



UNDERSTANDING CONSUMER RIGHTS AND RESPONSIBILITIES THROUGH CONSUMER PROTECTION ACT 2019

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ABSTRACT

The Constitution prescribes certain Directive Principles of State Policy which are fundamental to the governance of the country. And it's the duty of the state to strive for the welfare of its people by securing and protecting the interest of the society and individual in particular. The reference of protection and promotion of the individual rights and welfare in the Constitution of our country makes it also imperative to provide welfare to the consumers and client.

The Consumer Protection movement in India began with the enactment of the Consumer Protection Act 1986. The objective of this act was to protect the rights of the consumers in the purchase of the goods and availing services. Consumer protection is not a new concept in India. It was written in our ancient texts as said by our honorable Prime Minister in his speech at the recently held international conference on consumer protection in New Delhi.

A consumer can be cheated or exploited by the seller in many ways viz; by giving wrong or incomplete information about the product, by charging excess money, by providing low quality goods etc. These unfair trade practices can harm the consumers monetarily and can bring health hazards in many ways. The government has introduced many standards for checking of goods and services like the ISI mark, Halmark for jewellery, Silkmark for silk products and the RERA which is meant for safeguarding the consumers from malpractices in the real estate sector. The objective of the study is to explore the rights available to the consumers under the new Consumer Protection Act 2019. The study also aimed at finding the status of the consumer cases filed at various consumers forums and to make a comparative analysis of both the acts. The study is descriptive in nature.

Key words: Consumer Protection Act, Consumer Rights, Consumer Awareness.

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1. INTRODUCTION

The National Consumer Day is observed on 24th of December every year. This day is dedicated to depict the importance of consumers in an economy vis-a-vis society. The consumers should be very much aware of its rights and responsibilities. With the advent of the technology, e-commerce businesses, smart phones and cloud technology the Indian consumers has gone through drastic changes over the period of time.

Consumer protection is not a new concept in India. It was written in our ancient texts as said by our honorable Prime Minister in his speech at the recently held international conference on consumer protection in New Delhi. In his speech he has mentioned that around 2500 years ago during the era of Kautilya there were guidelines regarding how trade should be governed and at the same time the interests of the consumers are also protected.

When someone buys any product the first thing that one checks is the price of the product. The obvious reason behind this is the budget behind its purchase. Along with the price there are many other significant information provided in the face of the product box such as product durability, its weight, its expiry, the list of ingredients the product contains, etc. But we hardly bother about these information. This is where the consumer awareness needs. A consumer can be cheated or exploited by the seller in many ways viz; by giving wrong or incomplete information about the product, by charging excess money, by providing low quality goods etc. These unfair trade practices can harm the consumers monetarily and can bring health hazards in many ways.

The government has introduced many standards for checking of goods and services like the ISI mark, Haalmark for jewellery, Silkmark for silk products and the RERA which is meant for safeguarding the consumers from malpractices in the real estate sector. Apart from these the government has also introduced the Direct Benefit Transfer (DBT) schemes meant to block the leakages affecting the interest of the real beneficiaries.

In the present era of globalization and competition every manufacturer tries to maximize profits and to sustain thereby. Therefore they resort to many kind of unfair trade practices in the form of misleading advertisements and marketing compromising the interest of the consumers. Therefore it's very important that the consumers should be aware about the goods or services that they are purchasing to protect their own interest.

The Consumer Protection movement in India began with the enactment of the Consumer Protection Act 1986. The objective of this act was to protect the rights of the consumers in the purchase of the goods and availing services. It is equally necessary for the consumers to be aware of the mechanisms available for redressal in case of grievances. There are various forums like Lok Adalat, District Forums, State Consumer Forum and the National Dispute Redressal Authority where the affected consumers can approach for redressal. An individual as a consumer enjoys the following rights.

2. CONSUMER RIGHTS

1) **Right to Safety:** Consumers have the right to be protected against marketing of goods and services which are hazardous to life and property. If any particular goods and services are

hazardous to life and property then the consumers should be properly informed about the mode of usage of it.

2) **Right to Information:** Consumers enjoy the every right to be informed about the quality, quantity, potency, purity, standard and price of services or goods with a view to protect the consumers against unfair trade practices. The consumers should be provided adequate information so that they may choose the product according to their convenience and fitness of their use.

3) **Right to Choose:** Consumers also enjoy the liberty to choose from a variety products available at their disposal at competitive prices. Moreover fair competition must be promoted so as to provide wide range of services or goods at competitive prices to the consumers.

4) **Right to be Heard:** Under the Consumer Protection Act 1986, consumers also enjoy the right to be heard if anything goes wrong against him. They enjoy the liberty that if something goes against them their interest will receive due care in the appropriate consumer forum.

5) **Right to Redressal:** If the consumer has suffered any kind of loss or injury due to unfair trade practices and allegations made in the complaint have been proved in the appropriate forum will indemnify and compensate the loss.

6) **Right to Education:** This right informs the consumer about the practice prevalent in the market and the remedies available to them in case of loss or any injury. For spreading this awareness, media or school curriculum is also exercised as medium.

Grounds of Filing a Complaint: A person can file a complaint on any one of the following grounds:

- 1) An Unfair Trade Practices (UTP) or Restrictive Trade Practices (RTP) adopted by any trader or service provider.
- 2) Any defect in the goods sold.
- 3) Any deficiency in the services provided.
- 4) Overcharging of prices fixed under the law displayed in the package or on the price list or agreed between the buyer and the seller and;
- 5) Offering of any hazardous goods or service.

