



CONSUMER PROTECTION IN INDIA: EMPOWERING CONSUMER

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ABSTRACT

An effective, efficient and fair implementation of the consumer protection Act is sine qua non for promoting the culture of good governance and thereby ensuring the better promotion and protection of the rights of the consumers. If the rights of the consumers in relation to the quality of goods and services are assured and taken care of then there will be no cause for complaints. This situation would certainly create an atmosphere wherein the clients, customers and consumers would feel satisfied with the things needed most to them. It is also equally necessary for the consumer of goods/services to be aware of the mechanisms available for redressal in case of grievances. Consumer redressal has also been built into the Consumer Protection Act. There are various fora like the lokadalats, district consumer forum, state consumer forum and the National consumer Disputes Redressal Authority where aggrieved consumers can apply for redressal of grievances. While the government has been initiating various schemes and programmes for the protection of the consumer, it is necessary that the consumer takes the onus to make use of all the protection mechanisms and asserts some self-care in buying goods/ availing of services. It is only by exercising their rights that the consumer can be in the driving seat.

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INTRODUCTION

"A customer is the most important visitor on our premises" Mahatma Gandhi. The customer is the foundation of any organization's success. One of the primary goals of any organization's strategy should be to identify and meet the needs of the consumer. Considering customer importance at all stages of an organization's processes helps to ensure greater customer satisfaction and achieve its long term goals. India has a large population which creates a large market to every manufacturing and marketing organization. The developing nature of the country and the multi economic strata population make it a heaven for organization of all types. In this age of high competition and globalization, every manufacturer is trying to maximize profits and in the process, is resorting to such aggressive and misleading advertising and marketing practices forgetting the interests of consumers. It is therefore extremely important for the consumer to be well informed about the goods or service he/she is purchasing /availing of and protect their own interests. Being fully aware of their rights as a consumer, checking the MRP of products, reading the fine print in lengthy legal documents before signing and

taking all precautionary measures while making big purchases like property etc, are very crucial. For consumer durables like food items, groceries, etc, it even more important to check the manufacturing date, expiry date, contents list etc. before buying the products as otherwise there is risk of food poisoning, at the very least. The consumer protection movement in modern India began with the Consumer Protection act of 1986 which built in many clauses for the protection of the consumer for both purchase of goods and availing of services. There is a need for consumers to be proactive to protect themselves and for the government to develop measures to protect the consumers. The government has also introduced various standards and measurements for checking of goods and services like the ISI mark, Hallmark for jewellery, Silkmark for silk products and the recent RERA which is a landmark regulatory measure of the government for safeguarding the consumer from malpractices in the real estate sector. Other measures of the government like the DBT, Ujjawala etc. are also intended to protect the common man from becoming victim of frauds as a beneficiary of government schemes. The Indian consumer market has gone through a drastic change over the last two decades with the

advent of digital technologies internet, rapid penetration of e-commerce, smart phones, and cloud technologies. The Consumer Protection Act (CPA), 1986 being the foremost legislature for protecting the rights of the consumers had become archaic and does not cover rapid changes in the consumer market places, especially those dealing with online shopping, teleshopping, product recall, unsafe contracts, and misleading advertisements. Therefore, it was felt to replace it with the Consumer Protection Act, 2019.

Concept of consumer protection

There are United Nations Guidelines for consumer protection (UNGCP), which were first adopted by the United Nation General Assembly (UNGA) on April 16, 1985. The UNGCP are considered "a valuable set of principles for setting out the main characteristics of effective consumer protection legislation, enforcement institutions and redress systems and for assisting interested member states in formulating and enforcing domestic and regional laws, rules and regulations that are suitable to their own economic and social and environmental circumstance, as well as promoting international enforcement cooperation among member states and encouraging the sharing of experiences in consumer protection. The UNGCP has been expended/updated twice since then, with new resolution adopted in 1999 and 2015 respectively. Thereafter, countries have initiated steps to set-up legal mechanisms for grievance redressal as well as making consumers aware of their rights, responsibilities and duties. Consumer protection focuses on making them aware of products or services, their characteristics and the other aspects including place to buy, price, and the need etc. the main objective of the paper is to understand the meaning and implication of empowering consumers.

Objectives and Research methodology of the study

- To understand the meaning and implication of empowering consumer.
- To identify the various components of empowerment.
- To analyse the cases filed and disposed.
- To give some suggestions for empowering consumer.

The data has been collected from various books, website, government publications and newspapers etc. and research is descriptive in nature. Data presented in the form of tables and analysed in form of percentage and trends.

Empower Consumers and Build Trust

The Indian Government and business are investing in e-commerce. Developing consumer trustworthy online payment systems, therefore, is a priority. Newspaper reports often talk about data breaches, stealing of digital personal records, bank account details, email addresses, online account identity, medical information etc.. Losing all this information could mean financial loss, identity theft and deep distress on finding private information in public domain. Powerful digital technology allows companies to collect, store and share vast quantities of consumers' personal data to support product functionality, but many are truly neither necessary for required. Personal security and safety in the digital world necessarily should also cover particularly child consumers, who are vulnerable to harm or less able to manage online risks. It is difficult to spot hazards and/or new risk threats in

sophisticated new and unfamiliar digital products now available, just by simple scrutiny and consumers need to understand the safety aspect, well enough before using any new products and services. Regulators, in addition to raising awareness about online security, have to coordinate with companies to develop safe and secure system practices, easy for consumers to adopt. Providing a transparent personal data security with behind the scenes view of data usage, can also build some trust in the system. The constantly evolving digital technologies blur traditional boundaries and cuts across nations with diverse sectoral rules and laws making it very difficult to identify the right answers. To increase consumers trust on business, it is necessary to willingly listen, understand consumer undercurrent demands, with a consumer centric approach and respond to their expectations. Upholding digital consumer protection and treating them fairly, should be the corporate; culture and fundamental objective in governance of digital providers and regulatory policy legislation should be such, that companies not adhering to it or practising adverse methods that harm vulnerable consumers be severely penalised. Truly, regulation is not an absolute dilution, but still has a very crucial role in providing certainty and a strong foundation of protection guarantees, for consumers to participate confidently in the digital economy.

