



# Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2022 – ISSN 2582-7820

Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

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## Brief insular of Consumer Protection Act 2019 and its Contemporary Relevance

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*Received* 20 February 2022; *Accepted* 09 March 2022; *Published* 12 March 2022

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*Indian Parliament enacted The Consumer Protection Act, 2019<sup>1</sup> to introduce consumer liability for protection of aggrieved party could file a complaint to get adequate remedy. The act provides for the protection of consumers' interests, which may be exploited by any means in today's scenario. However, we already had The Consumer Protection Act, 1986<sup>2</sup> for the benefit of consumers. Therefore, the question arises and which are dealt with in the article further "what was the need of new legislation for consumer sovereignty?", "Is there any distinguishment in the definition of consumer from the act 1986 to 2019?", "What are the new things in the act?", "How new predicament and new laws are so relevant to the present scenario?". The research methodology which is been adopted in this article is a combination of primary and secondary. The primary research has been conducted through the help of google forms in a questionnaire format, which emphasized the consciousness of consumer rights and the difference of new legislation in an individual contemporary life. The secondary method consists of precedent articles, surveys, seminars, and pre-existing journals which are in the public domain. The emphasis is laid in the primary and secondary to scrutinize the qualitative and quantitative analysis of the relevant data. The main limitation of the research paper is that to no use of primary data such as samples of the surveys, the interviews, and the secondary sources precedent articles and journals.*

**Keywords:** *external consumer, liability, consumer sovereignty, legislation, consumer.*

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<sup>1</sup> Consumer Protection Act, 2019

<sup>2</sup> Consumer Protection Act, 1986

## INTRODUCTION

The term “consumer” is derived from the Latin word “consumere” which states to use up. Moreover, in simple words a person who buys and uses up goods and services. A consumer is an individual or an association of individuals who aspires to order or utilize buy goods, products, or services mainly for personnel, household needs, or for social needs which are not concerned with business or any commercial purpose. The definition according to The Consumer Protection Act, 2019 under Section 7<sup>3</sup> consumer means any person who- “buys any goods or hires any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment, when such use or avails of services is made with the approval of such person but does not include a person who obtains such goods for resale or any commercial purpose.” However, there is an expression “*commercial purpose*” which adduced that the goods or services should be bought or hired by the consumer exclusively to earn a livelihood. Moreover, not only that, according to the act the expression “buys any goods or hires any services” includes not only offline and but also online transactions through any possible means which is one of the main differences in the act of 1986 and 2019. Therefore, the new act defines the consumer who is engaged in the e-commerce practices which is a magnificent approach of Parliament.

## PROPOSED BENEFITS OF THE NEW ACT

- Definition of the consumer to include e-commerce
- Enhancement of pecuniary jurisdiction
- A complaint can be filed where the consumer is located and not the opposite party
- Penalties enhanced
- Alternate Dispute Resolution (Mediation)
- E-filing of complaints (Rules to be framed)

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<sup>3</sup> Consumer Protection Act, 2019, s 7

Consumer Protection Act, 2019 was passed on 9th August 2019. Hence, it is repealing the legislature which was established 30 years before in 1986.

### OBJECTIVES OF THE NEW ACT

- Establishment of the Central Consumer Protection Authority (CCPA)
- Product Liability Option
- Establishment of the Mediation Centre
- Introduce Filing by Video Conferencing
- The imposition of higher penalties.
- E-commerce is included within the ambit of Consumer Protection.”<sup>4</sup>

Further, the question arises here how the consumer can or the aggrieved party gets the remedy or how the consumer disputes resolved through the act? Certainly, for resolving the dispute there must be a complaint against the person or body or organization who violated the consumer rights<sup>5</sup>.

Therefore, another question arises that **who can complain or who can be a complainant**

Section 5 states "complainant" means –

- (i) a consumer; or
- (ii) any voluntary consumer association registered under any law for the time being in force; or
- (iii) the Central Government or any State Government; or
- (iv) the Central Authority; or
- (v) one or more consumers, where numerous consumers are having the same interest; or

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<sup>4</sup> Muskan Narang, 'Consumer Protection Act, 1986 v. Consumer Protection Act, 2019' (*Law Circa*, 13 June 2020) <[https://lawcirca.com/consumer-protection-act-1986-v-consumer-protection-act-2019/-Liability\\_of\\_product\\_manufacturer\\_under\\_the\\_Consumer\\_Protection\\_Act\\_2019\\_Section\\_84](https://lawcirca.com/consumer-protection-act-1986-v-consumer-protection-act-2019/-Liability_of_product_manufacturer_under_the_Consumer_Protection_Act_2019_Section_84)> accessed 05 February 2022

<sup>5</sup> Consumer Protection Act, 2019, s 5

(vi) in case of death of a consumer, his legal heir or legal representative; or

(vii) in case of a consumer being a minor, his parent or legal guardian;

According to The Consumer Protection Act, 2019 there are 6 more people who can complain apart from the direct consumer which includes the regulatory body named Central Authority (Central Consumer Protection Authority), the legal heirs and the guardians, the government both state and central, the group of consumers and the NGOs who are working in favor of consumer rights.

