

CONSUMER PROTECTION ACT, 2019: NEW DIMENSIONS

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“The goal is to normalize trade relations based on sound science and consumer protection.”

– Mike Johanns

INTRODUCTION

Consumer Protection means protection of consumers from various unfair trade practices. The purpose of such protection is to avoid exploitation and check various business malpractices. Commercial organizations are well organized, better informed and have a better dominating position. The Consumer Protection Bill, 2019 was passed by the Indian Parliament on Aug 06, 2019, and later on signed by the President of India. This new act will replace the old Consumer Protection Act, 1986. Read this article to know the key features of the Consumer Protection Act, 2019. The 2019 Consumer Protection Act brings about fundamental changes to the existing 1986 legislation. But it also envisages a Central Consumer Protection Authority and vests too much power and control in this authority without proposing adequate administrative safeguards. Consumer Protection Act seeks to promote and protect the interest of consumers against deficiencies and defects in goods or services. It also seeks to secure the rights of a consumer against unfair or restrictive trade practices. Among them are the federal Food, Drug, and Cosmetic Act, Fair Debt Collection Practices Act, the Fair Credit Reporting Act, Truth in Lending Act, Fair Credit Billing Act, and the Gramm–Leach–Bliley Act.¹ The present article discusses the prominent features of New Act, rights available to consumers, comparison between the old and new Law and future challenges which it may face in the effective implantation of the Act.

HYPOTHESIS

1. Consumer Protection is a Socio-economic activity that is to be carried out by government and business with a prime interest of consumer satisfaction. Therefore, this new law was need of the hour to promote and protect the interest of consumers against deficiencies and defects in goods or services.
2. There is a considerable overlap between the investigative wing and the search and seizure functions of the District Collector, which are likely to lead to a potential conflict of interest.

OBJECTIVES

The objectives of the study inter alia include the following:

- [1] To Study and analyze the prominent features of The Consumer Protection Act, 2019
- [2] To Study the various rights of consumers.
- [3] To study the comparison between the old and New Law.
- [4] To study the challenges which may arise in securing successful implementation of this Act?
- [5] To conclude with proper recommendations.

¹ J. Mekala Devi, a article on “A Study on the emergence of consumer protection Act of 2019”, International Journal of Sales and Marketing Management(IJSSM), Vol.9, Issue -5, July-Dec 2021, pp-1-12

RESEARCH METHODOLOGY

Researchers have adopted doctrinal method for the purpose of collection of data. It includes books, articles, various law journals, newspapers and internet. The material was collected and arranged in systematic order.

PROMINENT FEATURES

1. Establishment of Regulating Authority:-

For the first time under this Act provisions are made for the Establishment of the Central Consumer Protection Authority that is CCPA which will act as a regulating authority to protect, promote and enforce the rights of consumers. The CCPA will regulate cases related to unfair trade practices, misleading advertisements, and violation of consumer rights.

The CCPA will have the right to impose a penalty on the violators and pass orders to recall goods or withdraw services, discontinuation of the unfair trade practices and reimbursement of the price paid by the consumers. The Central Consumer Protection Authority will have an investigation wing to enquire and investigate such violations. The CCPA will be headed by the Director-General.

2. Prohibition and Penalty for a Misleading Advertisement:

The Central Consumer Protection Authority has been conferred upon the power to impose fines on the endorser or manufacturer up to 2-year imprisonment for misleading or false advertisement. It is significant to note that repeated offense may attract a fine of Rs 50 lakh and imprisonment of up to 5 years.

3. Jurisdiction of Consumer Disputes Redressal Commission:

The Act has made the provision for the establishment of the Consumer Disputes Redressal Commissions (CDRCs) at the national, State and District levels. The National CDRC shall have jurisdiction to entertain the matter where the value of goods and services exceeds Rs. 10 crores. The State CDRC shall have jurisdiction to entertain the matter where the value of goods and services exceeds above Rs 1 crore but does not exceed Rs 10 crore. While the District CDRC will entertain complaints when the value of goods or service is up to Rs1 crore.

