

A Study on Need of Enforcement of Consumer Protection Act -2019

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ABSTRACT:

Mahatma Gandhi who in a speech in South Africa in 1890 said: "A customer is the most important visitor on our premises. He is not dependent on us. We are dependent on him. He is not an interruption of our work. He is the purpose of it. He is not an outsider of our business. He is part of it. We are not doing him a favour by serving him. He is doing us a favour by giving us the opportunity to do so." That's why No economy can develop without consumer rights protected. The consumer is a necessary player in any economy as he or she is the one who buys goods or services from the seller and that increases employment in the country. Therefore, the protection of consumer rights is important because in modern times the needs and expectations of the consumer have changed as a result of globalization and increasing awareness. However, the availability of a large number of goods and services sometimes proves to be harmful to the consumer because not all retailers and service providers are genuine.

Consumer markets for goods and services have undergone drastic transformation. The emergence of global supply chains, rise in international trade and rapid development of e-commerce have led to new delivery systems for good and services and have provided new options for consumers. Due to various constraints, it has become necessary to amend the existing Act for the protection of the interests of the consumers more effectively.

In this research paper I discussed about object of this act and why should need of enforcement of Consumer Protection Act 2019.

Key Words: Consumer Protection, Consumer Rights, Goods and Services, Commission

INTRODUCTION:

The Consumer Protection Act 1986, was enacted with an object to protect the interests of consumers and for establishing Consumer Protection Councils and other authorities for the settlement of consumer disputes. The working of the Consumer dispute redressal agencies has served the purpose to some extent but their disposal of cases has not been fast as per the interests of the consumers due to various shortcomings. Since the enactment of the 1986 Act, consumer markets for goods and services have undergone drastic transformation.

The emergence of global supply chains, rise in international trade and rapid development of e-commerce have led to new delivery systems for good and services and have provided new

options for consumers. Misleading advertisements, multi-level marketing, direct setting etc. pose new challenges to consumer protection and requires appropriate executive intervention to prevent consumer detriment. Due to various constraints, it has become necessary to amend the existing Act for the protection of the interests of the consumers more effectively.

The Consumer Protection Bill, 2019 was again introduced in the Lok Sabha by Shri Late Ram Vilas Paswan, the Minister of Consumer Affairs, Food and Public Distribution on 02.07.2019 proposing to repeal the existing 1986 Act and to enact a new legislation for better protection of the interest of Consumers. Both the Houses passed the bill and got the assent of the President on 09.08.2019. Now it has become the law of the land known as The Consumer Protection Act, 2019.

Some Object of this act are to restore the balance in the buyer-seller relations in the market place, to protect and promote the consumer's interest, to safeguard consumer right, to prevent consumer exploitation by unscrupulous traders.

The Act has to be construed in favour of the consumer to achieve the purpose of enactment as it is a social benefit-oriented legislation. For the settlement of consumer disputes and other connected matters, the Act has made provision for the establishment of consumer councils. At district, state and central levels a quasi-judicial machinery has been set up which will observe the principle of natural justice and provide speedy and simple redressal to consumer disputes.

NEED OF THE STUDY

1. The existence of fair-trade practices which would ensure physical safety while using the product.
2. It is very difficult to effectively organize consumers in county as India. The backwardness of the people is further a hindrance to consumer protection.
3. Poverty, Lack of education, Lack of information, traditional outlook is the reasons suffering due to an unscrupulous business man exploiting consumers in India.
4. A majority of the population is illiterate and ignorant in India

OBEJCTS OF THE STUDY

1. To promote protection of consumer rights.
2. To educate the society about consumer right.
3. To study the various dimensions of consumer rights.
4. To study the need for consumer rights and to give advice how to enforce them.
5. To know about the various measures of consumer protection.

METHODOLOGY

The present study is based on secondary data like reports, journals, books, internet, survey, questionnaire etc.

CONSUMER PROTECTION IN INDIA

Consumer protection is the practice of safeguarding buyers of goods and services, and the public, against unfair practices in the marketplace. Consumer protection measures are often established by law. Such laws are intended to prevent businesses from engaging in fraud or specified unfair practices in order to gain an advantage over competitors or to mislead consumers. They may also provide additional protection for the general public which may be impacted by a product (or its production) even when they are not the direct purchaser or consumer of that product. For example, government regulations may require businesses to disclose detailed information about their products—particularly in areas where public health or safety is an issue, such as with food or automobiles.

