

# Consumers Protection under the New Consumers Protection Act, 2019

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Date of Submission: 01-03-2023

Date of Acceptance: 10-03-2023

## ABSTRACT

The present time is the era of consumers. The word "consumer" refers to any person who consumes any goods or services in any form. In addition, the consumer is not only the focal point of the market but he is also the controller of the functioning of the market, the violation of his rights cannot be ignored under any circumstances. The present time is called digital age due to communication revolution in which business transactions, and other purchases have become even more easy and populist. This has been possible because the development of electronic communication has brought new dimensions, due to which direct connectivity between different countries has increased business opportunities. But this opportunity is further attacking the rights of the consumers due to the greed of the business class. The word consumer is derived from the Latin word 'consumere' which means any person who buy any goods or buyer. According to The Consumer Protection Amendment Act 2019, the concept of consumer has been broadened in this act. Now, it covers offline and online transactions, any electronic means, teleshopping. The term consumer now also includes any person who purchases any product/services. Ralph Nadar, American political activist and author is known as the father of the consumer movement. He is only started a movement in America for consumer awareness. Consumer Movement is organization around the worldwide to create awareness amongst the people. In India, the consumer movement started in 1960 as a social force originated with the necessity of protecting and promoting the interest of consumers against unethical and unfair trade practices. After that, Consumer Protection Act was enacted in January, 1986 with an All India Seminar. But it also replaced by the Central Consumer Protection Act, 2019. Its main aim is to protect the consumers from unfair trade practices. This act applies to all goods and services unless specifically exempted by the Central Government. The act mandates the establishment of Consumer Protection Councils at

centre as well as in every State and District for promoting consumer awareness. In this act, certain rights also mentioned for consumers like right to safety, right to full information, right to choose their own, right to seek redressal, right to consumer education many more. This act provides to consumers an economical remedy also by way of speedy three tier system of redressal of grievances firstly, District forum at district level; secondly State commissions at state level; last is National commission at the National level. Under this act, the consumer is not required to deposit huge court fees and offers a speedy and effective remedy to consumers. It is providing relief to both the parties also.

**Keywords** - Consumer Education, Awareness, Relief, Consumer Protection Councils etc.

## I. INTRODUCTION

The Government of India enacted Consumer protection Act 2019 to provide enhanced protection to the consumers taking into consideration the booming e-commerce industry and the modern methods of providing goods and services such as online sales, tele - shopping, direct selling and multi-level marketing in addition to the traditional methods. Consumer Protection Councils at the Central, State and District levels and the introduction of a new in-house machinery- Central Consumer Protection Authority (CCPA) was the turning point. The new move is undoubtedly beneficial to consumers, but the pillars of integrated communication channels have a very serious implications. The objective of this article is to assess how the implementation of Consumer Protection Act 2019, which is in force from 24th July 2020 would affect the pillars of integrated communication channel, namely; Manufacturers, Service Providers, Advertisers, Sellers (both Offline and Online) Celebrity Endorsers and E-commerce entities based on the terms and conditions of the new Act collected from secondary data sources. This is because the Act is

powerful enough to bring fundamental changes in the approach of marketers in India, where aggressive promotion and advertisement were considered to be ideal strategies. The turning point with regard to this new Act is the establishment of Consumer Protection Councils at the Central, State and District levels and the introduction of a new in-house machinery- Central Consumer Protection Authority (CCPA) which will have wide powers of investigation including the power of search and seizure. The Central Authority has been granted wide powers to take suo-moto actions, recall products, order reimbursement of the price of goods/services and file class-action suits if a consumer complaint affects more than one individual. Establishment of a Central Council, District Consumer Disputes Redressal Commissions, State Consumer Disputes Redressal Commissions and a National Consumer Disputes Redressal Commission will provide a fully-fledged, and fully resourced, consumer complaints and disputes redressal organization at the Centre, State and District levels. The new move is undoubtedly beneficial to consumers, making them more powerful as there is going to be a complete shift of onus from buyer to manufacturer/advertiser. Considering the supply chain of good and services, these channels have a very serious implications of Consumer Protection Act 2019. The pillars of integrated communication channel, namely; manufacturers, advertisers, publishers and celebrity endorsers need to take up the liability and safeguard the interest of every consumer as per the regulations of new Act.

### Object

The objective of this article is to assess how the implementation of Consumer Protection Act 2019, which is in force from 24th July 2020 would affect these four pillars, namely; Manufacturers, Service Providers, Advertisers, Sellers (both Offline and Online) and Celebrity Endorsers of the integrated communication channel.

**Definition of “CONSUMER”** The definition of “consumer” has been expanded to include persons who engage in offline or online transactions through electronic means or by tele-shopping or direct selling or multi-level marketing. The seller at each level of multi-level marketing can be subjected to liability under CPA, 2019 and not limited to only the manufacturer of the product but all entities involved at various stages of production and marketing.

### New definition of consumer

- The new Act has widened the 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.

