consumer dispute adjudication process in the consumer forums are envisioned.
5. Improving the financial jurisdiction of the consumer disputes redressal agencies, raising the least required number of members in the consumer forum to facilitate speedy disposal of complaints, power to evaluate their own orders by the state and district commission, Penalising of celebrity and endorsements for false and misleading ads.
6. Declaring of unfair terms of a contract as null and void.

Objectives of the Study :

1. Consumers have the right to information on various aspects of goods and services. This could be information about the quantity, quality, purity, potency, price, and standard of goods or services.
2. To be protected from hazardous goods and services. Right to protection against goods and services that can be dangerous to life and property.
3. To be protected from unfair or restrictive trade practices.
4. Consumers have the right to access a variety of goods and services at competitive prices.

5. Consumers should have the right to redressal.

Salient Provisions of the Consumer Protection Act

The new Act has widened the definition of 'consumer'.

Definition of consumer:

"As per the Act, a person is called a consumer who avails the services and buys any good for self-use. Worth to mention that if a person buys any good or avails any service for resale or commercial purposes, he/she is not considered a consumer. This definition covers all types of transactions i.e. offline and online through teleshopping, direct selling or multi-level marketing."

Central Consumer Protection Authority:

1. The Act proposes the establishment of the Central Consumer Protection Authority (CCPA) as a regulatory authority.
2. The CCPA will protect, promote and enforce the rights of consumers and regulate cases related to unfair trade practices, misleading advertisements, and violation of consumer rights.
3. CCPA would be given wide-ranging powers.
4. The CCPA will have the right to take suo-moto actions, recall products, order reimbursement of the price of goods/services, cancel licenses, impose penalties and file class-action suits.
5. The CCPA will have an investigation wing to conduct independent inquiry or investigation into consumer law violations..

Consumer Disputes Redressal Commission:

1. The Act has the provision of the establishment of Consumer Disputes Redressal Commissions (CDRCs) at the national, state and district levels to entertain consumer complaints.
2. As per the notified rules, the State Commissions will furnish information to the Central Government on a quarterly basis on vacancies, disposal, the pendency of cases and other matters.

The CDRCs will entertain complaints related to:

1. Overcharging or deceptive charging
2. Unfair or restrictive trade practices
3. Sale of hazardous goods and services which may be hazardous to life.
4. Sale of defective goods or services
5. As per the Consumer Disputes Redressal Commission Rules, there will be no fee for filing cases up to Rs. 5 lakh.

E-Filing of Complaints:

1. The new Act provides flexibility to the consumer to file complaints with the jurisdictional consumer forum located at the place of residence or work of the consumer. This is unlike the earlier condition where the consumer had to file a complaint at the place of

purchase or where the seller has its registered office address.

2. The new Act also contains enabling provisions for consumers to file complaints electronically and for hearing and/or examining parties through video-conferencing.
3. Consumers will also not need to hire a lawyer to represent their cases.

Product Liability & Penal Consequences:

1. The Act has introduced the concept of product liability.
2. A manufacturer or product service provider or product seller will now be responsible to compensate for injury or damage caused by defective products or deficiency in services.
3. This provision brings within its scope, the product manufacturer, product service provider and product seller, for any claim for compensation. The term 'product seller' would also include e-commerce platforms.

Penalties for Misleading Advertisement:

1. The CCPA may impose a penalty on a manufacturer or an endorser, for a false or misleading advertisement. The CCPA may also sentence them to imprisonment.

Provision for Alternate Dispute Resolution:

1. The new Act provides for mediation as an Alternate Dispute Resolution mechanism. For mediation, there will be a strict timeline fixed in the rules.
2. As per the recently notified rules, a complaint will be referred by a Consumer Commission for mediation, wherever scope for early settlement exists and parties agree for it. The mediation will be held in the Mediation Cells to be established under the aegis of the Consumer Commissions. There will be no appeal against settlement through mediation.

Hypothesis of the study:

1. The new Act has armed the authorities to take action against unfair trade practices too.
2. The Act introduces a broad definition of Unfair Trade Practices, which also includes the sharing of personal information given by the consumer in confidence unless such disclosure is made in accordance with the provisions of any other law.