The forums where complaints can be filed are:

- a) **District Forum:** If the price of the product or the service and the compensation demanded is upto Rs 20 lakh.
- b) **State Commission:** If the price of the product or the service and the compensation demanded exceeds Rs 20 lakh but does not exceed Rs 1 Crore.
- c) **National Commission:** If the price of the product or the service and the compensation demanded exceed Rs 1 Crore.

The procedure for filing a complaint is very easy. A written complaint along with stipulated fees needs to be filed by the consumer or by his authorized representative along with supporting documents viz, cash memo, warranty card, etc. And the relief sought by the complainant also needs to be specified in the application by the complainant himself. And after the completion of the hearing process the consumer forum may issue one or more of the following directions:

- a) The court may direct the seller to remove the defects from the goods sold and deficiency from the services provided.
- b) The court may direct the seller for the replacement of defective goods.
- c) The seller might also be required to refund the price to the consumer as per the court directives.

d) The seller or the manufacturer might also be required to pay compensation to the buyer for the loss or injury suffered by him/her.

e) The court may direct to pay the consumer for punitive damages wherever it deems appropriate.

f) If the goods were of hazardous in nature, the seller might be required to withdraw the goods as per the court ruling.

Analysis of the cases disposed by Consumer Courts: The objective behind the formation of these courts was to provide inexpensive and speedy redressal to consumers. According to the data available from the Department of Consumer Affairs it can be seen that more than 4 lakhs of cases are still pending in the courts, which is a very alarming figure.

Table 1 Total Number of Cases Disposed by Consumer Forum since Inception: (15.11.2020)

Serial No:	Name of Agency	Cases Filed Since Inception	Cases Disposed off Since Inception	Cases Pending	% of Disposal	Remarks
1	National Commission	1,32,596	1,11,597	20,999	84.16%	-
2	State Commission	94,3620	8,18,719	1,24,901	86.76%	-
3	District Commission	43,01,258	39,59,149	3,42,109	92.05%	-
	TOTAL	53,77,474	48,89,465	4,88,009	90.92%	-

Source: www.ncdrc.nic.in

3. AN ANALYSIS OF THE SHORTCOMINGS OF THE CONSUMER PROTECTION ACT 1986

a) The Consumer Protection Act 1986 failed to address the rapid changes in consumer market places. Section 13 states that every complaint shall be heard expeditiously as possible and endeavor made to dispose of complaint within a period of three months and five months if it requires testing of commodities. But it has been observed that due to heavy piling up of cases and frequent adjournments, delays in justice are taking place.

b) The consumer forums are overburdened with lots of pending cases and because of which the buyer seller contract seems to be tilted towards the seller. Further the procedures are becoming more expensive and time consuming.

c) The presidents and the members of the consumer courts are said to be backbone of the consumer dispute redressal system. They play a significant role in upholding the faith of the sellers and buyers. But it has been observed that more than 400 posts of presidents and members in various consumers' forums are lying vacant.

d) Many consumer forums are functioning with inexperienced staffs deputed from other departments. It's very necessary to provide intensive training to these members before engaging them into the job.

e) There has been a lack of proper co- ordination among the presidents and the members of consumer commissions for timely adjudication of cases and quite often around ten or fifteen adjournments are allowed.

f) The presidents are not empowered with take up action against the sellers for misleading advertisements which affected a sizeable number of consumer population.

4. SOME OF THE HIGHLIGHTS OF THE CONSUMER PROTECTION ACT 2019

- a) The definition of Consumer would include both offline and online consumer who purchases through electronic means or by tele shopping or direct selling or multi level marketing.
- b) The Central Consumer Protection Authority (CCPA) has been established to promote, protect and enforce the rights of the consumers against unfair trade practices and to initiate appropriate action whenever necessary.
- c) The monetary jurisdiction of the adjudicatory bodies has been increased. In case of District Commission it has been increased upto Rs 1 Crore, for State Commission between Rs 1 Crore to Rs 10 Crores and for the National Commission it is above Rs 10 Crores.
- d) The Bill also enlists punitive action against those who are found to be involved in manufacturing, storing, distributing selling or importing products that are hazardous to life and contains adulterants.
- e) Provision for mediation as an Alternate Dispute resolution mechanism with an objective to resolve the consumer grievances through mediation, thus making the process less cumbersome, simple and quicker.
- f) Several provisions has been made for simplifying the consumer dispute adjudication process which includes the increase of the minimum number of members of the consumer forum for quick disposal of the complaints, power to review the orders given by the district and the state commission, constitution of the circuit bench for quick disposal of the complaints, reforming the process of the appointment of the president and the members, etc.

5. CONCLUSION

There were lots of changes and developments in the parlance of consumer protection. The CPA has provided an organizational structure to protect the consumer rights and responsibilities. Now a large number of voluntary organizations have also come up. This law has emerged because of the relentless reform being done and as a result we can see the handing over a large number of cases by the consumer forums and the Supreme Court of India.

There are significant challenges faced by the online buyers such as breach of data privacy, security issues, sale of duplicate products, etc. With regard to misleading advertisements by the sellers the Central Protection Council, State Protection Council and the District Protection Council do not have any sup mot over this. However, they initiate action only after complaint being filed by the consumer. The Central Consumer Protection Authority (CCPA) functions similarly with the Federal Trade Commission of the USA and thus investigate into the consumer grievances.

The Consumer Protection Act 1986 does not address the recent challenges faced by the consumers with the new change in the mode of business operations. Therefore, it was felt to replace the Consumer Protection Act 1986 with the new Consumer Protection Act 2019. The new Consumer Protection Act 2019 with its contemporary changes would help in strengthening consumers and provide justice to the aggrieved in time.

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