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ANALYSIS OF CURRENT CONSUMER PROTECTION LAWS IN INDIA**ABSTRACT**

Consumer being a vital part of the economy has undergone a rapid change in its taste, nature and choice of product. In doing so it is necessary to ensure they enjoy a good amount of protection from the capitalist whose main motive is profit earning. To keep the interest of the same, the Government of India enacted the Consumer Protection Act which ensures diverting the legal power in ensuring the rights of the consumer. Moreover, its multi-faceted protection ideology ensures that no consumer is exploited, harmed and rejected in exercising its rights and duties as a customer. Therefore, it is the duty of every customer or any concerned citizen to have the basic knowledge of consumer protection rights and enjoy and exercise whenever it is necessary.

INTRODUCTION

“As per sec. 2(7) of the Act, ‘consumer’ has been defined as any person who”:

- *“Buys any goods for a consideration paid or pledged or partly paid or promised, or by means of any deferred payment system, and includes, if the use is made with the consent of that person, any other user of such goods than the person buying the goods pledged or promised or partly paid or promised, or under a deferred payment system.*
- *Hires and/or uses any service for payment which, under any system of deferred payment, is paid or promised or partly paid and promised, and includes any*

recipient of such services except a person who has hired or used services for consideration paid or promised or partly paid and promised, or, under any deferred payment system, if such services are provided.”¹

In the case of “*Dinesh Bhagat vs. Bajaj Auto Ltd*”², Delhi State Commission was engulfed in a fiasco in which “A purchased a scooter and from the time of purchase was possessed by B”. Occasionally, B took the scooter for maintenance. Subsequently, B had reservations about the scooter and he was sued by the seller. Because B did not purchase the scooter originally, the vendor submitted that B was not liable under the 1986 Consumer Protection Law (hereafter CPA 1986), because it was not the customer. “The Delhi State Commission found that B utilised the complaint with the permission of the Buyer A, as was the consumer under the Act”.

In relation to “*S.P. Goel vs. Collector of Stamps*”³, the applicants filed a complaint under the 1986 Consumer Protection Law that the Sub-Registrar, who lodged a complaint for action with the Collector of Stamps, did not register a testament document for a period of six years. He claimed the Sub-Registrar and the collector were harassed and requested compensation. The National Commission found that this interesting description of facts was not a "client" under CPA 1986. The justification was that the plaintiff did not hire services and that it could not be argued that a government officer performing his duty as a State legal official would supply the plaintiff with a service.⁴

POINTWISE ANALYSIS OF CURRENT CONSUMER PROTECTION LAWS IN INDIA (CPA 2019)

- ***Rights of consumers***

The Act has established six consumer rights, including:

1. the right to be guaranteed against the sale of life and property endangering items, products or services;
2. notify the client about the type, amount, efficiency, consistency, value, and pricing of commodities, products or services, as needed, in order to prevent unfair business;

¹ The Consumer Protection Act, 2019, § 2, No. 35, Acts of Parliament, 2019 (India).

² *Dinesh Bhagat v. Bajaj Auto Ltd.* (1992) III CPJ 272.

³ *S.P. Goel v. Collector of Stamps* (1995) III CPR 684 (SC).

⁴ IPLEADERS, <https://blog.ipleaders.in/analysis-consumer-protection-laws-india/>, (last visited Aug. 17, 2021).

3. be guaranteed that a variety of goods, products and services are exposed at fair prices as far as feasible;
4. to be acknowledged and ensure that appropriate attention is given to consumers' complaints at sufficient forum;
5. they seek remedy from unfair business practises or arbitrary trade policy or unethical consumer exploitation; and
6. to increase customer awareness

- ***Central Consumer Protection Authority***

It shall carry out, among other duties, the following:

1. investigation and prosecution in the necessary forum of infringements of consumer rights;
2. issuing orders for the recall or removal of hazardous products, refund of the fee charged and suspension of disappointing trade procedures, as set out in the Bill;
3. giving guidance to the individual concerned.

- ***E-commerce***

E-commerce was defined as the purchase or sale via the internet or electronic network of products or services, including digital articles. In order to prevent discriminatory e-commerce operations, measures and rules have been authorised for the federal government. For products provided via online portals, the availability of services must be established without paying fees separately. It is not clear if offshore e-commerce is also included and whether CPA 2019 for these companies is eventually implemented.

The new Act enables the central government to enact legislation, take necessary action to prevent unfair trade, and safeguard the rights and interests of consumers.

- ***Grounds to File Complaints***

“Although the CPA 1986 Regulation⁵ specified six main reasons for registering complaints, the number of CPA 2019 grew to 7, and one of the existing grounds for filing complaints was also significantly altered, as stipulated in CPA 1986, Section 2(c)(i).”⁶ These include:

1. Unfair Contracts and Expanded Unfair Trade Practices – Previously, a complaint could only be brought if a dealer or service provider engaged in unfair or discriminatory business practises. The term “unfair contract” has now been introduced, allowing customers to dispute unfair, unilateral, and irrational arrangements.
2. Although the CPA 1986 had specified six kinds of unfair trade practises, the 2019 Act adds three types of new unfair trade practises:

- failures or failures to issue a bill or cash memo;
- refusals of withdrawal or withdrawal or withdrawal of defective goods or of deficient service or refusals of refund within the period provided for by the bill or cash memo or receipt or in the absence of such provisions and refusals of retraction and reimbursement within 30 days of goods or services.
- disclosure to any other person of consumer's personal information unless that disclosure is made for the time being or in the public interest, in line with any requirements of the law.

