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From Physical Markets to E-Commerce: Development of Consumer Rights in India

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Due to the rapid evolution of technology and the Covid-19 pandemic, most of us have shifted from physical markets to the e-commerce platforms like Amazon, Flipkart, etc., even for our daily needs. This paper analyses and traces the origin of the original Consumer Protection Act, 1986, and its successor, the Consumer Protection Act, 2019, to find out how well they have adapted to the requirements of the modern world. We have mainly used secondary sources to study and recognize the origin of the notion of "consumer protection", compare the features of both the consumer protection acts, and analyze certain case laws that help us understand the scope and working of consumer laws in the country. While studying the features and impact of CPA 2019 on e-commerce, we also briefly analyze the new E-commerce Rules. Finally, we conclude that the new consumer protection act is well equipped to ensure timely justice to the modern Consumer and successfully remedied the consumers whose rights were violated. There is still a lack of awareness about consumer rights in the country, and there is a dire need to run awareness campaigns and enlighten modern consumers about the rights and remedies available to them.

Keywords: *consumer, rights, e-commerce, consumer protection act, justice, covid.*

INTRODUCTION

"A customer is the most important visitor on our premises. He is not dependent on us. We are dependent on him. He is not an interruption in our work. He is the purpose of it. He is not an

outsider in our business. He is part of it. We are not doing him a favor by serving him. He is doing us a favor by giving us an opportunity to do so" ~ Mahatma Gandhi

Consumer protection is a term that dates back to the dawn of humanity. One of the business's main priorities is to protect the needs of its customers. Mahatma Gandhi has said that the customer is and should be the business's primary goal. "But the profit motive of many manufacturers and dealers is leading to consumer exploitation through deceitful and immoral market practices."¹ This pursuit of socio-economic nature by the State is known as consumer protection. Businesses must value customer loyalty, which can only be achieved if the Government intervenes to benefit all customers. The Government carries out this responsibility through a set of rules, policies, and laws.²

The idea of consumer protection is not new; rather, it is a phenomenon that has existed in various forms throughout history in numerous societies and countries. The Old Testament and the Code of Hammurabi, all reference consumer rights, but only from a mercantile standpoint. The United States is known for setting the foundations for the origin and growth of oligopolistic capitalism and monopoly. Thus, an early form of consumer protection movement arose here.³ On 15th March 1962, the 35th President of the US, John F. Kennedy talked about "consumer protection" for the first time. In a special address to Congress, he discussed this idea. In his message, he emphasized the importance of safeguarding the interests of consumers. Ralph Nader is another well-known figure in the international arena when it comes to consumer rights. He authored the book "Unsafe at Any Speed," that exposed car design flaws. The book sparked a wave of landmark reforms that have reduced the number of

¹ P Singh and J Grewal, 'Consumer Protection in India: Some Issues & Trends' (2013) <[/paper/Consumer-Protection-in-India%3A-Some-Issues-%26-Trends-Singh-Grewal/2aa33e67defc3fe475363233268d1d2cf6b172fe](#)> accessed 20 June 2021

² Sheen Kaul, 'History and Development of Consumer Protection Laws in India' (*Legal Bites - Law And Beyond*, 19 June 2020) <<https://www.legalbites.in/history-development-of-consumer-protection-laws/>> accessed 21 June 2021

³ Guido Alpa, *Il diritto dei consumatori* (2002) 12

fatalities and injuries caused by motor vehicle collisions. In the US, he revolutionized the protection of consumers.⁴

The oldest consumer forums were founded in Denmark and United Kingdom in 1947 and 1955, respectively. The Government established the Consumer Council to hear the consumers' experiences on topics that were previously only heard from manufacturers and traders. "*But the real normative innovation came with the Single European Act; it modified the Treaty of Rome by solidifying the role of the Economic and Social Committee, to whom were attributed powers to safeguard the consumers.*"⁵ Even though there were improvements to these laws, they still did not have a firm basis to construct true consumer security. The US took an important move in this direction in 1962, when the president requested Congress to approve the Consumer Bill of Rights.⁶

However, only a few developing nations had consumer protection statutes and regulations. In countries like India, where there is no consumer protection regulation, it is up to the customer to be cautious when evaluating its consistency. It made it easier for the sellers to avoid taking responsibility. Thanks to the lack of a regulatory system designed to protect buyers, retailers could get away with selling substandard or defective goods. If a customer discovers a flaw in a product, he will stop purchasing it from the same brand or store again. This is attributed to a lack of redress procedures and insufficient access to those that are accessible.⁷ All this effort resulted in the creation of the Consumer Protection Act, 1986.

