

# Student Study Project

## **The Consumer Protection Act, 2019: Key Features and Highlights - A Study**

Submitted by :

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### **Introduction**

The Consumer Protection Act, 2019 (the Act) received the President's assent on 9 August 2019 which replaced the Consumer Protection Act, 1986. The Act aims at protecting and strengthening the rights of the consumers by establishing authorities, imposing strict liabilities and penalties on product manufacturers, electronic service providers, misleading advertisers, and by providing additional settlement of consumer disputes through mediation.

### **Highlights of the Act**

Under the new Act, "consumer" is defined as a person who "buys any goods" and "hires or avails of any service" for consideration but does not include a person who obtains goods for resale or goods or service for any commercial purpose. The Act seeks to widen the scope of this definition. Thus, a consumer will now mean any person who "buys any goods" and "hires any services" which shall include both online and offline transactions through electronic means, teleshopping, direct selling or multi-level marketing.

The concept of "product liability" has been newly introduced and is defined as the responsibility of a product manufacturer or product seller of any product or service to compensate for any harm caused to a consumer due to defective product manufactured, sold or deficiency in services relating thereto.

## **Rights of the consumer**

be protected against the marketing of goods, products or services which are hazardous to life and property;

be informed about the quality, quantity, potency, purity, standard and price of goods, products or services;

be assured, wherever possible, access to a variety of goods, products or services at competitive prices;

be heard and to be assured that consumers' interests will receive due consideration at appropriate for a;

(v) Seek redressal against unfair trade practice or restrictive trade practices or unscrupulous exploitation of consumers; and consumer awareness.

Introduction of "e-commerce" and "electronic service provider"

The Act has inserted the definition of "e-commerce" which means buying or selling of goods or services including digital products over digital or electronic network 4. Section 94 of the Act refers to the prevention of unfair trade practices in e-commerce and direct selling and also deals with protection of interest and rights of consumers.

Further, the Act has also introduced a vital concept of "electronic service provider" which is defined as a person who provides technologies or processes to enable a product seller to engage in advertising or selling goods or services to a consumer and includes any online marketplace or online auction sites 5. Further, an electronic service provider is now included under the definition of a product seller 6. These online marketplaces and auction sites can now be held in product liability action under the circumstances as stated in Section 86 of the Act.

Inclusion of the concepts relating to e-commerce along with the prescribed liabilities has broadened the scope of the Act. By including e-commerce within its purview, the Act seeks to protect the rights of the e-consumers and also enables them to proceed against the e-commerce websites in the event of any infringement or violation.

## **Central Consumer Protection Authority**

The Act introduces the establishment of a Central Consumer Protection Authority (CCPA) by the central government. The CCPA is a regulatory authority and shall be empowered to impose penalties, recall goods, cause withdrawal of services, provide refunds<sup>7</sup> and investigate into matters. It shall also be responsible for protecting the rights of consumers as a class and shall further ensure that no person engages in unfair trade practices and that no misleading advertisements are made<sup>8</sup>. The Act provides for establishing an investigation wing which shall be headed by the director general who shall be appointed by the central government for conducting investigations as per the order of the CCPA. Further, the Act also introduces electronic mode for filing complaint for unfair trade practices or false or misleading advertisements to the district collector, the commissioner of the regional office or the CCPA.

## **Strict penalties for false and misleading advertisements**

The Act has defined the term "misleading advertisement" in relation to any product or service as, "an advertisement which falsely describes the product or service which gives a false guarantee and is likely to mislead the consumer as to the nature substance, quantity or quality of such product or service and conveys an express or implied representation which, if made by the manufacturer or seller or service provider, would constitute an unfair trade practice and shall also include information which is concealed deliberately"<sup>11</sup>. The penalties for false and misleading advertisements are discussed under offences and penalties.

An appeal to an order passed by the CCPA on this issue can be filed under the National Commission within a period of 30 days from the date of receipt of such order<sup>12</sup>.

## **Consumer Dispute Redressal Commission**

The Act provides for setting up of a Consumer Dispute Redressal Commission (CDRC), which shall be set up at the district, state and national level (Commissions). The CDRC is empowered to resolve complaints with respect to unfair and restrictive trade practices, defective goods and services, overcharging and goods which are hazardous to life and safety.

## **Jurisdiction of the CDRC**

The pecuniary jurisdiction of the Commissions has been enhanced in comparison with the Consumer Protection Act, 1986. The district commission now has the jurisdiction to entertain complaints where the value of the goods or services paid as consideration (Consideration) does not exceed INR1 crore.

The state commission shall have the jurisdiction to entertain complaints where the Consideration exceeds INR1 crore but does not exceed INR10 crores 14; and the national commission shall have the jurisdiction to entertain complaints where the Consideration paid exceeds INR10 crores 15. The jurisdiction in which the complaint is to be filed is now based on the value of the goods or services paid unlike in the earlier Act, where it was on value of the goods or services and the compensation, if any, claimed.

Further, the Act has inserted a crucial aspect with respect to the jurisdiction of the district commission, i.e., Section 34(2)(d). This section categorically states that the complaint can now also be instituted in a district commission within the local limits of whose jurisdiction the complainant resides or personally works for gain, apart from filing in the jurisdiction where the other side actually or voluntarily resides, or carries on business, or has a branch office or personally works for gain.

## **Mediation**

The Act has introduced a new chapter on mediation as an alternate dispute resolution mechanism, in order to resolve the consumer dispute faster without having to approach the Commissions. The dispute can be resolved either in whole or in parts.

Thus, in the event, the mediation is successful, the terms of such agreement shall be reduced into writing accordingly. Where the consumer dispute is settled only in part, the Commission shall record the settlement of the issues which have been settled, and shall continue to hear the remaining issues involved in the dispute. In the event the mediation is not successful, the respective commission shall within seven days of the receipt of the settlement report, pass a suitable order and dispose the matter accordingly.

## **Product liability**

A key concept on "product liability" has been introduced by the Act wherein a product liability action may be brought by a complainant against a product manufacturer, product service provider or product seller, for any harm caused to the complainant on account of a defective product. The Act provides a breakup of the liabilities of the product manufacturer, product service provider and product seller and also circumstances under which they are not liable.

## **Offences and penalties**

The Act has introduced a separate set of penalties with respect to misleading advertisements, ranging from INR10 lakhs with an imprisonment for up to two years to INR50 lakhs) with an imprisonment for up to five years 17. Any failure to comply with the directions of the CCPA for recall of goods, withdrawal of services shall attract an imprisonment for a term which may extend to six months or with a fine which may extend to INR20 lakhs.

## **Conclusion**

The Act is a welcome change in favor of the consumers. It provides them with clearly defined rights and dispute resolution process which may enable them to resolve their grievances on a fast-track basis. Online marketplaces and online auction sites, which have all throughout been included under the purview of an "aggregator", have also been included under the purview of this Act which will place more responsibility on them with respect to the goods and services being sold and provided by them. Apart from establishing authorities at district, state and national level for consumer disputes redressal, the Act also seeks to hold the product manufacturers liable along with the product service providers and product sellers where the rights of the consumer have been infringed due to defects or deficiency in the goods and services provided.

References:

- [1] Times of India News Paper
- [2] Kapoor, N. D, Elements of Mercantile Law, Sultan Chand and Sons Publishers,2002.
- [3] [https://en.wikipedia.org/wiki/Consumer\\_Protection\\_Act,\\_2019](https://en.wikipedia.org/wiki/Consumer_Protection_Act,_2019).

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## Offences and penalties

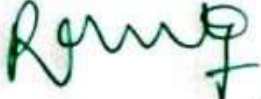
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