



Penal Provisions for the Protection of Rights of Consumers Under the Consumer protection Act, 2019.

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Abstract : The previous “Consumer Protection Act, 1986, was abolished by the Indian Parliament and replaced by the new Consumer Protection Act, 2019, which will take effect on July 20, 2020. New definitions for consumer, consumer rights (which also include the right to consumer awareness), e-commerce, endorsements, product liability, unfair contract, misleading advertisement and the establishment of a Central Consumer Protection Authority with the power of search and seizure have been added to this Act by the Government, which has also provided for the establishment of a Central Consumer Protection Authority”. For example, the new legislation stipulates strict sanctions and punishments that reflect the actual situation.

Key Words : Consumer Protection Act, Consumer

Introduction :

As stated in Section 2(7) of the 2019 Act, the term consumer refers to anybody who buys or uses products or services for a fee, but excludes anyone who does so for resale or commercial purposes. As stated in the definition, any online transactions, whether by electronic methods, direct selling, tele-shopping, or multi-level marketing, are included in the phrase purchase any products. In light of the rising e-commerce industry as well as advancements in technology, this legislation has included an online transaction option.

Establishment Of Central Consumer Protection Authority (CCPA)

Central Consumer Protection Authority (CCPA) was created by the Act of 2019 to regulate consumer rights violations, deceptive or false ads, unfair commercial practises and enforcement of consumer rights. The members of the CCPA shall be appointed by the Central Government. There will be a Chief Commissioner and other designated members of the authority.

The CCPA's responsibilities are outlined in the 2019 Act, as well as the individuals who will be tasked with appointing its members. However, the CCPA's functions and the techniques it

will use to accomplish them remain unclear. Additionally, the CCPA's members are not required to meet a specified set of qualifications to join. In addition, the Central Government's nomination of CCPA members will undermine the authority's independence. Disputes arising from poor government services might put consumers at a disadvantage.

Consumer Rights

“Under the Act, consumers have six main rights, which are listed as follows:

- The right to be protected against the marketing of goods, products or services which are hazardous to life and property;
- The right to be informed about the quality, quantity, potency, purity, standard and price of goods, products or services, as the case may be, so as to protect the consumer against unfair trade practices;
- The right to be assured, wherever possible, access to a variety of goods, products or services at competitive prices;
- The right to be heard and to be assured that consumer's interests will receive due consideration at appropriate fora;
- The right to seek redressal against unfair trade practice or restrictive trade practices or unscrupulous exploitation of consumers; and
- The right to consumer awareness.”

Significance of the Act:

Empowering consumers: Because of the different laws and requirements it contains, the new Act will provide consumers more power and better protection of their legal rights. Consumer rights and interests will be better protected by the new legislation.

Retail and e-commerce, both of which rely heavily on customer satisfaction, would be hard-pressed to operate without comprehensive rules addressing customer grievances.

Consumer-oriented enterprises will also be pushed to take more measures to avoid unfair trade practises and unethical acts under the new Act.

Inclusion of the e-commerce sector: Prior legislation did not explicitly encompass “e-commerce transactions, and this gap has been filled by the current legislation.



The expansion of e-commerce has been phenomenal in recent years. E-commerce sales in India are likely to reach \$ 200 billion by 2026, according to industry projections.

Regulations governing e-commerce and direct selling, with an emphasis on consumer interest protection, may also be announced under the Act. E-commerce platforms will have to follow strict guidelines to prevent them from engaging in unethical operations.

E-commerce companies are required to provide information about return, refund, exchange, warranty and guarantee, delivery and shipment, modes of payment, grievance redressal mechanism and payment methods, security of payment methods and charge-back options as well as country of origin in order to enable consumers to make an informed decision at the pre-purchase stage on their platform. This includes the country of origin.

Under this Act, e-commerce platforms must acknowledge receipt of any consumer complaint within 48 hours and resolve it within one month of receipt. As a result, e-commerce businesses will be subject to a formal system for resolving customer complaints.

Noncompliant e-commerce businesses will be subject to sanctions.

Time-bound redressal: Consumer courts all throughout the nation are swamped with unresolved complaints from disgruntled customers. Consumer complaints may be resolved more quickly because to the new Act's simplified resolution mechanism.

The fact that matters must be determined within a certain amount of time is a key aspect of the Act.

Responsible endorsement: Since there have been several instances in the recent past when customers have fallen victim to unfair commercial practises because of celebrities serving as brand ambassadors, the new Act places culpability on endorsers.

Brands, agencies, celebrities, and e-commerce players will all become more accountable as a result of this. Advertisers will now be held responsible for verifying the accuracy of their statements under a new law.

Upholding consumer interests: It will be the first time that a legislation only dealing with Product Liability will be implemented.

Manufacturers and service providers will be deterred from supplying faulty goods or substandard services by the product liability clause.



According to the new law, the National Consumer Dispute Resolution Committee and the State Commission may declare any contract provisions to be null and invalid during product purchase. As a result of this legislation, customers will be better protected against unfair contract terms that favour the vendor or manufacturer.

Alternate dispute redressal mechanism: It will be easier and faster to resolve disputes now that Mediation is available. As a result, a huge number of ongoing cases in consumer courts around the country will be resolved more quickly as a result of this new system.