HISTORICAL DEVELOPMENT OF CONSUMER RIGHTS IN INDIA

Consumer protection against unprincipled, unequal, and unethical activities and safeguarding consumer interests have been engraved in our country's governance for decades. Indian Dharmas such as the "*Manu Smriti, The Yajnavalkya Smriti, The Narada, The Brihaspati Smriti, The*

⁴ Sonika Sekhar, 'The History of Consumer Protection' (*Law Times Journal*, 19 November 2018)

<<https://lawtimesjournal.in/the-history-of-consumer-protection/>> accessed 22 June 2021

⁵ Rebecca Furtado, 'All You Need to Know about Consumer Protection Laws in India' (iPleaders, 13 September 2016) <<https://blog.iplayers.in/analysis-consumer-protection-laws-india/>> accessed 22 June 2021

⁶ Gretchen Larsen and Rob Lawson, 'Consumer Rights: An Assessment of Justice' (2013) 112 *Journal of Business Ethics* 515

⁷ Kaul (n 2)

Katyayana Smriti have explained the living conditions of the people of that time and were the basis for the Dharma to be followed at that time.⁸ These Dharmas have also served as the foundation for the current judicial framework. "Manu Smriti" is still considered one of the oldest and the popular texts in ancient India dealing with market issues. Muslim rulers such as Sher Shah Suri, Allaudin Khilji, and Akbar also saw consumer protection as a top priority. They developed a standard for weights and measures.⁹

The Colonial rule in Indian brought with itself a slew of English laws to safeguard the general public's interests. These laws did not specifically include consumers, but they did protect their needs implicitly in practice. *"Even though these legislations were present, there was no notable improvement in the economic and social position of the Indian people as consumers, as they kept suffering due to unfair trade practices of the foreigners and various malpractices present in the market."*¹⁰ Some of the acts that were introduced by the British were: "1865 Law of Tort, The Indian Penal Code 1860, 1872 Indian Contract Act, The Drugs and Cosmetics Act 1940, The Agricultural Produce (Grading & Marking) Act 1937."

India followed the Anglo-Saxon method of justice administration when it gained independence. As a result, the existing laws enacted by the Britishers kept applying to independent Indian Government. The establishment of the Indian Constitution and its ratification in 1950 led the nation on the way to enacting more laws in addition to the current ones. The profit of the general population, who were also customers, was the primary goal of the laws due to the egalitarian and democratic structure of the Constitution.¹¹ Several laws were enforced in India after independence to shield honest consumers from unjust and restrictive trading practices, such as inaccurate and deceptive descriptions of the value and quality of products, inflated claims about their strength and potency, and incorrect weights and measurements. The following are some of the acts that were passed in independent India:

⁸ AR Prasad, 'Historical Evolution of Consumer Protection and Law in India' (2008) 11 Journal of Texas Consumer Law 132

⁹ Pratibha Goyal, Mini Goyal and Shailja Goyal, 'Consumer Protection Law in Ancient India' (2013) 19 Journal of Human Values 147

¹⁰ Furtado (n 5)

¹¹ Kaul (n 2)

The Prevention of Food Adulteration Act, 1954, The Drugs (Control) Act, 1950, The Monopolies and Restrictive Trade Practices Act, 1969, The Bureau of Indian Standard Act, 1986, The Essential Commodities Act, 1955, etc. Unfortunately, these statutes could not ensure the protection of customers and protect their rights. Furthermore, the evils of unfair trade practices were not addressed by these laws, which paved the way for the development of the Consumer Protection Act (CPA) of 1986.

CONSUMER PROTECTION ACT, 1986: ORIGIN, AIM, AND PURPOSE

The system established by the United Nations prompted the Consumer Protection Act of 1986. Two sessions were organized by the National Consumer Protection Council, which included 28 members and several ministry officials to review and create consumer protection guidelines. On 20th July 2020, this was repealed and replaced by the Consumer Protection Act of 2019. HKL Bhagat forwarded draft version to the Lok Sabha on 9th December 1986, after a series of meetings. He was Minister of Parliamentary Affairs, Food, and Civil Supplies at the time. Several amendments to current consumer rights laws were made throughout the future. This was done to give customers more control over their legal rights to prosecute wrongdoers.¹²



Act
the

The Consumer Protection Act of 1986 was enacted to safeguard consumers' rights and, among other items, to create consumer protection councils and other authorities for the resolution of consumer disputes. *"Although, the working of the consumer dispute redressal agencies have served the purpose to a considerable extent under the said Act, an inherent need to further strengthen the redressal*