### Need for 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.

### RIGHTS OF CONSUMERS

- The right to be protected against the marketing of goods, products or services which are hazardous to life and property.
- The right to be informed about the quality, quantity, potency, purity, standard and price of goods, products or services, as the case may be, so as to protect the consumer against unfair trade practices.
- The right to be assured, wherever possible, access to a variety of goods, products or services at competitive prices.
- The right to be heard and to be assured that consumer's interests will receive due consideration.
- The right to seek redressal against unfair trade practice or restrictive trade practices or unscrupulous exploitation of consumers.

### Consumer Protection Act 1986 Vs Consumer Protection Act 2019

The Indian Contract Act, the Sale of Goods Act, the Dangerous Drugs Act, the Agricultural Produce (Grading and Marketing) Act, the Indian Standards Institution (Certification Marks) Act, the Prevention of Food Adulteration Act, the Standards of Weights and Measures Act,

etc. had been continued to safeguard the interest of consumers in one way or the other. However, these laws require the consumer to initiate action by way of a civil suit involving lengthy legal proceedings that are expensive and time consuming. The Consumer Protection Act, 1986 was enacted to provide a simpler and quicker access to redressal of consumer grievances. The Act for the first time introduced the concept of 'consumer' and conferred express additional rights on him. The protection is meant for the person who fits in the definition of consumer given by the Act.

### **Consumer Protection Act 2019 - Implications on Manufacturers, Service providers, Advertisers, Celebrity Endorsers and Sellers**

The Consumer Protection Act, 2019 defines the product liability as "the responsibility of a product manufacturer or product seller, of any product or service, to compensate for any harm caused to a consumer by such defective product manufactured or sold or by deficiency in services relating thereto." (Section 2(34)). The consumer can claim compensation for any harm caused by a defective product manufactured by a manufacturer or serviced by a service provider or sold by a seller (Govindarajan, 2020). Therefore impact is that it is not only the manufacturer but also the service provider and seller. As per the new law these intermediaries of business channel are also responsible for misleading advertisements. The manufacturers, service providers celebrity endorsers may be imposed with a penalty of Rs. 1,000,000 for a misleading advertisement and may also be sentenced a two years imprisonment. Subsequent offences have higher penalties of Rs. 5,000,000 with five year imprisonment. years'imprisonment (Business insider, July 20, 2020). The Act says that the celebrity endorser has the

The Act can also bar a celebrity from endorsing ads for up to a year, extending it to three years for repeat offenders. The New Act and CCPA will make all stakeholders - brands, agencies, celebrities, influencers and e-commerce players - a lot more responsible (Mansuri, July 21, 2020).

### **Central Consumer Protection Authority:**

- The Act proposes the establishment of the Central Consumer Protection Authority (CCPA) as a regulatory authority.
- 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.

- CCPA would be given wide-ranging powers.
- 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.
- The CCPA will have an investigation wing to conduct independent inquiry or investigation into consumer law violations.

### **Consumer Disputes Redressal Commission:**

- 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.
- 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:
  - Overcharging or deceptive charging
  - Unfair or restrictive trade practices
  - Sale of hazardous goods and services which may be hazardous to life.
  - Sale of defective goods or services
- 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:**

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

### **Product Liability & Penal Consequences:**

- The Act has introduced the concept of product liability. 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. 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:**

- 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:**

- The new Act provides for mediation as an Alternate Dispute Resolution mechanism. For mediation, there will be a strict timeline fixed in the rules.
- 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.

#### **Unfair Trade Practices:**

- The new Act has armed the authorities to take action against unfair trade practices too.
- 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.

## **II. CONCLUSION**

Consumer Protection is a Socio-economic activity that is to be carried out by the government in the interest of consumer satisfaction. Every human being is a 'Consumer'. Consumers play a vital role in the development of a nation. Mahatma Gandhi said, "A consumer is the most important visitor on our premises He is not dependent on us, we are dependent on him. He is not an interruption to our work, he is the purpose of it. We are not doing a favour to a consumer by giving him an opportunity. He is doing us a favour by giving us the opportunity to serve him". Consumer protection has been a part of the responsibilities of the rulers in India even before independence. A consumer protection law, which purely focuses on consumer protection, was enacted in the year 1986. Consumer Protection Act 1986 (CPA 1986), which was passed in Parliament in 1986, was considered as one of the best Acts for consumer protection. But cheating by way of overcharging, black marketing, misleading advertisements, unfair trade practices at

e-commerce platforms etc has become a common practice among the greedy sellers and manufacturers to make unreasonable profits and without giving attention to consumer rights and their interests. So the government has made some major changes in the consumer protection act by introducing a new Consumer protection act, 2019. This act explains the various measures to aware the consumers regarding consumer rights and policies. The Consumer Protection Act, 2019 is an important piece of legislation enacted to provide effective safeguards to consumers against various types of exploitations and unfair dealings that focus mainly on compensatory rather than a punitive approach. The consumer protection act has developed a well organizational set up at the central, state level and district level for the redressal of consumer grievances and promotion of standard of goods and services etc. and introduced ADR mechanism for settlement of consumer disputes. To spread consumer awareness the government has established a consumer protection council. The objective of this paper is to provide an insight into newly introduced provisions, and a comparative analysis of some of the key provisions of the Consumer Protection Act, 2019 versus the Consumer Protection Act 1986.

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