However, the next following up question arises here **what is a complaint, and on what basis it can be registered?**

Specifically, alleviating to Section 6<sup>6</sup> of Consumer Protection Act, 2019 "complaint" means any allegation which is in written format, made by a complainant for obtaining any relief provided by or under this Act, that—

“(i) an unfair contract or unfair trade practice or a restrictive trade practice

has been adopted by any trader or service provider;

(ii) the goods bought by him or agreed to be bought by him suffer from

one or more defects;

(iii) the services hired or availed of or agreed to be hired or availed of by

he suffers from any deficiency;

(iv) a trader or a service provider, as the case may be, has charged for the goods or for the services mentioned in the complaint, a price above the price.”<sup>7</sup>

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<sup>6</sup> Consumer Protection Act, 2019, s 6

<sup>7</sup>Consumer Protection Act, 2019, s 6

Therefore, the complaint which is a written allegation can be registered based on practices that have been embraced by the trader or service provider or based on defected goods, or based on any deficient services or any false representation or misleading facts for getting relief.

### **HOW TO LODGE A COMPLAINT?**

To bestow unostentatious, nimble, and cheap redressal of consumer disputes, to determine these The Consumer Protection Act, 2019 made a three-tier quasi-judicial body on each stratum according to the amount of compensation demanded by the complainant. District Consumer Dispute Redressal Commission, State Dispute Redressal Commission, and National Dispute Redressal Commission. National Consumer Dispute Redressal Commission, also termed as National Commission certainly deals with a matter which is above 10 crores and of 10 crores of rupees or the matters of appeal from state redressal commission. State Consumer Dispute Redressal Commission also termed as State Commission certainly deals with a matter which is between 1 crore and 10 crores rupees. District Consumer Dispute Redressal Commission also termed as District Commission, deals with complaints involving costs and compensation less than Rs. One crore. Therefore, now the consumer can move a complaint to any of the strata of the commissions according to the respective type and type of compensation amount of the grievance with documents related to it.

### **WHAT ARE CONSUMER RIGHTS?**

Section 9<sup>8</sup> of the Consumer Protection Act, 2019 states that:

- (i) the right to be protected against the marketing of goods, products, or services that are hazardous to life and property;
- (ii) the right to be informed about the quality, quantity, potency, purity, standard, and price of goods, products, or services, as the case may be, to protect the consumer against unfair trade practices;

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<sup>8</sup> Consumer Protection Act, 2019, s 9

(iii) the right to be assured, wherever possible, access to a variety of goods, products, or services at competitive prices;

(iv) the right to be heard and to be assured that consumer's interests will receive due consideration at appropriate fora;

(v) the right to seek redressal against unfair trade practice or restrictive trade practices or unscrupulous exploitation of consumers; and

(vi) the right to consumer awareness;

Subjectively, there are six consumer rights according to the statute the Right to be protected, Right to be informed, Right to be assured of / get variety, Right to be heard, Right to seek Redressal.

## **CONSUMER DISPUTE REDRESSAL COMMITTEE**

**The Jurisdiction of the consumer dispute redressal committee can be mainly divided into two:**

**Territorial Jurisdiction:** A complaint can now be registered where the person resides or works. Earlier, the complainant must have registered a complaint according to the convenience of the opposite party where he/she resides or business. Though it causes lots of problems and inconvenience to the consumer.

**Pecuniary Jurisdiction:** The Pecuniary Jurisdiction will now be envisaged based on the amount which is considered by the complainant according to the value of products or services purchased rather than the amount been compensated according to the repealed act of 1986. Now, the limits have increased for every dispute redressal forum at every stratum. "The District Commission will now deal with cases of up to Rs. 1 Crore, up from Rs. 20 lakhs as per the repealed Act. The State Commission's pecuniary jurisdiction limit has been fixed between

Rs. 1 Crore to Rs. 10 Crores and the National Commission will deal with cases with a pecuniary limit of Rs. 10 Crores or more”.<sup>9</sup>

### **ESTABLISHMENT OF CENTRAL CONSUMER PROTECTION AUTHORITY**

According to Chapter 3 of the Consumer Protection Act, 2019 Section 10<sup>10</sup> The Central Consumer Protection Authority has been made by the central government. The Central Authority regulates the matters related to violating the rights of the consumer, through the enhancement of misleading advertisements, the action is prejudicial to the interest of the public and consumers, and promotes, protects, and enforces the consumer rights. The Central Authority shall be comprised of a Chief Commissioner and such other numbers of Commissioner as may be prescribed by the Central Government. The central government to exercise powers and discharge the functions under this act. As recently Central authority passes an order to discontinue the advertisement of Sensodyne products and Naaptol teleshopping in India.<sup>11</sup>