¹² Rajanikanth Mekala, 'A Study on Evolution of Consumer Protection Act in India - CPA1986' (2017) <https://www.researchgate.net/publication/331298509_A_Study_on_Evolution_of_Consumer_Protection_Act_in_India_-_CPA1986> accessed 24 June 2021

mechanisms under the enactment were felt by various stakeholders."¹³ The Act is seen as an effort to alleviate customers' powerlessness in the face of wealthy and influential actors such as retailers and businessmen, who are frequently referred to as a "network of racketeers."¹⁴ In *Lucknow Development Authority v. MK Gupta*¹⁵, Justice RM. Sahai opined that:

"The importance of the Act lies in promoting the welfare of the society by enabling the Consumer to participate directly in the market economy. It attempts to remove the helplessness of a consumer which he faces against powerful business, described as, a network of rackets' or a society in which, 'producers have secured power' to 'rob the rest' and the might of public bodies which are degenerating into storehouses of inaction where papers do not move from one desk to another as a matter of duty and responsibility but for extraneous consideration leaving the common man helpless, bewildered and shocked."

The key concern, in this case, was whether a constitutional or public authority's building failure would attract the provisions of CPA, 1986 and whether the District/National Commission would hear grievances about it. Apex Court held that before the amendment of 1993, a deficiency in construction service by a private builder or a public authority would fall under the statute. Therefore national commission, state commission, and the district commission can be approached by a consumer to cover his loss due to any deficiency or defect in construction against a private builder or a public authority. The Apex Court decided that public authorities who render a construction service could be made liable under the Act for their actions and omissions.

The Act of 1986 went into effect on 1st July 1987, in all of India except J&K. It creates a regulatory mechanism to protect consumers' rights and desires while also providing socio-

¹³ Nandini Gore and Arjun Sharma, 'Making Consumer King Again - A Study Of The Consumer Protection Act, 2019 - Part I - Consumer Protection - India' <<https://www.mondaq.com/india/dodd-frank-consumer-protection-act/987258/making-consumer-king-again--a-study-of-the-consumer-protection-act-2019--part-i>> accessed 24 June 2021

¹⁴ JN Barowalia, *Commentary on the Consumer Protection Act* (Sixth edition, Universal Law Publishing - An imprint of Lexis Nexis 2017) 15

¹⁵ *Lucknow Development Authority v MK Gupta* [1994] AIR 787 (RM Sahai)

economic justice to the citizens of India.¹⁶ In the case of *K. Abdul Sarkar v. State of Orissa*¹⁷, Commission held that:

"Through the enactment of this statute, an attempt has been made by the Indian Parliament to provide a speedy and cheap remedy by way of an alternative to the time-consuming and expensive process of civil litigation."

PROBLEMS AND LOOPHOLES IN CPA, 1986

The 1986 Consumer Protection Act failed to keep up with changing industry conditions, multi-layered supply networks, cutting-edge and frequently deceptive advertisement, etc. The most significant difficulty was in the implementation process. The statute did not give any power to prosecute someone who violated the provisions or take suo moto cognizance of illegal trade practices or actions that jeopardized a consumer's rights. Only by a legal proceeding before the District or State Consumer Redressal Forums may criminal actions be taken.¹⁸ Unfortunately, logistical problems haunt these forums, just as they do our justice system.

The Act's goal was to provide customers with easy, fast, and inexpensive redress. However, a transition or shift in the customer's attitude, technological advancements, and Consumer Court delays have hampered the intended result or intent of the Act. This necessitated the Government enforcing rules that could quickly check consumer frauds and making required changes to different aspects of the legislation.¹⁹ The Consumer in our country had to confront machinery that was neither speedy nor effective. The available remedies were just not sufficient to safeguard the consumers from the exploitative sellers.²⁰ When looking at the current circumstances, it was clear that something needed to change. As a result, on 6th

¹⁶ Hans Raj Arora and Avinash Dhamir, 'Consumer Relief for the Consumer in Grief' (2008) 2 PUNJABI UNIVERSITY LAWJOURNAL 236

¹⁷ *K Abdul Sarkar v State of Orissa* CPJ II [1991]

¹⁸ Bejon Misra, 'No time to lose on consumer protection' (The Hindu Business Line), <<https://www.thehindubusinessline.com/opinion/no-time-to-lose-on-consumer-protection/article22071821.ece1>> accessed 25 June 2021

¹⁹ Furtado (n 5)

²⁰ Sheetal Sahoo and Aman Chatterjee, 'Consumer Protection - Problems and Prospects' (2009) 7 SSRN Electronic Journal 18 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1452526> accessed 25 June 2021

August 2019, the Indian Parliament passed the Consumer Protection Bill, 2019, which India's President later signed. This new Act has replaced the old Consumer Protection Act of 1986.

