

New Consumer Protection Act: Issues and Challenges

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Abstract: The Consumer Protection Act 2019, a comprehensive legislation in India, aims to safeguard consumer rights in the evolving market landscape. This paper explores the implications, challenges, and benefits of the new Act, addressing issues such as unfair trade practices, false advertisements, and product liability. The Act introduces provisions for e-consumers, online dispute resolution, and regulatory bodies like the Central Consumer Protection Authority. Fundamental changes include the incorporation of e-commerce, mediation mechanisms, and stringent regulations on misleading advertisements. While the Act extends significant protection to consumers, challenges lie in effective enforcement, the functioning of regulatory bodies, and the need for mass awareness. The study evaluates the Act's impact on consumer rights, legal frameworks, and the e-commerce sector in the digital era.

Keywords: Consumer Protection Act, 2019; e-consumers; unfair trade practices; regulatory challenges; online dispute resolution.

I. INTRODUCTION

Protecting buyers of goods and services from being subjected to unfair business practices is what's meant by the term "consumer protection," which refers to the act itself. Consumer protection refers to the efforts that are taken to protect consumers against dishonest and unethical behaviour on the part of retailers, manufacturers, service providers, and others in the marketplace. Instances in which customers' legal rights have been violated necessitate the provision of legal redress as another aspect of this responsibility. The Consumer Protection Act of 2019 is the piece of legislation in India that is responsible for overseeing the administration of consumer rights. The Consumer Protection Act of 1986 has been superseded with the Consumer Protection Act of 2019, which was just passed into law. The new version of the act contains a number of amendments that are designed to meet the challenges that are faced by modern customers who depend heavily on technology. In addition to these provisions, the Act contains a number of others that are designed to protect and expand consumer rights.¹

II. RESEARCH OBJECTIVES

1. Examine the implications of the Consumer Protection Act 2019 on consumer rights in the evolving market.
2. Assess the effectiveness and challenges in the enforcement of the Act, especially in the context of e-commerce.
3. Explore the role and functioning of regulatory bodies, such as the Central Consumer Protection Authority, in ensuring consumer protection.
4. Analyze the impact of the Act on legal frameworks related to product liability, unfair contracts, and false advertisements.
5. Evaluate the awareness and understanding of consumers regarding their rights under the Consumer Protection Act, 2019.

III. MEANING OF THE WORD 'CONSUMER'

A person or group of people who buy goods and services with the sole goal of using them for their own needs, as opposed to creating or reselling them, is referred to as a consumer. Consumers may be individuals or groups of people. A person is considered to be a consumer if, in accordance with the provisions of Section 2(7) of the Consumer Protection Act 2019, they make a purchase of goods or services in exchange for remuneration

and make use of such goods or services either for their own personal use or with the intention of selling or using them commercially. The act of acquiring goods or making use of services is expressly included in the definition of "consumer," regardless of whether the transaction takes place via multi-level marketing, teleshopping, direct sales, or online shopping.ⁱⁱ

IV. NEED FOR THE CONSUMER PROTECTION ACT, 2019

The Indian government passed the Consumer Protection Act 2019 as a reaction to complaints against the infringement of consumer rights, unjust corporate practices, misleading advertising, and related issues. The Act was enacted by Parliament to include measures aimed at safeguarding e-consumers due to the significant increase in online transactions for the exchange of goods and services, resulting from technical advancements in recent years. The primary objective of the Act is to enhance the protection of consumer rights and interests. In order to accomplish this goal, consumer protection councils are established. These councils are tasked with addressing customer complaints and ensuring that consumers whose legal rights have been infringed upon get fair recompense for their losses. In addition to this, it makes it easier to address customer problems in a timely and effective manner by using many alternative techniques of conflict resolution. The Act also makes it easier for consumers to get education, with the goal of enlightening them about their rights, duties, and available options for seeking redress.ⁱⁱⁱ

V. OBJECTIVE OF THE CONSUMER PROTECTION ACT, 2019

The primary goal of the Act is to safeguard consumer interests and develop a robust and reliable framework for resolving consumer disputes. The objective of the Act is to safeguard against the promotion of goods that pose a threat to both human life and property.

- To protect customers from unfair trade practices, it is essential to provide information on the standard, purity, quality, quantity, potency, and pricing of items.
- Establish Consumer Protection Councils to ensure the protection and preservation of consumers' rights and interests.