Consumer protection is linked to the idea of consumer rights and to the formation of consumer organizations, which help consumers make better choices in the marketplace and pursue complaints against businesses. Entities that promote consumer protection include government organizations (such as the Federal Trade Commission in United States), self-regulating business organizations (such as the Better Business Bureaus in the US, Canada, England, etc.), and non-governmental organizations that advocate for consumer protection laws and help to ensure their enforcement (such as consumer protection agencies and watchdog groups).

More consumer protection is not always a good thing, there is a optimal level of intervention, beyond which the net marginal benefit of interfering with the market becomes negative.

A consumer is defined as someone who acquires goods or services for direct use or ownership rather than for resale or use in production and manufacturing. Consumer interests can also serve consumers, consistent with economic efficiency, but this topic is treated in competition law. Consumer protection can also be asserted via non-government organizations and individuals as consumer activism

Some Consumer right are given in the Consumer Protection Act.

- Every consumer has certain rights which this Act seeks to protection.
- The right to be informed about the quality, quantity, patency, purity standard and price of goods.
- Right to access to a variety of goods at competitive prices.
- Right to be protected against marketing of goods which are hazardous to life and property.
- Right to consumer education.

- Right to be heard and to be assured that consumer's interests will receive due consideration at appropriate forums.
- Right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers.

NEED OF THE ENFORCEMENT OF CONSUMER PROTECTION ACT

Consumers are severely restricted in their rights, especially in developing countries such as India. Consumers are widely distributed throughout the country and are poor, educated and often unaware of their rights, although their knowledge has only recently increased. Manufacturers and suppliers of goods or services often exploit consumers through many unfair and oppressive trading methods. They often collide with cartoons to increase their profits by exploiting consumers.

For example, some drug manufacturers usually charge higher prices than their production costs. Some pharmaceutical companies misuse their patents to exploit consumers. They therefore need to be protected from unfair and unethical trading practices of manufacturers and suppliers of goods or services.

In Modern time Misleading advertising is way that producers deceive consumers. The advertisement is of two types. One is informative advertisement that informs consumers of the availability of certain products information. This is undisputed because it provides consumers with information. Another is Implies advertisement. This kind of advertisement information of the product is implied therefore that is disputed because it is not provide express information about products.

However, often the purpose of advertising for manufacturers and suppliers is to mislead consumers who are unaware of the quality and content of their products and services. They indulge in so-called persuasive advertising to compete with customers away from their competitors. Such persuasive advertisements do not serve the purpose of public relations and lead to deception.

Advertising costs are added in production costs and this results in a so much higher price charged to consumers. We all will be well aware that huge sums of money are being spent by filmmakers on cricketers and actors as brands ambassadors for commercials advertisement to sale of their products.

In today's times, most people want more money and that's why they start making money the wrong way. In the same way, every businessman wants to make even more money and, in this desire, he gets involved in the black market, sells products illegally and chooses to trade unjustly. Consumers want protection from this type of unfair trade and illegal marketing and the Consumer Protection Act was passed to get this protection.

There are many types of products, which are unsafe for consumers and can be dangerous to health and well-being. Such as acid. Consumers need protection from such products. The act limits the sale of products that are hazardous to consumers in order to ensure the physical safety of consumers.

There are some types of products that are harmful to the environment, such as plastics. These products pollute the air, water and soil. Freeing our environment from such products requires some strict rules and regulations to reduce or restrict the sale of these products.

There is also a need to check the quality of the products, especially the products that consumers eat so that they use those products without any hesitation and risk.

In order to sell a product, sellers engage in misconduct to attract as well as entice customers, such as misleading advertisements on TV, newspapers, social media platforms, etc. In these advertisements, they promote the best product and sell duplicate products. If a merchant, manufacturer, advertiser or publisher transmits misleading or misleading information in an advertisement, there must be certain rules or laws to prevent them from doing so in order to stop the transmission of such advertising and to protect consumers.

The other and highly injurious practice by the suppliers, especially in India, is widespread practice of adulteration of commodities. The adulteration by private sector can take place right from the manufacturing point to the ultimate supplier of the products to the consumers.

It has been found that small pebbles and dust are mixed with wheat, maize, jawar and bajra to increase weight, sand is mixed with cement, leaves and barks of some trees are mixed with tea leaves. Again, Vanaspati is often mixed with Desi ghee and butter, etc. All these practices of adulteration are hazardous to health and life of the consumers and they need protection from them. But the most injurious is the widespread practice in India by manufacturers and dealers of spurious drugs which do immense harm to the health and life of the people.