CONSUMER PROTECTION ACT 2019: A NEW ACT FOR A NEW AGE

*"The interest of the consumer has to be kept in the forefront, and the prime consideration that an essential commodity ought to be made available to the common man at a fair price must rank in priority over every other consideration."*²¹ ~ Y.V. Chandrachud

The long title of the current Consumer Protection Act of 2019 outlines the Act's whole and sole intent with the fewest possible terms. The long title states that CPA, 2019 is "An Act to provide for the protection of the interests of consumers and for the said purpose, to establish authorities for timely and effective administration and settlement of consumers' disputes and for matters connected therewith or incidental thereto." Although the Consumer Protection Act of 1986 has an almost identical long title, it was about three decades old and did not have the necessary provisions to address the concerns of today's technology-dependent customers, necessitating the replacement of the whole Act with a new one and a drastic reform.²² Instead of amending the 1986 Act, the Government passed a new Act to provide improved consumer protection, taking into account the growing e-commerce industry and modern ways of delivering products and services such as internet trading, teleshopping, direct selling, and multi-level marketing, as well as conventional methods.²³

The modern Indian user needed this replacement. According to figures, almost 329 million Indian people are expected to purchase goods online, implying that 70% of mobile internet users may shop online.²⁴ Based on this data, we can conclude that the new Consumer Protection Act of 2019 will be extremely beneficial to Indian consumers. It is intended to assist

²¹ *Prag Ice & Oil Mills v Union of India* [1978] 3 SCC 459 (YV Chandrachud)

²² Suchita Shukla, 'Consumer Protection Act, 2019: A Primer' (*SCC Blog*, 24 December 2020)

<<https://www.sconline.com/blog/post/2020/12/24/consumer-protection-act-2019-a-primer/>> accessed 26 June 2021

²³ Gaurang Kanth and Divjot Singh Bhatia, 'The Consumer Protection Act, 2019: An Overview - Consumer Protection - India' <<https://www.mondaq.com/india/dodd-frank-consumer-protection-act/876600/the-consumer-protection-act-2019-an-overview>> accessed 26 June 2021

²⁴ Sandhya Keelery, 'E-Commerce in India - Statistics & Facts | Statista'

<<https://www.statista.com/topics/2454/e-commerce-in-india/>> accessed 26 June 2021

users and address issues of delivering rights to consumers in a major field known as e-commerce. In India, consumers have six fundamental rights: the right to protection, the right to choose, the right to be educated, the right to consumer knowledge, the right to be heard, and the right to seek redress. By implementing modern methods and practices, the new consumer welfare law aids in the protection of these protections.²⁵

KEY HIGHLIGHTS, ADDITIONS, AND FEATURES OF CPA, 2019

Because of the dramatic shift in how markets work, new consumer protection regulations were needed. International trading, global supply chains, and e-commerce growth are all on the rise. In India, there is still a multitude of pending consumer court proceedings. The new Act would be beneficial to humanity as a whole. Thus, the features and the additions that were made in the Act are:

Changes In The Definition Of Consumer

Consumers who make transactions via an e-commerce website are included in the new Act's concept of "consumer." Consumers who purchase goods online were left out of the previous Act, which the 2019 Act has now filled.²⁶ The term "consumer" has been interpreted broadly to include even those customers who make purchases online. The 2019 Act describes a buyer as an individual who purchases products or services for a consideration that is charged, partially paid, or agreed to be paid, but it excludes goods and services purchased for resale or some other commercial purpose. The explanation in CPA, 2019 specifies that the words "buy any products" or "hires or avails any services" cover even internet purchases made through electronic means, as well as telemarketing and teleshopping.²⁷ A customer who orders a

²⁵ Vivek Sable, 'Analysis of Consumer Protection Act, 2019' (2020) 2
<https://www.researchgate.net/publication/340939875_Analysis_of_Consumer_Protection_Act_2019> accessed 27 June 2021

²⁶ Prof (Dr) Chitrapu Kama Raju, 'Consumer Protection Act,2019: Analysis and Challenges for Future' (*Latest Laws*) <<https://www.latestlaws.com/articles/consumer-protection-act-2019-analysis-and-challenges-for-future/>> accessed 27 June 2021

²⁷ Ayush Verma, 'Consumer Protection in the Age of E-Commerce' (*iPleaders*, 23 August 2020)
<<https://blog.iPLEaders.in/consumer-protection-age-e-commerce/>> accessed 27 June 2021

product based on a teleshopping deal and is dissatisfied with it can file a complaint with the consumer forum to seek redressal.