Methodology of the study

I used a qualitative research methodology. Qualitative method is used to understand people's beliefs, experiences, attitudes, behavior, and interactions. It generates non-numerical data. The integration of qualitative research into intervention studies is a research strategy that is gaining increased attention across disciplines.

The Central Consumer Protection Council:

1. The Consumer Protection Act empowers the Central Government to establish a Central

- Consumer Protection Council. It will act as an advisory body on consumer issues.
- As per the notified Central Consumer Protection Council Rules, the Central Consumer Protection Council would be headed by the Union Minister of Consumer Affairs, Food and Public Distribution with the Minister of State as Vice Chairperson and 34 other members from different fields.
 - The Council, which has a three-year tenure, will have a Minister-in-charge of consumer affairs from two States from each region – North, South, East, West, and NER. There is also a provision for having working groups from amongst the members for specific tasks.

Applicability

- This Act is applicable to all the products and services, until or unless any product or service is especially debarred out of the scope of this Act by the Central Government.

Significance of the Act

Empowering consumers

- The new Act will empower consumers and help them in protecting their rights through its various rules and provisions. The new Act will help in safeguarding consumer interests and rights.
- Consumer-driven businesses such as retail, e-commerce would need to have robust policies dealing with consumer redressal in place.
- The new Act will also push the consumer-driven businesses to take extra precautions against unfair trade practices and unethical business practices.

Inclusion of the e-commerce sector:

- The earlier Act did not specifically include e-commerce transactions, and this lacuna has been addressed by the new Act.
- E-commerce has been witnessing tremendous growth in recent times. The Indian e-commerce market is expected to grow to US\$ 200 billion by 2026.
- The Act also enables regulations to be notified on e-commerce and direct selling with a focus on the protection of interest of consumers. This would involve rules for the prevention of unfair trade practices by e-commerce platforms.
- As per the notified rules, every e-commerce entity is required to provide information relating to return, refund, exchange, warranty and guarantee, delivery and shipment, modes of payment, grievance redressal mechanism, payment methods, the security of payment methods, charge-back options, etc. including country of origin which are necessary for enabling the consumer to make an informed decision at the pre-purchase stage on its platform.

- The e-commerce platforms will have to acknowledge the receipt of any consumer complaint within forty-eight hours and redress the complaint within one month from the date of receipt under this Act. This will bring e-commerce companies under the ambit of a structured consumer redressal mechanism.
- E-commerce entities that do not comply will face penal action.

Time-bound redressal:

- A large number of pending consumer complaints in consumer courts have been common across the country. The new Act by simplifying the resolution process can help solve the consumer grievances speedily.
- A main feature of the Act is that under this, the cases are decided in a limited time period.

Responsible endorsement:

- The new Act fixes liability on endorsers considering that there have been numerous instances in the recent past where consumers have fallen prey to unfair trade practices under the influence of celebrities acting as brand ambassadors.
- This will make all stakeholders – brands, agencies, celebrities, influencers and e-commerce players – a lot more responsible. The new Act would force the endorser to take the onus and exercise due diligence to verify the veracity of the claims made in the advertisement to refute liability claims.

Upholding consumer interests:

- For the first time, there will be an exclusive law dealing with Product Liability.
- Product liability provision will deter manufacturers and service providers from delivering defective products or deficient services.
- The new legislation empowers the National Consumers Dispute Redressal Committee as well as the State Commission to declare null and void any terms of a contract while purchasing a product. This will go a long way in protecting consumers, who are often subject to contract conditions that favour a seller or manufacturer.

Alternate dispute redressal mechanism:

- The provision of Mediation will make the process of dispute adjudication simpler and quicker.
- This will provide a better mechanism to dispose of consumer complaints in a speedy manner and will help in the disposal of a large number of pending cases in consumer courts across the nation.

Simplified process for grievance redressal:

- The new Act would ease the overall process of consumer grievance redressal and dispute

resolution process. This will help reduce inconvenience and harassment for the consumers.