### **PENALTIES FOR MISLEADING ADVERTISEMENT**

Misleading and False Advertisement is one of the major aspects and objectives of the Consumer Protection Act, 2019. The misleading advertisement is defined under Section 2 (28) of the act which gives a false description of a product or service, gives false guarantee misleading the consumers, conveys express representation constituting unfair trade practice, and deliberately does not reveal essential information about the product.<sup>12</sup> The repealed Act did not deal with the concept of misleading and false advertisement. Moreover, the central authority took charge apart from the redressal forum to take any actions regarding. Section

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<sup>9</sup> Consumer Protection Act, 2019, s 34, 47, and 58

<sup>10</sup> Consumer Protection Act, 2019, s 10

<sup>11</sup>CCPA orders probe into GSK claims on Sensodyne brand' (*The Hindu Business Line*, 10 February 2022)

<<https://www.thehindubusinessline.com/companies/ccpa-orders-discontinuation-of-sensodyne-ads-featuring-international-dentists/article64999233.ece>> accessed 11 February 2022

<sup>12</sup> Consumer Protection Act, 2019, s 2(28)

21(4) states that for any person or party found indulging in any misleading advertisement a penalty may be imposed which can be extended to 10 lakhs.<sup>13</sup>

### **PRODUCT LIABILITY: WHO IS LIABLE?**

The major shift of this act to be more magnificent from the repealed one. Product Liability is a remarkable and significant part of the Consumer Protection Act, 2019. A complaint against the product manufacturer or a service provider or a product seller, as the case may be, for any harm caused to him on account of a defective product. According to Section 84,<sup>14</sup> the product manufacturer shall be liable in a product liability action, if the product is defective in design or manufacturing defect, or misleading specifications of the product, or does not conform to express warranty or failed to put any warning regarding the proper usage. According to Section 85,<sup>15</sup> the product service provider shall be liable in the product liability action, if the service provided by him was faulty or deficient or there was an act of omission or commission or conscious withholding any information which caused harm, or it does not express the warranty and terms and condition. According to Section 86,<sup>16</sup> the product seller shall be liable for a product action if there is exercised substantial control over the designing, testing, manufacturing, packaging, or labelling of a product that causes the harm or independently act on the warranty part of the service and the good, failed to exercise reasonable care of the products.

### **EXCEPTIONS**

Certainly, there are some exceptions to product liability actions that cannot be brought against anyone who is indulged in meeting the demand of product these exceptions are discussed in Section 87 of the 2019 Act<sup>17</sup>. Any individual who himself misuses, change, or amend the product resulting that suffers harm, cannot file any complaint regarding the product liability or any individual or consumer cannot complain when there is a written adequate warning for

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<sup>13</sup> Consumer Protection Act, 2019, s 21(4)

<sup>14</sup> Consumer Protection Act, 2019, s 84

<sup>15</sup> Consumer Protection Act, 2019, s 85

<sup>16</sup> Consumer Protection Act, 2019, s 86

<sup>17</sup> Consumer Protection Act, 2019, s 87



use of the product, or the basis of one part of the product and the end-use caused damage or the product was grasped under any alcohol influence.

## MEDIATION

Another major and significant part of this act is Chapter 5<sup>18</sup> which was not the part of the repealed act of 19886 though, states the establishment of the mediation cell at every stratum of commissions. The mediation cell of the district and state consumer forum shall be made by the state government by the official notification while in the National commission the mediation cell would be made by the central government.<sup>19</sup>The Consumer Dispute Redressal Forum can give the option of mediation to the parties if they agree at any stage of the proceeding with the consent of the parties. The consumer mediation cell has to maintain the list of the impaneled cases and the members of every mediation cell, they also have to maintain the records of the proceeding, and other information by specified regulations. The cell has to submit the quarterly report to the commission each stratum practices this standard procedure for mediation.

## CONCLUSION

To provide a simple, speedy, and inexpensive justice system the new act is magnificent as it was the need of an hour where the pseudo, manipulative approach is at its peak. Well, it's a critical despondency to have such greedy people in the society but through this, our government secures the divine rights of the consumer. Now, the most important thing how to get a change in this maniac situation is to have systematic and persuasive efforts to educate and inform and in spreading awareness from grass root level to know the rights and liberties.

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<sup>18</sup> Consumer Protection Act, 2019, s 74

<sup>19</sup> Yashika Sarvaria, 'India: Consumer Protection Act, 2019: Key Takeaways' (Mondaq, 28 December 2020) <<https://www.mondaq.com/india/dodd-frank-consumer-protection-act/1020458/consumer-protection-act-2019-key-takeaways#:~:text=Under%20the%20Act%20of%202019,the%20members%20of%20the%20CCPA>> accessed 10 February 2022