Widening the scope of the term 'deficiency'

CPA, 2019 has broadened the definition of "deficiency" to include any act of neglect, omission, or Commission that causes harm or injury to the Consumer, as well as any act of hiding related information from the Consumer. When many customers buy online, concealing the pertinent details by the retailer, vendor, or e-commerce website may have a significant effect on the Consumer's choice. For example, if a consumer orders an electronic device online and the e-commerce site fails to notify the customer of the electronic product's country of origin.²⁸ The knowledge about the country of origin is critical for the user because if the information is suppressed and obscured by the e-portal, the Consumer will complain about the deficiency in service due to hiding vital information about the country of origin.

Inclusion of E-commerce and addressing false advertisement

The CP Act 2019 describes "e-commerce" as purchasing or selling goods or services over a wireless network, including digital products. The word "electronic service provider" is adopted in the CP Act, 2019, and is described as an individual who provides technology or processes that allow a merchandise seller to participate in an advertisement or selling products or services to a customer, and includes an online marketplace or online auction site. By accepting the idea of online users, those who conduct digital purchases now have a forum to air their complaints in a negative experience.²⁹ The new Act also allows for the electronic complaint filing with the District Forums, according to the Government's guidelines.

There is a special clause for celebrity sponsorship of goods and services, which is protected under the provision of misleading advertising. The celebrity's responsibility is in addition to the producers' and service providers' responsibilities. Intentionally obfuscating vital facts is

²⁸ Sable (n 25) 3

²⁹ Verma (n 27)

often considered misleading advertising.³⁰ Fake and misleading commercials are punishable under the Act. Manufacturers and suppliers of goods will have to be more careful about the ingredients and statements contained in their ads due to the measures taken against them.

Introduction to the concept of Product Liability

With the adoption of the "Product Liability" theory, consumers may file complaints with the product maker, product delivery supplier, and product distributor, including e-commerce platforms. Product responsibility allows you to sue any company that makes a faulty product. This definition of product liability is especially important for online shoppers since they can only see the product online; the physical product can differ from the online edition. A difference may be in the texture, color, scale, or other characteristics of the items.³¹ For example, if a consumer orders a glass expecting it to be large as shown on the website, but when receiving the product, the glass is too small, and the measurements were also incorrectly shown, the concept of product liability comes into play, and the Consumer could file claims against both the manufacturer and the e-commerce website.

CCPA - "Central Consumer Protection Authority"

CCPA's establishment enables the Government to defend, encourage, and uphold consumer rights. The CCPA will oversee lawsuits including unfair trade practices, deceptive advertising, and violations of the rights of the consumers. The CCPA will also form an investigative wing, led by a "Director-General", who will perform inquiries and investigations into breaches of consumer laws.³² If a customer case involves more than one person, the CCPA can recall merchandise, take suo moto actions, revoke permits, file lawsuits on behalf of consumers, and refund the price of goods/services.

³⁰ Prof (Dr) Chitrapu Kama Raju (n 26)

³¹ Nandini Gore and Arjun Sharma (n 13)

³² Dr Nedumaran, Mehala D & Baladevi Kaleeswaran, 'Consumer Protection Act 2019, An Overview' (2020) <https://www.researchgate.net/publication/348566035_CONSUMER_PROTECTION_ACT_2019_-_AN_OVERVIEW> accessed 28 June 2021

This authority has the power to supervise matters relating to violations that harm the consumers. An appeal to a CCPA order on this subject may be lodged with the National Commission within 30 days of receiving the order.

Mediation as an Alternative dispute resolution Mechanism

The CPA, 2019, has adopted "Mediation" as an alternate conflict settlement method to shorten the time it takes for disputes to be resolved and allow parties to discuss and agree without going to the Commissions. The Act also specifies the types of proceedings that are not eligible for settlement, including those involving medical negligence that results in death or serious harm to a significant number of individuals. The forum of Mediation would save customers time, money, and energy.

Revised Jurisdiction of Commissions and change in the system of appeals

The Commissions' monetary jurisdictions have been expanded at the National, State, and District levels. The District Commission has the authority to investigate allegations of good or service failure for which the customer has paid up to one crore in consideration. The State Commission will investigate complaints with a value of more than one crore but less than ten crores. The National Commission may be contacted for conflicts involving services or goods worth more than ten crore rupees.

