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“Consumer Protection Act of 2019: A Way Forward for Empowering Consumers”

Authors

Sujata Ramdas Sarwade

Research Scholar

Department of Commerce

Dr. Babasaheb Ambedkar

Marathwada University Aurangabad

Sneha Pandit Jadhav

Research Scholar

Department of Economics

Dr. Babasaheb Ambedkar

Marathwada University Aurangabad

Abstract:

Consumer protection is an integral part of each and every market. The Consumer Protection Act 2019 (New act) spells out the beginning of a new era of consumer rights in India, that are in synchronise with new age consumer expectations. It carries forward the rich legacy of the consumer protection act 1986 (Act) that was considered pioneer at the time of its enactment but which was unable to meet the challenges of a rapidly increasing civilized and interdependent market for goods and services.

Consumers are demanding value for money in order to get a quality products & effective services. Advanced technologies have created a great impact on the quality and availability of products, still consumers face exploitations regarding misleading advertisement, high prices of products and inferior goods, hazardous commodities, black marketing, poor services & adulteration etc. Consumers are still become victims of unscrupulous and exploitative practices.

Therefore, the present paper throws light on how the new act will be proven as a milestone in empowering consumers in India. It also highlights the challenges which consumers are facing regarding new consumer protection act 2019 and give suggestions how act can be further strengthened.

Keywords: Consumerism, Consumer Protection Act 2019, Digitalization, e-commerce, Empowerment

Introduction:

The increasing interdependence of the world economy and international nature of various business exercises have put up to the development of universal prominence on consumer rights protection and promotion. The protection of the consumer is an integral part of each and every market. Consumer protection act render consumer rights to avert consumers from fraud or specified unfair practices. Therefore, a consumer has right to seek protection against violation of his/ her rights. These rights ensure that consumers can make better choices in the market place and get aid with complaints.

A consumer is a person who buys goods and consumes services. A consumer can be a person, business, firm or governmental unit which chooses goods and services, spend money to satisfy their wants and needs.

Consumerism is defined as a social movement which confers safeguard and strengthen the rights of consumers with respect to the producer of the supplier of goods and services. Consumerism is defined as an organized movement of concerned citizens and government to enhance the rights and powers of buyers in relation to sellers. (Kotler, 1976). Cravens & Hills (1970) identified consumerism as “a social force within the environment designed to aid and protect the consumer by exerting legal, moral and economic pressure on business”. The Chamber’s Dictionary (1993) defines Consumerism as the protection of the interests of the buyers of goods and services against defective or dangerous goods etc. According to McMillan Dictionary (1985) “Consumerism is concerned with protecting consumers from all organizations with which there is exchanged relationship. It encompasses the set of activities of government, business, independent organizations and concerned consumers that are designed to protect the rights of consumers”.

The consumer protection act (CPA) 1986 is a benign social legislation that prescribe the rights of the consumers and bestow them promotion and protection. It is the first and the only act of its kind in India. The Indian Parliament enacted the Consumer Protection Act in 1986 comprising 31 sections conferring six consumer rights:

- The Right to safety
- The right to be informed
- The right to choose
- The right to be heard
- The right to get redressal
- The right to consumer education

To implement these above mentioned rights, the law provided for establishment of consumer councils and a three tier redressal mechanism at the district, state and national levels. The law worked successfully so far with the help of the judiciary widely. But in the era of digitalization, the CPA became outdated and failed to cover the consumers’ interests. In due course of time, our economy is shifting towards online shopping, online services where sellers are not known about the buyers. There is no transparency maintained in such transactions which can lead to the fraudulent activities.

The CPA is more than 30 years old legislation and has been amended three times viz. 1991, 1993 & 2002 respectively. The cause of concern is that this act didn’t work even in today’s fastest growing world and unable to accomplish its motive. Hence, there was a dire need to form a new act for providing more effective protection to the consumers and to aid address the new bunch of challenges faced by the consumers in the digital era, the Consumer Protection Act 2019 (New act) has passed in the parliament &

came into existence on July 20th 2020 in India by replacing the old enacted CPA of 1986. This new legislation of 2019 comprises 107 provisions.

At present, Consumers are demanding value for money in order to get a quality products & effective services. Advanced technologies have created a great impact on the quality and availability of products. However, consumers face exploitations regarding misleading advertisement, high prices of products and inferior goods, hazardous commodities, black marketing, poor services & adulteration etc. Consumers are still become victims of unscrupulous and exploitative practices.

Therefore, the present paper throws light on how the new act of 2019 will be proven as a milestone in empowering consumers in India. It also highlights the challenges which consumers are facing regarding new consumer protection act 2019 and suggested solutions onto it.