- Ensure, if feasible, the availability of a regulatory body for commodities at competitive costs.
- Pursue remedies for unjust commercial practices or unethical exploitation of customers.
- Ensure consumer protection by establishing regulatory bodies to promptly and adequately handle and resolve consumer issues.
- Specify the sanctions for violations committed in accordance with the legislation.
- Ensure that the welfare of customers is given proper attention in relevant forums in the event of any issue or disagreement.
- Offer consumer education to enhance customer awareness of their rights.

VI. OFFER PROMPT AND EFFICIENT RESOLUTION OF CUSTOMER CONCERNS VIA ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

WHAT ARE CONSUMER RIGHTS UNDER CONSUMER PROTECTION ACT, 2019

The Consumer Protection Act 2019 establishes six rights that consumers are entitled to. The Act specifies the rights of consumers in Section 2(9), which are outlined as follows:

- The consumer's entitlement to be safeguarded from the promotion of products and services that pose risks and are harmful to life and property.
- Consumer rights include the entitlement of individuals to be safeguarded from unjust commercial activities by being informed about the characteristics, amount, effectiveness, purity, specifications, and cost of merchandise, commodities, or services.
- Consumer's entitlement to avail a diverse range of commodities, services, and products at competitive rates.
- The entitlement to pursue legal remedies in appropriate venues in response to unjust and limiting commercial practices.
- The entitlement to get appropriate compensation or remuneration from

separate consumer tribunals in the event of being subjected to injustice by the vendor.

- The entitlement to access consumer education.

UNFAIR TRADE PRACTICES UNDER CONSUMER PROTECTION ACT, 2019

According to Section 2(47) of the Act, 2019, 'unfair trade practices' are defined as the act of producing counterfeit products or offering substandard services.

- Failure to submit cash memos or bills for purchased things or rendered services.
- Refusing to accept the return or withdrawal of the products or services and neglecting to repay the cash received for the purchase of the goods or services.
- Disclosing the consumer's personal information.

NEW ADDITIONS IN THE ACT

As a result of the significant shift in the way the market operates, new consumer protection legislation was required at this time. There has been a recent uptick in international trade, as well as an acceleration in the growth of e-commerce and global supply chains. Additionally, there has been a buildup of outstanding cases in India's consumer courts, which has led to a backlog. During the transition to the new market structure, misleading ads were seen, and it became clear that direct and multi-level marketing required further oversight. The new Act is going to be to everyone's advantage in the community.^{iv}

1. E-Commerce And False Advertisement:

The term "consumer" has been expanded under the new legislation that went into effect in 2019, and it now includes those who make purchases via an online shopping platform. The prior legislation failed to include clients who make online purchases, but the 2019 legislation has addressed this deficiency in coverage. There is a specific clause that pertains to the endorsement of goods and services, particularly those that are supported

by celebrities and fall under the scope of false and deceptive advertising. There is also a provision for endorsement of political candidates. The responsibility that falls on the celebrity is in addition to the obligation that is imposed on the service providers and manufacturers. It is, therefore, necessary to define "misleading advertisement" as the intentional withholding of crucial facts. The CCPA, which will be explored further down the road, also controls advertisements that are dishonest or misleading.^v

2. Food Safety and Standards Act, 2006

The definition of "food" that was established by the Food and Standards Act of 2006 has been included in the 2019 Act. This has taken the place of the definition of "goods" that was included in the Act of 1986. This would be helpful in increasing the number of platforms that fall within the purview of consumer protection laws governing food delivery.

3. Telecom Services

The term "telecom" has been included in the Act of 2019's definition of "services" in order to accommodate the coverage of telecommunications services. However, rather than "telecom," it would have been preferable for this addition to have been made in the form of "telecommunication service," as that term is defined under the Telecom Regulatory Authority of India Act (TRA).

4. Pecuniary Jurisdiction

With time, both the average wealth of consumers and the purchasing habits they engage in have seen significant increases. In comparison to the 21st century, the amount of money spent by customers on their purchases, projects, and infrastructure was meager. Because of this, there was more work for the National Commission to do. Consequently, as a consequence of this matter, the monetary jurisdiction of the Consumer Courts has evolved.