	District Commission	State Commission	National Commission
Earlier	UPTO 20 Lakhs	20 lakhs- 1 Crore	Above 1 Crore
Now	UPTO 1 Crore	1 Crore- 10 crore	Above 10 Crore

There has been introduced a change in the limitation period in the filing of the appeal, which is as follows:

District Commission to State Commission (Section 41)	State Commission to National Commission (Section 51)	National Commission to Supreme Court (Section 67)
<ul style="list-style-type: none"> • Within forty-five days (earlier thirty days) • Appellant shall pay fifty percent of the amount commission has ordered him/her to pay. (Earlier Rs. 25,000) • There shall lie no appeal if the parties mutually solve the dispute through mediation. 	<ul style="list-style-type: none"> • Within thirty days (not changed) • Appellant shall pay fifty percent of the amount commission has ordered him/her to pay. (Earlier Rs. 35,000) • An appeal shall also lie to the state commission if the order is passed <i>Ex-parte</i>. 	<ul style="list-style-type: none"> • Within 30 days • Appellant shall pay fifty percent of the amount commission has ordered him/her to pay. (Earlier Rs. 50,000) • An appeal shall also lie to the National commission if the order is passed <i>Ex-parte</i>.

IMPACT OF CPA, 2019 ON E-COMMERCE

Electronic trading has grown dramatically as a result of enabling access to Internet exchange in the modern age. Its global presence has many advantages for both customers and businesses, as it is a quick and easy way to do business. It has presented shoppers and suppliers with an aggressive and coordinated course of action. In this new age of digital technologies, e-

commerce has emerged as a crucial prospect.³³ It is a method of supplying customers or shoppers with a wide range of options instead of the conventional method of trade, so buyers can visit an internet site and browse through a vast selection of items from anywhere in the world. Additionally, it has improved the speed and precision at which companies can exchange data.

In India, e-commerce has grown in popularity not only as a result of increased Internet connectivity but also as a result of the extension of business units outside their geographical boundaries by allowing transactions to take place anywhere in the world. As India's e-commerce sector expands, many concerns around customer rights across this portal have arisen. It is undeniable that the Internet has equipped users with effective platforms for conducting online searches for products and services. Electronic trading has evolved into more than a technology and has become an essential part of global industry and trade.

Recently, the Consumer Protection (E-Commerce) Rules 2020 were informed by the Central Government, which took effect on 23rd July 2020, a year after the CPA, 2019. The new Act has strengthened the entire legal system for the effective and timely settlement of consumer cases at a time *"when rapid advances in modern-day retail trade and technology have resulted in a marketplace that is accessible with a click of a button and is no longer bound by the rigours of the legal system."*³⁴

APPLICABILITY OF E-COMMERCE RULES 2020

Under the E-Commerce Rules, an "e-commerce entity" is characterized as "any person who owns, runs, or manages a digital or electronic facility or platform for electronic commerce, but does not involve a seller offering his or her products or services for sale on a marketplace e-commerce entity." The E-Commerce Rules apply to:

³³ Dr Shahid Bhat, Keshav Kansana and Jenifur Majid, 'A Review Paper on E-Commerce' (2016) <https://www.researchgate.net/publication/304703920_A_Review_Paper_on_E-Commerce> accessed 29 June 2021

³⁴ Sarthak Sarin, 'Consumer Protection (E-Commerce) Rules: An Overview Of The Key Implications For The Relevant Stakeholders' (*Inc42 Media*, 1 November 2020) <<https://inc42.com/resources/an-overview-of-consumer-protection-e-commerce-rules/>> accessed 28 June 2021

- ❖ *"all goods and services bought or sold over a digital or electronic network including digital products;*
- ❖ *all models of e-commerce, including marketplace and inventory models of e-commerce;*
- ❖ *all e-commerce retail, including multi-channel single-brand retailers and single-brand retailers in single or multiple formats; and/or*
- ❖ *all forms of unfair trade practices across all models of e-commerce."*³⁵

Consumers turned to e-commerce sites after the outbreak of COVID-19, which was followed by an extraordinary three-month shutdown of the whole country in the form of lockdown. Thanks to COVID-19's social distancing norms, many users choose to buy online. The e-commerce website provides a wide variety of goods, comparison pricing can be conveniently reviewed with a mouse, and users can even read about other people's encounters with the products, look for cheaper options before purchasing, and so on. The new rules seem to follow the Act's stringent consumer protection regime, and even though there was a slight delay in the release of the rules, they are beneficial considering recent restrictions on consumer freedom of travel and the resulting expanded reliance on e-commerce as a result of the pandemic.³⁶