- ***Product Liability***

This is a significant addition to the Act's language. The new legislation places strict legal obligations on merchants, as well as on their customers. A product maker, service provider, or merchant may be held liable for any damages caused by, or for the failure to maintain or sell, a defective product or for the failure to maintain or sell a faulty product. They are each assigned a shared responsibility under Sections 84, 85, and 86 of the New Act. *“The product liability chapters address a claim for compensation made as a result of a complaint of damage caused by a faulty product produced by a manufacturer, maintained by a service provider, or sold by a salesperson”.*

⁵ The Consumer Protection Act, 1968, No. 68, Acts of Parliament, 1986 (India).

⁶ The Consumer Protection Act, 1968, § 2, No. 68, Acts of Parliament, 1986 (India).

Product liability is the obligation of a manufacturer, service provider or seller to pay a customer for damages or accidents caused by a defective product or service. To establish accountability, a customer must demonstrate all the faulty or malfunctioning components of the Act.

Under Article 2(34) of the Act 'product liability' is the obligation of a manufacturer or service seller to compensate a consumer for any harm arising from a defective product or service.⁷ The term 'product liability action' in Section 2(35) of the Act refers to the complaint filed before a District, State or national commission for damages caused.⁸

- ***Penalties for false or misleading advertisements***

CCPA is also authorised to take action against incorrect or disappointing advertising. CCPA shall impose penalties of up to INR1 million and up to INR5 million for each consecutive violation. It must be noted that these sanctions may also be imposed on endorsers, thereby penalising actors/actresses.⁹ However, if it indicates that it has carried out reasonable diligence to verify the truth before acceptance of the statement, the endorser shall be shielded from any responsibility. Therefore, supporters/actors/celebrities would constantly have to conduct extensive due diligence/research before signing up for any publicity.

- **Mediation**

CPA 2019 also provides for mediation in the case that a compromise is possible at or after the time the complaint is acceptable, provided that the parties agree. Each local, state and national commission and their regional benches would be connected to a mediation cell for an accelerated settlement.

COMPARATIVE ANALYSIS OF 1986 ACT AND 2019 ACT

While court declarations have been issued, transactions conducted through internet means are inside the consumer sphere. The 2019 Act provides consumers with digital protection against the purchase of goods or services. Since then, the legislation has held endorsers liable for false or misleading online advertising. In the 1986 Act, this was only the responsibility of

⁷ The Consumer Protection Act, 2019, § 2, No. 35, Acts of Parliament, 2019 (India).

⁸ The Consumer Protection Act, 2019, § 2, No. 35, Acts of Parliament, 2019 (India).

⁹ FINANCIAL EXPRESS, <https://www.financialexpress.com/economy/consumer-protection-act-2019-comes-into-force-from-today-manufacturers-may-go-to-jail-for-misleading-ads/2029676/> (last visited Aug. 18, 2021).

suppliers and service providers. Pursuant to section 21(2)¹⁰ of the 2019 Act, the commission may impose, even after receiving a customer's warning, a fine of “fifty lakhs if the endorser continues to promote misleading product information”.

The legislation also considers the leaking of personal information submitted during the transaction to be a crime. The law also provides a provision for product responsibility wherein the producer not only has to pay for the faulty products but also for any damage or harm caused by a defect to the complaint. For instance, when a bike is delivered to you, and the brake is loose, which would lead to an accident, the maker must make up for the fault and also pay you for the accident caused by the fault.

The Act also recommends “*the creation of an independent regulator, the Central Consumer Protection Authority (CCPA). Although this organization does not react to consumer complaints or settle legal proceedings, it takes regulatory measures to counteract unfair commercial practices, etc*”.

CONCLUSION

The Consumer Protection Act of 2019 amends the existing Consumer Protection Act of 1986 in a number of ways. The CPA broadened the scope of the Indian consumer protection system. In the case of merchants, suppliers, and service providers, changes made to the video of the CPA 2019 have the impact of levying obligations. This is true not just for some of these supporters, but also for others. The goal is to address problems that are not covered by the CPA 1986, such as consumer interests as a class, and so on. A major emphasis of the new Act is on issues such as mediation and e-commerce, which were not accessible to the whole world back in 1986. Because digitization has changed the way consumers conduct electronic transactions, it was also necessary to update the Act to reflect this change. The Consumer Protection Act of 2019 is unquestionably a major step forward in terms of enhancing, expanding, and strengthening consumer protection.

The goal of CPA 2019 was to simplify and unify the customer settlement procedure by increasing the monetary power of commissions, creating mediation cells, increasing the number of commission members, imposing severe penalties, and other measures.

¹⁰ The Consumer Protection Act, 2019, § 21, No. 35, Acts of Parliament, 2019 (India).