5. Central Consumer Protection Authority

In order to promote, preserve, and develop consumer rights, the CCPA has been established. The NCR will serve as the location for the headquarters, and the government will choose the locations for the regional offices. The authority is

tasked with regulating situations in which consumer rights are violated, as well as unfair business practices and deceptive advertising. There will be an investigative branch, and the Director General (DG) will serve as its head.

6. Unfair Contracts

An unfair contract is a legally binding agreement between a manufacturer, merchant, or service provider and a client that causes harm to the consumer or brings about a substantial alteration in the consumer's entitlements. An instance of this is the unilateral termination of the contract without prior notification to the other party. If the disputed amount is less than 10 crore INR, a complaint may be filed with the State Commission. If the amount exceeds 10 crore INR, the complaint can be sent to the National Commission.

7. Product Liability

Under the new legislation, the manufacturer, product service provider, and product seller are legally responsible for any harm caused by their product(s) that leads to injury or death to the consumer. This encompasses any kind of damage inflicted by their product(s). Nevertheless, the manufacturer will have a heightened degree of legal liability in the next period. This law will also be applicable to the many platforms used for online commerce. The defective product should be identified as the primary source of harm, which might manifest as bodily harm, fatality, psychological distress, loss of companionship, or any other kind of detriment. The harm must be genuine and cannot be measured in terms of financial detriment.

8. Mediation (Alternate Dispute Resolution)

The new Act has a clause that enables mediation, which must be conducted voluntarily and does not impose any obligation on either side. The method will become more rational and direct, facilitating the expedited resolution of disagreements. In order to address the issue of insufficient funding and a lack of infrastructure, especially at the district level, it is necessary to establish a connection between the Consumer Mediation Cell (CMC) and each district, state, and national level. This task will require a significant amount of effort and will take a considerable amount of time to complete.

9. Filing of Complaint

Complaints may be submitted by the consumer themselves, as well as by the customer's parents or legal guardian if the consumer is a minor. The new law gives customers the option to register complaints either at their place of residence or at their place of employment, whichever is most convenient for them. In some situations, the complaint may also be submitted digitally, and the hearing can take place via the use of video conferencing.

HOW DO CONSUMERS BENEFIT FROM CONSUMER PROTECTION ACT, 2019

The Consumer Protection Act of 2019 is an essential piece of legislation that has been introduced because it will be of benefit to consumers. The Act expands the extent of protection afforded to consumers with respect to their rights and interests.^{vi}

1. **Unfair contracts:** Under Section 2(46) of the Act, According to the definition established by the Unfair Contracts Act, an "unfair contract" is any arrangement that requires an extravagant security deposit to be supplied by the customer in order for the consumer to be obligated to follow the terms of the contract. The Act was amended to add this definition. Incorporating unfair agreements into the statute would make it possible for customers to register complaints in such situations and would make it easier to regulate deceptive business conduct.
2. **Territorial jurisdiction:** It would be to the consumers' advantage to seek redress for their concerns when their rights were infringed since the Act permits consumers to register complaints in the jurisdiction in which the complainant lives or personally works for gain.
3. **False and misleading advertisements:** The Act not only defines the phrase "false and misleading advertisements," but it also sets down stringent penalties for conduct or omissions that fall within this category.
4. **Product liability:** The term "product liability" is defined by this legislation,

which specifies that the responsibility for compensating customers for any harm caused by a defective product or service lies with the manufacturer, service provider, or seller. This legislation furthermore provides a clear definition for the phrase "product recall," which pertains to the withdrawal of a product from the market.

5. **Mediation and alternative dispute resolution:** For the purpose of achieving a prompt and satisfactory resolution to consumer complaints, the Act gives consumers the option of participating in mediation or other alternative dispute resolution procedures.
6. **E-filing of complaints:** In addition to this, the Act makes it easier to submit complaints electronically and to request video conference hearings from the Commission. Therefore, making it easy for customers to express their dissatisfaction in a way that is comfortable for them.