These rules improve transparency and pave the way for a well-balanced economy where consumers are knowledgeable and clear checks are in place to prevent misleading and unequal trading practices. In particular, the Indian e-commerce sector has experienced exponential growth in recent years, necessitating establishing an appropriate regulatory system to include a comprehensive redress mechanism and streamline the existing structure.³⁷ E-retailers are required to show information about costs, expiration date, return, credit, guarantee and warranty, modes of shipping and distribution, payment methods, dispute redressal process, and other items under the e-commerce regulations. They must also show "country of origin,"

³⁵ *Ibid*

³⁶ Verma (n 27)

³⁷ Kanika Satyan, 'E-Commerce and Consumer Rights: Applicability of Consumer Protection Laws in Online Transactions in India' (2015) SSRN Electronic Journal
[335](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2626027#:~:text=In%20effect%20the%20provisions%20of%20online%20transactions%20as%20well.&text=The%20scope%20that%20Consumer%20Protection,to%20direct%20transactions%20as%20well.> accessed 28 June 2021</p>
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which is needed to allow consumers to make an educated choice during the pre-purchase stage on their website.³⁸

CASE STUDY

Amazon Seller Services Private vs. Vishwajit Tapia³⁹

Under the former CPA, 1986, e-commerce marketplace companies typically said that they are only intermediaries and that the real service arrangement is between the customer and seller, thereby exempting them from responsibility. This argument, however, has been explained in several cases, including *Amazon Seller Services Private Limited vs. Vishwajit Tapia*.

According to the facts of the case, the complainant bought a phone from Amazon. Amazon dispatched the said mobile set on 03.09.2016 after receiving Rs.11750/-, and it was received on 07.09.2016. When the claimant opened the package containing the mobile, he was shocked to find that the packing and seal on both the packing and the mobile seemed to be ancient. Still, assuming it to be a new one, the claimant attached it to the charger and collected it with the phone, but the phone did not charge. It did not fit even after being plugged into the battery for more than five hours. The complainant continued this procedure for another five to six days in the hopes of being charged with the same, all to no avail. He called Amazon because he couldn't find an answer, but he was informed that the return window had closed. The applicant was unable to procure facilities from Motorola, the mobile manufacturer. He was informed that the warranty duration had already ended since the phone had been purchased from the company's Flipkart store a year before. Amazon was adamant about not replacing the same. He claimed that the e-commerce giant was deficient in providing services and engaged in unfair trade practices.

Amazon claims that it does not sell or offer to sell any products. It is an online marketplace where single third-party retailers can sell their goods. The vendors are solely responsible for their listings and website merchandise. Amazon is not responsible for the goods listed on the

³⁸ Sarin (n 33)

³⁹ *Amazon Seller Services Private v Vishwajit Tapia* FA No544/2019

website by different third-party retailers, nor does it interfere or affect the customer-seller selling transaction. Amazon is just a facilitator and does not influence any selling purchase made on the website.

The District Commission (Judge Kiran Sibal, presiding member) found that the Online Market Place Company earns revenue every time a customer clicks and visits its website in this situation. Furthermore, the same is carried out under the terms and conditions agreed upon by the web portal provider and the sellers for a fee. It is the intermediary's responsibility to check the seller's credentials before selling the papers and items. Intermediaries are companies that offer services that enable web content to be delivered to the end-user. As a result, Amazon was ordered to pay a compensation of Rs.3000/- as legal costs and refund the plaintiff Rs.11,750/-, i.e., the price of the cell phone. The decision was later challenged, and the State Commission affirmed it.

Supriyo Ranjan Mahapatra v. Amazon Development Centre India (P) Ltd.,⁴⁰

The Facts of the case are that the OP (Amazon) had floated a bid that had a laptop originally priced at Rs 23, 499, available for purchase at Rs 190 with a laptop bag. Amazon's customer care called the appellant after two hours and claimed that the subject order had been cancelled due to the "price recession" problem. The plaintiff objected to the cancellation because he needed a laptop to complete his idea. The petitioner received a legal notice after getting no response from the OP.

Appellant was forced to buy a new laptop but experienced emotional anguish due to the cancellation, so he lodged a lawsuit charging deficiency of service and unfair trade practices. The complainant sought Rs. 50,000 in restitution as well as Rs. 10,000 in legal costs. The District Forum partially upheld the suit, ordering Amazon to pay Rs 10,000 in emotional agony payments and Rs 2,000 in legal costs. As a result, the complainant/appellant appealed the above-impugned warrant.

