

AUGUST-2020

Consumer Protection Act, 2019



Consumer Protection Act 2019 – a new narrative to safeguard the rights of consumers

Consumer Protection is extremely significant in the modern world since the consumers are responsible for economic growth and purchasing powers of consumers reflect the sustainable economy of a nation. In India, rights of consumers have been recognized since ancient times. Literatures such as *Manusmriti* and *Arthashastra* show adaptation of ethical trade practices and condemning malpractice of adulteration in ancient times. In medieval times, Indian rulers valued rights of consumers, especially in respect of weights and measures of goods. In modern times, during British raj, Sale of Goods Act, 1930 was enacted, which contains provisions relating to rights of buyers.

Post-independence, a comprehensive legislation, The Consumer Protection Act, 1986 (“**Old Act**”) was passed by the government with an intent to codify the consumer protection law. The Old Act redressed the grievance of consumers to a large extent. However, due to globalization and exponential growth in commercialization and mode of doing business, the Old Act had obviously become dated and warranted substantial changes. With a view to address this new narrative of the commercial world, India has now legislated and adopted Consumer Protection Act, 2019 (“**New Act**”), to make consumer rights more effective, robust and user friendly, containing various features discussed in this article.

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Enhancement of Pecuniary jurisdiction

The New Act retains the three tier redressal forums as existed under the Old Act, but pecuniary jurisdiction of each forum has now been increased. The pecuniary jurisdiction of District Commission and State Commission has been increased to one crore and ten crores respectively. The Central Commission shall hear only those disputes, where the claim is beyond ten crores. The pecuniary jurisdiction is determined by the value of goods or services paid as consideration by the consumer. This substantial increase in the pecuniary limits shall decentralize the redressal mechanism, making it more convenient for consumers to approach their nearest forum. This will also have impact on pending matters as many of the pending matters (depending upon the claim) may have to be transferred to the relevant commission now in view of the enhanced pecuniary jurisdiction.

E-filing

Under the Old Act, many consumers avoided approaching the redressal forums merely on account of the inconvenience caused in approaching the forums. To eliminate such inconvenience, the New Act now provides substantial flexibility by enabling them to file complaints in the appropriate forum through electronic medium. This is to ensure that there is no inconvenience caused to the aggrieved consumer and they are not prevented from lodging a complaint for loss caused. The ability to file complaints electronically and attend hearing and examining parties through video-conferencing aim to save both money and time of aggrieved consumers.

Establishment of Regulatory authority

The Central Consumer Protection Authority (“CCPA”) is a regulatory body established under the New Act to address issues relating to consumer rights, unfair trade practices, misleading advertisement, etc. The CCPA’s investigation wing is empowered to conduct inquiry and to carry out independent investigation either *suo moto*, or on a complaint received from any aggrieved consumer, or upon direction from the central government. It is enabled to file complaints or intervene in any proceeding before any forum.

The establishment of a regulator is a welcome change as consumer disputes are not only about the grievance of a particular consumer. In respect of goods sold in bulk, it is important that the regulator takes preemptive steps to ensure that goods, if sold with defects or false advertisements, are not passed on to a large consumer base. Goods are often sold with advance payments or prior to its actual launch, therefore it is extremely important for the regulator to ensure that such goods are in compliance with the regulatory and statutory laws. CCPA is empowered to also recall goods or withdrawal of services that are dangerous, hazardous or unsafe; pass an order for refund of prices of goods or services so recalled and discontinuation of practices which are unfair and prejudicial to consumer's interest. This new regulator would definitely help in establishing a transparent consumer market in India.

E-commerce transaction

E-commerce has been the order of the day and the consumers today prefer e-commerce transactions for their daily needs. However, the Old Act did not cater to such transactions. When the Old Act was legislated, no one foresaw e-commerce transactions as a possible mode of doing business. No efforts were made to amend the Old Act to bring the e-commerce transaction within its fold.

However, Hariani & Co. had earlier highlighted that though the Old Act was remediless for e-commerce consumers, the Meghalaya State Consumer Forum vide an order dated 7 December 2013 concurred with the District Forum of having territorial jurisdiction, inter alia if contract was made within its jurisdiction; or where money under the contract was paid/ payable.^[1]

In view of the rapid growth in e-commerce transactions, the Old Act had virtually become redundant as these e-commerce transactions are done by select aggregators. The consumer does not even know about the manufacturers and the actual sellers of goods while doing e-commerce transactions and resultantly, often fell prey to the practice of lack of disclosures in the aggregators' website. Consequently, they remained remediless under the Old Act. The New Act now recognizes the concept of e-commerce and gives right to a person who buys goods or avails through e-commerce medium. The New Act has further put e-commerce platforms under its radar to ensure no fake products or services are sold through their forum. The aggregators are, under the New Act, required to disclose the complete details of manufacturer/seller of each and every product, in their website. This is

again a positive change, which will reduce consumer grievances and address their inconvenience more effectively.

Product Liability and Unfair trade practices

The most important change brought in by the New Act, is the concept of Product liability claim. Under the Old Act, an aggrieved party could only claim the actual value of the defective goods/services and/or claim refund of the value of the defective goods/services. There was no statutory recognition for claiming compensation of actual losses incurred or suffered by an aggrieved party. Even though the consumer forums, in some cases, granted compensation for the losses incurred to a party, however in majority cases, the consumers were deprived because of lack of a statutory provision. The government has rightly given statutory recognition to the concept of product liability claim. The manufacturer/seller is now made accountable for all losses/harms caused due to the goods/services being defective, under the New Act. The New Act provides for product liability claims to be filed against both the manufacturer and the seller. This would allow consumers to repose more faith in the system, enlarge their purchasing power, as they are now safeguarded statutorily against any eventual malpractice and harm/losses.

Alternate Dispute Resolution

The New Act now promotes and recognizes mediation between parties in order to minimize litigations. This is aimed with a view to reduce backlog of consumer complaints and ensure speedy disposal of complaints.

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Conclusion

The New Act was required due to changing times and the change in consumer sentiments. It contains various salient features which, if implemented correctly, would ensure stronger consumer rights and its

protection. The New Act will also reduce malpractice and adulteration. The newly established regulator will have to play a prominent role, in safeguarding the rights of an aggrieved consumer and in preempting distribution of defective goods/services and false advertisement to large consumer base. The New Act could have been expanded further to include medical healthcare, as has been the demand for many years now, in view of constant reporting of malpractices in government and private medical institutions. However, it is a statute made with right direction and intention.

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[1] <https://bit.ly/3gQjp2G> published on 27 May 2014.

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