It is due to the above practices of the manufacturers and suppliers which have resulted in consumer protection movement and have forced the governments to enact legislation to protect the consumers.

Above the mentioned reasons for strictly enforcement of the new consumer protection act 2019.
New Additions

Now new consumer protection laws were needed owing to the drastic change in the manner market functions. There is rise in international trade, global supply chains and rapid

development of e-commerce. India has also witnessed the backlog of pending cases in the consumer courts. The new market set-up has witnessed mis-leading advertisements, and a special check was needed on direct selling and multi-level marketing. The new Act is going to benefit the society at large.

E-Commerce and false advertisement:

The definition of “consumer” under the new Act i.e. 2019 Act includes the consumers who make purchases through e-commerce platform. The earlier Act did not include the consumers who buy products online and this lacuna has been filled by the 2019 Act. There is a separate provision for endorsement of goods and services, which are normally endorsed by the celebrities are covered under the provision of false and misleading advertisement. The onus on the celebrities is additional to the liability placed on the manufacturers and service providers. Mis-leading advertisement shall also mean deliberately hiding important information. CCPA which shall be discussed later also regulates false and mis-leading advertisement.

Food Safety and Standards Act, 2006

The 2019 Act includes the definition of “food” as defined under the Food and Standards Act, 2006. This has replaced the definition of “goods” under the 1986 Act. This would help in bringing the number of food delivery platforms to come under the ambit of consumer protection.

Telecom Services

In order to bring the telecom services under the 2019 Act, “telecom” has been added to the definition of “services”. However, it would have been much better if such inclusion was added as “telecommunication service” as defined by the Telecom Regulatory Authority of India Act (TRA), rather than “telecom”.

Pecuniary Jurisdiction

The income of the consumers and their shopping lifestyle has tremendously grown over the period of time. The amount which the consumers spend in their purchase, projects, infrastructure was very minimal as compared to 21st century. Therefore, there was extra burden on the National Commission. Therefore, in the light of this issue, the pecuniary jurisdiction of the Consumer Courts has changed;

District Forum	State Commission	National Commission
Earlier: UPTO 20 Lakhs	Earlier: 20 Lakhs- 1 CR	Earlier: Above 1 CR
Now: UPTO 1 CR	Now: 1 CR- 10 CR	Now: Above 10 CR

Structural Reforms

Particulars	District Forum	State Commission	National Commission
Composition	1 President and at least 2 members	1 President and at least 4 members	1 President and at least 4 members
Location	In district of the State	In each state	At NCR
Qualification	As given by Central Government	As given by Central Government	As given by Central Government
Filing Complaint	By Central Authority; may be filed electronically	By Central Authority; may be filed electronically	By Central Authority; may be filed electronically
Place of Suing	Where the complainant resides or works	Where the complainant resides or works	---

A case is deemed to be admitted if no decision is given within 21 days. If complainant do not reach the consumer forum, then case shall be decided on merit.

Appeals

From orders of District Commission to State Commission	From State Commission to National Commission	From National Commission to Supreme Court
<ul style="list-style-type: none"> • Within 45 Days (earlier 30 days) • Fees shall be 50% of Pre-deposit (earlier 25,000 INR) 	<ul style="list-style-type: none"> • Within 30 Days • Fees shall be 50% of Pre-deposit 	<ul style="list-style-type: none"> • Within 30 days • Fees shall be 50% of Pre-deposit (earlier 50,000 INR) • Ex-parte orders

<ul style="list-style-type: none"> No appeal applicable if decision passed through mediation 	<ul style="list-style-type: none"> (earlier 35,000 INR) Ex- parte orders 	
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Central Consumer Protection Authority

Central Consumer Protection Authority (CCPA) has been set up to promote, protect and enhance consumer rights. The headquarter shall be in NCR and regional offices shall be decided by the government. The authority shall regulate the violation of consumer rights, unfair trade practices, and misleading advertisements. There shall be an investigation wing headed by Director general (DG).

Unfair Contracts

An unfair contract shall mean a contract between manufacturer/trader/service provider and a consumer which causes harm to the consumer or significant change in the rights of the consumer. One of such examples can be unilateral termination of the contract without any prior information. For the same purpose a complaint can, be filed in the State Commission up to 10 Crore INR and in National Commission above 10 Crore INR.

Product Liability

The Manufacturer, Product Service Provider and Product Seller shall be liable under the new Act for any kind of harm caused by their product(s) which results in any injury or death of the consumer. However, the liability on the part of the manufacturer will be more. This shall also apply to the e-commerce platforms as well. The harm should be caused by the defective good which results in injury, death, mental agony, loss of consortium or any other harm. The harm must be real and does not include any economic loss.