4. Concept of Product Liability & Penal Consequences

The product manufacturer will be held liable under Section 84 of the Act in case the product has a manufacturing defect, defective in design, does not follow the manufacturing specifications, does not conform to implied warranty and does not contain adequate instructions for proper usage of the product. Section 85 of the Act discusses the liability of the service provider in a product liability action. To be liable under this section, the service provided shall be deficient, faulty, and inadequate or imperfect, an act or negligence withholding any information responsible for the harm caused, without adequate warnings and instructions and without conformation to express warranty or contractual terms.

A product seller will be liable in a product liability action if there is exercise of substantial control over manufacturing, testing, designing, labelling or packaging of the product. There was substantial alteration or modification responsible for the harm caused. The product seller made express warranty that does not conform to the warranty made by the manufacturer. The product seller failed to take reasonable care in maintaining, assembling or inspecting the product.

However it has got certain exceptions. These exceptions are discussed in Section 87 of the 2019 Act. Any consumer who himself misuses, alters or modifies the product and suffers harm as a result, cannot file a product liability claim.² A consumer cannot bring product liability action in case the product manufacturer has given adequate warnings for use of the product, the product purchased was used as a part of another product and the end use caused damage, the product was supposed to be used under an expert's supervision or the product was used under alcohol influence. A product manufacturer will not be liable for not warning about any danger that is commonly known or obvious.²

5. Provision for mediation as means of Alternate Dispute Resolution

Under new law provision for mediation as an Alternate Dispute Resolution mechanism is made with the view to make the process of dispute adjudication simpler and quicker. This will help with the speedier resolution of disputes and reduce pressure on consumer courts, which already have numerous cases pending before them.

² <https://www.mondaq.com/india/dodd-frank-consumer-protection-act/1020458/consumer-protection-act-2019-key-takeaways>

6. Provision for E-Complaints

Section 17 of the Act provides that a complaint regarding unfair trade practice, violation of consumer rights or misleading and false advertisements can be filed in electronic mode also to the District Collector, the Regional Office Commissioner or the Central Authority. In spite of certain lacunas in the Act, the Consumer Protection Act, 2019 is a positive step towards development and reformation of consumer laws in the country.

RIGHTS OF CONSUMERS

Various rights conferred under the law upon the consumers. Some of these are as follows:

- Right to information-To have information about the quantity, quality, purity, potency, price, and standard of goods or services.
- Right to Safety-To be protected from hazardous goods and services.
- Right against trade practices-To be protected from unfair or restrictive trade practices.
- Right to choose-To have a variety of goods or services at competitive prices

▪ Comparison between old & New Law:

Provisions	CPA, 1986	CPA, 2019
Regulator	No separate Regulator	Establishment of the Central Consumer Protection Authority that is CCPA
Jurisdiction to Consumer Court	Complainant could file the complaint in a consumer court where the sellers office was located	Complainant can file the complaint where he resides or works.
Product Liability	No such provision. Consumer in that case was required to approach civil court but not consumer court.	Consumer can seek compensation for harm caused by the product or services.
Pecuniary Jurisdiction	District Court- up to 20 lacks State: Above 20 lacks to 1 cr. National: above 1 cr.	District: up to 1 cr. State: Above 1 cr to 10 cr. National: Above 10 cr.
E-commerce	No such provision	It is covered
Mediation facility	No such provision	Court can refer the matter for mediation

CHALLENGES FOR THE FUTURE

The function of Central Consumer Protection Authority (CCPA) authority is to regulate the violation of consumer rights, unfair trade practices, and misleading advertisements. It will be dedicated task for the government to enforce and enhance this authority. While it is laudable initiative but it is unclear as to how this authority will function and certain function relating to investigations and inquiries. It seems apparently 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 Consumer Dispute Redressal Commission. The circumstances or the criterion 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

Thus, it can be said that though 'The Consumer Protection Act, 2019' is a significant positive step towards reformation and development of consumer laws in the dynamically changing socio-economic developments which ensures that protection of consumers' rights. But at the same time one cannot deny and question the implementation and practical application of the provisions. For any law to be successful, it is essential that its implementation should be done properly and efficiently. Therefore, for the 2019 Act to become productive it needs to overcome its drawbacks and leeway should be given to actualize the relief for the consumers.

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