VII. CHALLENGES FOR THE FUTURE

The establishment of the CCPA aims to advance, safeguard, and enhance consumer rights. The National Capital Region (NCR) will be designated as the headquarters location, while the government will be responsible for selecting the sites for the regional offices. The authority is responsible for overseeing cases involving the infringement of consumer rights as well as addressing unfair corporate practices and misleading advertising. The government will undertake a dedicated effort to enforce and expand this authority, and the consequences of this endeavour will indeed have a profound impact on the 2019 Act. While the effort is praiseworthy, it remains unclear how this authority will work, especially in relation to the many tasks involved with investigations and inquiries.^{vii}

There is an overlap between the director general's responsibilities when considering the activities of the investigation division and those related to search and seizure. The CCPA has the jurisdiction to issue mandates for product recalls, compensate customers for their purchase expenses, provide instructions, and penalize manufacturers or endorsers. It is noteworthy that the National

Commission is the only venue for hearing appeals against such orders. The prerequisites or criteria that must be satisfied before the National Commission will evaluate such instances are not clearly defined. Currently, it remains uncertain if the outstanding cases will be transferred due to the change in jurisdiction concerning financial issues. However, there are speculations that the new jurisdiction would only be applicable to recently submitted cases.^{viii}

The Ministry of Consumer Affairs will establish guidelines for marketers and agencies in relation to unfair practices and deceptive advertisements, as mandated by the Consumer Protection Act of 2019. Furthermore, this will define the prescribed penalty for violating the code. However, there are concerns regarding the potential decentralization of the application of these standards rather than having a centralized regulatory approach.

Furthermore, it is a tangible truth that there are several vacant posts across various commissions. Executing the law without adequate personnel would be unattainable. Therefore, the vacant posts must be promptly filled, following the required protocols and appointing officials who possess expertise and experience.

As per the guidelines, e-commerce businesses are prohibited from manipulating the prices of items and services on their platform to earn unfair profits and to align with market conditions. This would also indicate that they are incapable of reducing their prices below a certain threshold, which might be a component of their strategy for selling in large quantities.

E-commerce enterprises are prohibited from imposing cancellation fees on customers due to the potential depletion of the business's resources.

Furthermore, they are now subject to more rigorous demands on the implementation of a mechanism for customers to seek resolution on their websites. The anticipated market size is around \$25 billion, with an estimated population of 1.3 billion in the Indian market. Undoubtedly, this is an imperative need. However, the government should have taken into account the provision of governmental assistance to these prominent entities in order to safeguard their interests in our market.

Suppose the notion leads to a financial deficit for them. In that case, they may curtail their investment in our country, perhaps causing substantial repercussions on both the economy and the populace of India.^{ix}

Furthermore, a crucial duty is to enlighten the general public by directing their focus towards the reasons outlined in the following paragraphs.

The essential safeguards provided to people in their role as customers. The enhanced safety measures included in the Consumer Protection Act 2019, including those pertaining to internet platforms, aim to ensure their awareness of the option to file cases electronically and the corresponding online process. Students at schools and universities may engage in establishing awareness campaigns to accomplish these tasks. This would lead to every Indian client becoming a "vigilant consumer," and it would signify that the revised regulation was effectively implemented to a 50% extent.^x

VIII. CONCLUSION

Ultimately, the enactment of the Consumer Protection Act 2019 signifies a significant change in protecting consumer rights in the ever-changing and technology-oriented industry. The Act exhibits a progressive stance on consumer protection by tackling concerns such as unjust commercial practices, deceptive advertising, and including measures for online consumers. The incorporation of regulatory entities such as the Central Consumer Protection Authority introduces an additional level of supervision, with the objective of guaranteeing the efficient enforcement of the Act.

Nevertheless, there are still obstacles that remain in terms of ensuring compliance, the effectiveness of regulations, and the urgent need for extensive consumer knowledge. The efficacy of the Act depends on its capacity to adjust to the changing dynamics of consumer engagements, particularly in the digital domain. The report highlights the need to tackle these obstacles in order to fully harness the potential advantages of the Act 2019.

With the ongoing evolution of the legal system, it is imperative to conduct thorough assessments of the Act's influence on legal paradigms, especially in domains like product liability and unfair

contracts. Furthermore, the study highlights the need to evaluate consumer comprehension and awareness in order to close the gap between legal regulations and effective empowerment.

Essentially, the success of the Consumer Protection Act 2019 relies on the smooth execution, regulatory efficacy, and ongoing endeavors to educate and empower consumers in the constantly changing market landscape. The Act functions as a crucial instrument in effectively navigating the intricacies of the digital age, molding a landscape that prioritizes the interests of consumers and their rights.

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