2. The enhanced pecuniary jurisdiction and provisions providing statutory recognition to mediation processes, enabling filing of complaints from any jurisdiction and for hearing parties through video-conferencing will increase accessibility to judicial forums and afford crucial protection in times when international e-commerce giants are expanding their base.

State regulation:

1. As part of the Consumer Protection Act, 2019, the Ministry of Consumer Affairs will compile a code of conduct for advertisers and agencies, a move designed to curb unfair practices and misleading claims. The planned code will detail penalties for advertisers and their agencies and publishers if misleading advertising and false claims are found.
2. There have been concerns that this approach would mark a move from self-regulation to a more federated oversight.

Implementational challenges:

1. The existing vacancies at the district commission level would undermine the effective implementation of the new Act.

Lack of differentiated approach:

1. As per the proposed rules for the e-commerce businesses, companies are not allowed to “manipulate the price” of goods and services offered on their platforms to gain unreasonable profit or discriminate between consumers of the same class or make any arbitrary classification of consumers affecting their rights under the Act.
2. The clause on the manipulation of price by e-commerce companies appears irrelevant as sometimes, the e-commerce companies would want to reduce the price to enhance sales volume. For a country with market size of around \$25 billion, the guidelines should have taken a deeper view of the e-commerce ecosystem, covering all prevailing business models between consumers, marketplaces and sellers.

Suggestions :

1. Consumer Education is a way to balance the power between producers and consumer. Government has been conducting a countrywide multimedia awareness campaign educating consumers on various issues related to consumer right and responsibilities across diverse subjects. “*Jago Grahak Jago*” has today become a household maximum.

Joint publicity campaigns have been launched in partnership with the related Government

Departments/Organizations that serve with a mass consumer clientele. For instance, on foods, with the Foods Safety & Standard Standards Authority of India (FSSAI); on financial services with the Reserve Bank of India (RBI); and on medicines with the National Pharmaceutical Pricing Authority (NPPA) through various electronic and print media such as Television, Radio, Newspapers and outdoor advertising. The consumer awareness campaign is implemented through the Directorate of Audio and visual Publicity (DAVP).

1. The Consumer Protection Bill, 2015 and the newly enacted Bureau of Indian Standards Act, 2016 are efforts to provide for up gradation.
2. Government of India has set up a National Consumer Helpline (NCH), with a toll free number which provides advice, information to empower consumers and persuade business to reorient their policy and management systems to address consumer concerns and grievances adopting global standards.
3. **INGRAM:** An Integrated Grievance Redressal Mechanism (INGRAM) portal was launched for bringing all stakeholders such as consumers, Central and State Government Agencies, private companies, regulator Ombudsmen and cell centres etc., on to a single platform. The portal helps in creating awareness among consumers to protect their right and inform them of their responsibilities.
4. **State Consumer Helplines:** State Consumer Helplines have been set up by State (provincial) Government with the objective to encourage Alternate Consumer Disputes Redressal mechanism at State level.
5. **Smart Consumer Application:** A mobile application “Smart Consumer” to enable the consumer to scan the bar code of the product and get all details of the product such as name of the product, details of manufacturer, year and month of manufacture, net content and consumer care details for making a complaint in case of any defect.
6. **GAME:** In its endeavour to address the problem of misleading advertisements, the Government has launched a portal called “Grievances against Misleading Advertisements (GAMA)”
7. **Online Dispute Resolution:** An Online Consumer Mediation Centre, established at the National Law School of India University, Bengaluru under the aegis of Ministry of Consumer Affairs, Government of India aims to provide for a state-of-the-art infrastructure for resolving consumer disputes both through physical as well as online mediation through its platform.

8. **Online Consumers Communities:** In association with the Local Circles, a social media platform, the Government has launched a platform 'Online Consumers Communities' for citizens to discuss and opine about governance and daily life issues.
9. **Campaign on Internet Safety:** Government in association with a Partner Company has initiated a year-long campaign organizing 'Digital Literacy, Safety and Security' workshops to educate users about the challenges of internet safety and security

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