⁴⁰ *Supriyo Ranjan Mahapatra v Amazon Development Centre India (P) Ltd* FA No 492/2018

The Bench, which had Dr. D.P. Choudhury as President, observed that "*When there is an advertisement made for offer placed by the OP and made the offer as per the material available on record and complainant placed the order, and same got confirmed, the agreement is complete.*" Another point worth mentioning is that when Amazon allowed Rockery Marketing to use their forum, their liability could not be overlooked. As a result of OP's breach of contract, OP is held responsible for the damages. The Commission concluded with the District Forum's assessment that Amazon was negligent in delivering its services and engaged in unfair business practices. After considering all of the above considerations, the Bench determined that liability for unfair trade activity should be Rs 30,000 and punitive damages should be Rs 10,000. In addition, a sum of Rs 5000 may be awarded as prosecution costs. If the aforementioned payments are not made to the claimant within 30 days, interest at the rate of 12% per annum may be charged.

A.N.Vadiraaja Rao, V. Flipkart Internet Private Limited⁴¹

The **facts** of the case are that in 2017, Vadiraraja Rao placed an order for an SG Player Edition English Willow Cricket Bat on his tablet. On 10th April 2017, an e-Kart delivery boy shipped a package after collecting Rs 6,074. Instead of the cricket bat, Rao found a black coat when he opened the package. To substitute the stock, Rao approached Flipkart. Flipkart refused to substitute the stock after several demands. Rao later filed a complaint with the consumer forum on 13th May this year, requesting compensation from Flipkart. The claims were heard by a District forum bench comprised of C M Chanchala and Manjula H, who considered Flipkart, its co-founder, and the courier service guilty.

The Bench **held** that Flipkart Internet Private Limited, Sachin Bansal, its co-founder, executive officer, and e-Kart are all convicted of deficiency of service and misleading. It also ordered the respondents to pay the consumer Rs 50,000 in compensation for the shortfall in operation, mental anguish, and expenses incurred in connection with the petition. If Flipkart and the other respondents do not pay the compensation, they would be required to do so with a 10% annual interest rate. According to the forum, Flipkart and other respondents were found to

⁴¹ AN Vadiraja Rao v Flipkart Internet Private Limited CC No 40/2019

have engaged in unethical activities and defrauded customers. As a result, the forum asked respondents to contribute Rs 50,000 to Consumer Fora.

Through the beforementioned judgments, we can conclude that consumers nowadays seek justice when they are treated unfairly or cheated by an online platform. E-commerce rules 2020 surely help the consumers address their grievances against the e-commerce giants who had earlier taken the defense that they are just facilitators between the Consumer and the seller.

CONCLUSION

We may argue that the Consumer Protect Act of 2019 is one of the best measures taken by the central Government to improve the protection of consumers and ensure speedy justice. Many facets of the modern Act, such as e-commerce and Mediation, were unknown to the world when the original Act was introduced in 1986. As a result, when digitalization altered the way consumers perform internet purchases and the medium of shopping moved from offline to online, it was necessary to amend the Act. Certainly, the Consumer Rights Act of 2019 is a progressive step toward change, growth, and enhancement of consumer rights. Every year, socio-economic changes occur, and we should foresee new updates to the 2019 act.

The consumer affairs ministry released some data which showed that e-commerce conflicts posed by shoppers via the national consumer helpline had outstripped concerns about offline sales. Consumers had filed 1,88,262 disputes or lawsuits relating to e-commerce purchases between April 2020 and 21st February. *"At 22%, this share was highest among five segments including banking, telecom, electronic products, and consumer durables. For April 2019-March 2020, the number of e-commerce complaints stood at 1,54,122 compared to 1,03,364 during April 2018-March 2019, showing a sequential rise."*⁴² Before the Government overhauled its signature consumer protection rules, the e-commerce sector was essentially unregulated or self-regulated. As a result, we can believe that the CPA, 2019 has evolved and adapted to the changing conditions

⁴² Zia Haq, 'As Shopping Goes Online, e-Commerce Disputes Rise to Unprecedented Levels' *Hindustan Times* (22 March 2021) <<https://www.hindustantimes.com/business/ecommerce-disputes-on-the-rise-shows-data-101616366508503.html>> accessed 29 June 2021

of the real world, assisting countless consumers in obtaining justice where their consumer rights are being abused.

Furthermore, as consumers, it's our duty to keep ourselves updated on all the remedies and rights given to us. Only when we join hands and stand up for our interests would the sellers start taking precautions and guarantee the non-violation of our consumer rights. *Caveat Emptor* may no longer hold much significance in our society after enacting the statute, but the only way to make it obsolete is through our constant efforts to enforce our rights against sellers who want to exploit us.