Simplified process for grievance redressal: Complaint redress and conflict resolution processes will be simplified under the new Act. This will make life easier for customers and make them feel less harassed.

Provisions for statutory recognition of mediation processes, allowing complaints to be filed from any jurisdiction, and hearing parties via video-conferencing will improve access to judicial forums and provide crucial protection in times when international e-commerce giants are increasing their base.

Penalties for Misleading Advertisement :

The 2019 Act included many provisions aimed at curbing deceptive and fraudulent advertising. Misleading and deceptive advertising was not addressed under the abolished Act. Misleading advertising is defined in Section 2(28) of the Act as any advertisement that presents a deceptive description of a product or service, makes a false promise, transmits an explicit representation constituting unfair trade conduct, and wilfully fails to disclose crucial product information.

False and misleading ads are punishable by imprisonment or a fine of up to 10 lakh rupees under Section 21(4) of the Act. If the CCPA finds an advertiser guilty of deceptive or false advertising, it may ban them from endorsing any additional goods or services for a year. Adverts that mislead consumers will also be held responsible for reducing the impact of such ads.

Other offences and penalties:

Section 72(1)	Failure to comply with order of District/State/ National Commission	Imprisonment- period of not less than 1 month extendable up to 3 years (or) fine- not less than Rs. 25,000/- up to Rs.1,00,000/- (or) both
Section 88	Failure to comply with order of CCPA under s.20, 21 A complaint can be filed by the Central Consumer Protection Authority or any officer authorised by it in this behalf.	Imprisonment which may extend up to 6 months (or) fine which may extend up to Rs. 20,00,000/- (or) both
Section 89	False and misleading advertisement, by any manufacturer or service provider A complaint can be filed by the Central Consumer Protection Authority or any officer authorised by it in this behalf.	Imprisonment which may extend to 2 years (and) fine which may extend to Rs. 10,00,000/- Subsequent offences – imprisonment which may extend to 5 years and with fine which may extend to Rs.50,00,000.
Section 90(1)(a)	Manufacture for sale, or storing, selling or distributing or importing products containing an adulterant, but does not result in an injury to the consumer	Imprisonment which may extend to 6 months (and) fine which may extend to Rs. 1,00,000/-
Section 90(1)(b)	Manufacture for sale, or storing, selling or distributing or importing products containing an adulterant, causing injury but not grievous hurt to the consumer	Imprisonment which may extend to 1 year (and) fine which may extend to Rs. 3,00,000/-
Section 90(1)(c)	Manufacture for sale, or storing, selling or distributing or importing products containing an adulterant, causing injury resulting in grievous hurt to the consumer	Imprisonment which may extend to 7 years (and) fine which may extend to Rs. 5,00,000/- Such an offence shall be cognizable and non-bailable
Section 90(1)(d)	Manufacture for sale, or storing, selling or distributing or importing products containing an adulterant, resulting in death of consumer	Imprisonment not less than 7 years which may extend to life imprisonment (and) fine not less than Rs. 10,00,000/- Such an offence shall be cognizable and non-bailable
Section 91(1)(a)	Manufacturing for sale, or storing, selling or distributing or importing spurious goods, causing injury not amounting to grievous hurt to the consumer	Imprisonment which may extend to 1 year (and) fine which may extend to Rs. 3,00,000/-
Section 91(1)(b)	Manufacturing for sale, or storing, selling or distributing or importing spurious goods, causing injury resulting in grievous hurt to the consumer	Imprisonment which may extend to 7 years (and) fine which may extend to Rs. 5,00,000/- Such an offence shall be cognizable and non-bailable
Section 91(1)(c)	Manufacturing for sale, or storing, selling or distributing or importing spurious goods, resulting in death of the consumer	Imprisonment not less than 7 years which may extend to life imprisonment (and) fine not less than Rs. 10,00,000/- Such an offence shall be cognizable and non-bailable

Compounding of offences:

Sections 88 and 89 of the Act provide for the compounding of a crime by making a stipulated restitution payment (such amounts cannot exceed the maximum amount of fine imposed under

the Act). A repeat offender who commits the same or a comparable offence within three years of the date the first offence was compounded does not have the option of compounding the offence.

Conclusion

By including e-commerce within the new Act's scope, it has broadened its application. There have been a number of procedural modifications, such as the filing of cases online, the notification of hearings in several modes, and the use of videoconferencing for hearings. Also included in the new Consumer Act is a three-month deadline for a complete resolution of the issue, counting backwards from the day on which the other party received notice. 19 However, it is impractical to finish the matter in three months, particularly in light of the expanded pecuniary jurisdiction. District and State Commissions would be overloaded with cases in the early stages, and mass transfers from the National Commission to these commissions will further delay proceedings, since benches and infrastructure are restricted compared to those in the National Commission.

The term of consumer has been broadened under the new Act. Legislation proposes the creation of the Central Consumer Protection Authority (CCPA)". When a consumer has a complaint, they may submit it with the jurisdictional consumer forum that serves their area of home or place of employment. Product responsibility is now a recognised legal notion as a result of the Act. Mediation is now an option for resolving disputes under the new law. The guidelines for mediation provide a certain start and end date. Now, authorities are well-equipped to take action against other types of unfair business practises as a result of the new Act. Unless the Central Government specifically excludes any product or service from the scope of this Act, this Act applies to all goods and services.

References :

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