The Consumer Protection Act 2019:

The consumer protection movement in India embarked with the consumer protection act of 1986 which comprises numerous clauses for purchasing goods and services. The proactive step has been taken by the government for the protection of the consumers. The Consumer Protection act 2019 aims at providing protection on a fast track basis so that justice can reach to the aggrieved consumers right away.

The consumer protection bill, 2019 has been passed in the Lok Sabha on July 30th, 2019 and in Rajya Sabha on August 6th, 2019. The bill was introduced in the Parliament by Mr. Ram Vilas Paswan, the minister of consumer affairs, food and public distribution. The principal aim of this consumer protection act, 2019 is to save the rights of the consumers by constructing authorities for efficacious administration and settlement of consumers' disputes.

The government has initiated measures under the ambit of the act to secure consumers from malpractices regarding goods and services viz. Hallmark, Silk mark, ISI mark are some of the examples of safeguarding consumer rights. There is one scheme introduced by government name as 'Ujjwala' aiming to protect the citizens from becoming victim of frauds as a beneficiary of government schemes.

Salient Features of the Consumer Protection Act 2019:

The consumer is now truly the 'King' because the new act overhauls including jail terms for adulteration and for misleading advertisements. Remarkably it now prescribes rules of the sale of goods through e-commerce.

- The new act has upgraded the definition of 'consumer' in section 2 (7). According to the new act, a person is called a consumer who avails the services and buys goods for self-use. It is imperative to note that if a person buys any goods or avails services for resale or commercial purposes, he/she is not taken into consideration as a consumer. This new definition envelopes all types of transactions viz. offline and online through teleshopping, direct selling or multi-level marketing.
- The new act also introduces of new concepts like product liability, protection against unfair trade practices in e-commerce and punishment for misleading advertisements etc. the new act envisages the establishment of Consumer Protection Councils at Centre, state and district level to give advice on the protection of consumer rights.
- **Central Consumer Protection Authority (CCPA):**
 - 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.

Under the new act, the central authority will have a separate investigation wing headed by the Director General to conduct inquiry or investigation. For spurious and deceptive advertisements, CCPA may issue a penalty up to 10 lakh on a manufacturer or on online marketing. The fine for the same offence may extend up to Rs. 50 lakh and the tenure of prohibition may extend to 3 years. But exceptionally, if an endorser will not be held liable for such penalty/fine, the CCPA have the authority to direct the removal of misleading and fake advertisement.

- The Bill enlist penal actions against those who are noticed to be manufacturing , distributing, storing, importing or selling products that are fraudulent, spurious and having adulterants in it.
- The Pecuniary jurisdiction of different adjudicatory bodies increased in case of District Commission to Rs. 1 Crore, in case of State Commission, above Rs. 1 Crore and in case of National commission it is over and above Rs 10 Crores. Further simplification of the procedure for filing of complaints and online filing of complaints has also been envisaged.
- The act provides for provisions for mediation as an Alternate Dispute Resolution (ADR) mechanism which aims at giving legislative basis to resolution of consumer disputes through mediation, thus making the procedure less cumbersome, simple and quicker. This is the way to easy and speedy disposal of cases and grievances outside the courtroom which reduces the burden on the consumer court. Already several cases pending before them. This is the distinctive and special provision in the new law. The act also provides for e-filing of the complaints. To speed up the process of redressal of the dispute, the act provides that the complaint could be filed electronically and the proceedings, the investigation of the parties could be taken up through video conferencing.
- Provisions are included for product liability action for or with respect to the harm caused by or resulting from any product by way of fixing the liability of a manufacturer to the plaintiff. It means that the product sellers to be held liable if provided faulty goods to the consumers and a consumer can file a case against wrong doer from wherever he resides.
- E-Commerce guidelines would be mandatory under consumer protection act. It gives 14 days limit to file for refund request. It would mandate e-tailors to set forth details of sellers supplying goods and services on their online websites and mention the procedure to resolve the complaints filed by the consumers. The e-commerce companies would also need to assure that personally recognizable information of customers is secured and safe. Terms of contract between e-commerce body and the seller with respect to refund, return, delivery/shipment, exchange, warranty/guarantee, mode of payments, grievance redressal mechanism etc. to be presented to empower consumers to make au fait decisions.

Challenges:

As far as the Consumer Protection Act of 2019 is concerned, there are many obstacles faced by online buyers like breach of data privacy, as well as security, inferior or duplicate commodities, phishing etc. in fact, the Consumer courts and the Consumer protection Councils at Centre, state and district level have no suomotu powers especially in case of digital misleading, spurious and fake advertisements.