Mediation (Alternate dispute Resolution)

The new Act provides facility for mediation which shall be voluntary and not binding on the parties. Median shall make the process quicker, simpler and help with speedier resolution of disputes. The Consumer Mediation Cell (CMC) shall be attached to each district, state and national level which is itself a tedious and lengthy task owing to the funding that courts get and the lack of infrastructural facilities especially at the district level.

Filing of Complaint

The complaint can be filed by the consumer himself or the parents and legal guardian of the consumer. The new Act allows the consumer to file a complaint at the place where he/she resides or at the place he/she works. The complaint can also be filed electronically and heard vial video conferencing in certain circumstances.

Offences and Penalties

Penalties for non-compliance of orders

District/State/National Commission	Central Authority
Imprisonment from 1 month to 3 years	Imprisonment up to 6 months
Fine from Rs. 25,000/- to Rs. 1,00,000 /-	Fine up to Rs. 20,00,000/-
Or Both	Or Both

Punishment (Products Containing Adulterant)

Does not result in injury	Imprisonment: Up to 6 months Fine: Up to Rs. 1,00,000/-
Injury not amounting to grievous hurt	Imprisonment: Up to 1 Year Fine: Up to Rs. 3,00,000/-
Injury resulting in grievous hurt	Imprisonment: Up to 7 years Fine: Up to Rs. 5,00,000/-
Death of Consumer	Imprisonment: 7 years to life Fine: Up to Rs. 10,00,000/-

Punishment (Spurious Goods)

Injury not amounting to grievous hurt	Imprisonment: 1 year Fine: Up to Rs. 3,00,000/-
Injury resulting in grievous hurt	Imprisonment: 7 years Fine: Up to Rs. 5,00,000/-
Death of Consumer	Imprisonment: 7 years to life Fine: Up to Rs. 10,00,000/-

Challenges for the future

Central Consumer Protection Authority (CCPA) has been set up to promote, protect and enhance consumer rights. The headquarter shall be in NCR and regional offices shall be decided by the government. The authority shall regulate the violation of consumer rights, unfair trade practices, and misleading advertisements. To enforce and enhance this authority will be dedicated task for the government and its implication will certainly be very important for 2019 Act. While it is laudable initiative but it is unclear as to how this authority will function and certain function relating to investigations and inquiries. There is an overlap between the functions of director General while considering the investigative wing and search and seizure functions. CCPA is empowered to order recall of goods, reimburse price and issue directions and penalize manufacturers or endorsers. Interestingly, appeal against such orders can only be preferred before the national Commission. The circumstances or the criteria under which National Commission shall entertain such cases is still unclear. It is unclear whether the existing cases will be transferred on account of change in pecuniary jurisdiction. However, there are speculations that only fresh cases shall fall under the new jurisdiction.

CONCLUSION

The Consumer Protection Act, 2019 has been passed with the motive to modernise the Consumer Protection Act, 1986 which has been repealed. The object of both the acts remains the same, that is, the safeguard of the “Consumer” and his rights.

The Act has widened the scope of the rights of the consumers, the catena of goods and services as well as the modes of availing such goods and services.

The Act has also put in place a proper structure for the implementation of its provisions and has put in place a much for accessible and categorical grievance redressal mechanism which provides for ample number of safeguards against exploitation of the provisions of this Act both by and against the modern-day Consumer.

In our country, buyers have a very weak bargaining power and cannot assert their right to be heard. Consequently, manufacturer and traders are tempted to follow diverse practices which turn out to be unfair to consumers. To check the onslaught on consumers, a Consumer Protection Act, 2019 was enacted. It is very important law because it is part of our daily activities.

Lastly, we can say that Consumer Protect Act, 2019, the process of drafting was started in 2010 is one of the sincerest steps taken by the central government for enhancing consumer rights and speedy delivering of justice. The new Act touches on many aspects such as Mediation and E-commerce which the world was unaware in 1986. So, it was important to amend the act when digitalization has changed the way a consumer conduct online transactions and mode of

shopping has shifted from offline to online. Certainly 2019 Act is a positive step towards reformation, development and enhancing consumer rights. Socio-economic developments are taking place every year and we can expect new amendments to 2019 act as well. But the real implementation of 2019 Act will be seen in coming times by analysing how much relief it offers to the consumers.

The most important of this Act in the actual implementation and strict enforcement of its provisions for encouraging and ensuring the consumer.

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