When any person complains in the consumer forum, action taken and compensation is granted to the aggrieved consumer who files a case in the consumer court. CCPA functions on the same grounds similar as the federal trade commission in the USA which investigate into consumer complaints provide safety notices to goods and services and issue orders for recall of goods and work against deceptive advertisements. Under the Consumer Protection Act of 1986, Central government and state government are empowered to file a legal case against manufacturer whether they come over defective commodities, inefficiency in services or unfair trade practices. But it is hardly seen any case has been filed by the government suomotu. As the adjudication process in consumer courts is sluggish, establishing mediation centres at District, State and National commissions annexed to the consumer courts can play a vital role in conferring justice.

Further, the authority has conferred the power to inquire and investigate. It is done with the help of investigative team headed by the director-general. Though this provision is noteworthy in its real sense, the functions of the authority are ambiguous as since district collectors are given the responsibility to take on inquiries and investigations. Hence, forthcoming, the task of the investigative wing and the functions of the district collector will relatively overlap which would in turn lead to a clash in their interests.

The authority is also empowered to give justice by penalizing manufacturers or endorsers for spurious advertisements, return of goods, preventing the endorsers to take up activities with respect to misleading of the advertisements, reimbursement of the price paid for goods and services. Appeals against such order can only be challenged in the National Commission. But the basis for hearing such appeals is vague which leaves the legal fraternity as well as the consumer class in a perplexed situation.

It is unrevealed as to whether the disputes with the present consumer commission will be heard by the same or will be transferred to the courts having a pecuniary jurisdiction as per the new act. This ambiguity will result into further delays.

Table No 1: Total No. of Consumer Complaints Filed/Disposed since inception under Consumer Protection Law updated
on 31.08.2021

Sr. No.	Name of Agency	Cases Filed since inception	Cases disposed of since inception	Cases Pending	Percentage of total disposal
1	National Commission	138676	116508	22168	84.01%
2	State Commission	874562	755863	118699	86.43 %
3	District Forum	4472029	4057971	414058	90.74 %
	Total	5485267	4930342	554925	89.88 %

Source: www.ncdrc.nic.in

Analysis of the cases disposed by Consumer Courts:

As per the data available by the department of Consumer Affairs (Shown in table 1), around 5.5 lakh cases are pending in the various consumer courts. This is an alarming scenario at present. When Consumer courts were established, the motive behind it was to provide rapid and inexpensive redressal to the consumers. But the fact is that where consumers can plead the case in consumer court by themselves; now the nature of the act is quite complex in nature. Therefore, they are supposed to hire a lawyer due to which adjournment takes place often by the consumer courts. This leads to delaying the whole adjudicatory process.

Further, the analysis points out that the number of cases disposed by the consumer court; the performance of the district consumer forum was 90.74% cases were disposed of.

Conclusion:

The new consumer protection act is truly a boon for the consumers. Now no manufacturer, endorser or vendor will bluff the consumer. There are Punitive provisions against manufacturers, service providers and online marketing as well in case of violations of consumer rights. This is the time to alter the maxim caveat emptor with caveat venditor which means that, 'let the seller beware' because if the manufacturers or service provider tries to cheat with the consumer, he will be punished on the same grounds. Online programs need to conduct to spread awareness among consumers through government actions and consumer activists, and then only the motive of consumer protection throughout country will be successfully done.

The consumer protection act, 2019, with its promethean changes will definitely help in empowering consumers in protecting their rights and provide speedy justice. It will aid in safeguarding consumer interests and rights. Consumer driven business such as retail, e-commerce would require to have vigorous policies dealing with consumer redressal in place. The new act will also propel the consumer driven business to take additional precautions against unfair trade practices and unethical business practices. But, the provisions with respect to CCPA, supposed to be a champion in Consumer Protection, direct selling, direct general, e-commerce and punishment provisions for false or misleading advertisements etc. are yet to be informed. The non-enforcement could be because of the pressure from the industry a large number of provisions in the new law and also because of coexistent rule making power in multiple authorities. The consumer cannot be a king in real sense if above mentioned provisions are not implemented.

In the era of digitalization across the world, steps like e-filing of cases, proceedings through video conferencing will reform, develop and enhance consumer rights to the great extent. But we cannot deny the fact that implementation and practical application of the provisions for any law to be successful, it is imperative that it has to be done in a proper and efficient way. Hence, for the 2019 act to become more constructive and productive, drawbacks needs to be removed and then only it will in a real sense empower the consumers.

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