Consumer protection and empowerment regulation, for digital medium users is fundamental to address online complexity of security, liability, incompatibility and affordability. Equivalent to the feature, type and variety of digital services and products, protection levels should be same, for online or offline purchase activities. It is important to note that evidence-based and outcome-focused interventions and solutions are necessary, as they have better impact on consumer satisfaction. An open complementary global measurable digital economy standard, in addition to a proportionally strong, effective and easily accessible legal mechanism, that provide sanction against abuse and technical failures, thus protecting consumer from fraud and unfair online treatment errors, is necessary to build consumer trust and confidence. More importantly, a regulatory mechanism-keeping pace with the pervasive nature of any technology change, that also make sure that consumer are clear on their ownership and guarantee rights to fair use, due process and proportionality are essential elements, in building trust and confidence among consumers.

Consumer Rights

The six rights of the consumers, sought to be protected and promoted by the Consumer Protection Act, are:

- The right to be protected against the marketing of hazardous goods and services.
- The right to be informed about the quality, quantity, potency, purity, standard, and price of goods and services, so as to protect the consumer against Unfair Trade Practices (UTPs).
- Availability of a variety of goods and services at competitive prices.
- The right to be heard at appropriate grievance redress forums.
- The right to seek redress against unfair trade practices or Restrictive Trades Practices (RTPs) or exploitation in any other way.
- The right to consumer education.

Table 1.

| Major development in Consumer Protection in India | |
|---|--|
| 1 | Statutory measures for effective protection & promotion of consumer interest (Passing of the Consumer Protection Act 1986) |
| 2 | Strengthening of statutory measures for standardisation and quality control of goods (Passing of the Bureau of Indian Standards act, 1986, which repealed and replaced the Indian Standards Institution Act, 1951) |
| 3 | Conferring on consumers the statutory right of hearing under certain allied legislations (December, 1986) |
| 4 | Setting up of the Department of Consumer Affairs, in the Central Government (June, 1991) |
| 5 | Setting up of the Consumer Welfare Fund, 1992, for supporting various consumer welfare schemes. |
| 6 | Strengthening the consumer protection legislation, by enlarging its scope and enhancing the consumer courts' powers (June 1993). |
| 7 | National Commissions pronouncement upholding the consumer*s right to seek redressal before consumer courts for any negligence or deficiency in medical services (April 1992), later affirmed by the Supreme Court (Nov. 13, 1995) bringing to the medical services under the fold of the CPA |
| 8 | Further strengthening of the CPA, through wide ranging amendments (Dec. 2002, w.e.f. March 15, 2003) |
| 9 | Establishment of the Competition Commission of India (CCI) to prevent anti-competitive business practices, to promote competition and protect consumer interests (Passing of the Competition Act, 2002, w.e.f. March 31, 2003). |
| 10 | Prohibition of advertising of cigarettes and other tobacco products and ban on the sale of tobacco products to minors (Passing of the Cigarettes and Other Tobacco Products (Prohibition of Advertising and Regulation of Production, Supply and Distribution) Act, 2003. |
| 11 | Setting up of the Food Safety and Standards Authority of India (FSSAI) for laying down science based standards of food articles (Passing of the Food Safety and Standards act, 2006, effective from August 5, 2011) |
| 12 | Proposal to establish central Consumer Protection Authority, to promote, protect and enforce and consumers' rights and to provide for product liability, and mediation (Introduction of the Consumer Protection Bill, 2015, in the Lok Sabha, on Aug. 10, 2015). After its passage by both the Houses of Parliament (hopefully in the Winter Session in Nov. Dec. 2017), it is expected to be the new Consumer Protection Law. |
| 13 | Some Other Developments: |
| A | Setting up of Product Testing and Rating Laboratory at Ahmedabad by CERC and publication of its comparative product test reports. |
| B | Setting up of numerous voluntary consumer organisations; |
| c. | Setting up of consumer grievance cells in industry and trade; |
| d. | Growing media interest in consumer affairs; |
| E | Increased Govt. efforts to create consumer awareness; and |
| f. | Accumulation of rich case law on the subject. |
| 14 | Consumer Protection Act, 2019 |

Table 2.

| Name of Agency | 2016 | | 2017 | | 2018 | | 2019 | |
|----------------|--------|----------|--------|----------|--------|----------|-------|----------|
| | Filed | Disposed | Filed | Disposed | Filed | Disposed | Filed | Disposed |
| NCDRC | 7733 | 6070 | 10807 | 5899 | 9005 | 6378 | 623 | 355 |
| SCDRC | 32222 | 21773 | 34621 | 25875 | 28765 | 23304 | 2166 | 1530 |
| District Forum | 132462 | 113832 | 122225 | 107539 | 119653 | 96150 | 8519 | 6770 |
| Total | 172417 | 141675 | 167653 | 139313 | 157423 | 125832 | 11308 | 8655 |

Source:www.ncdrc.nic.in

Table 3.

| S.N. | Name of Agency | Cases Filed since inception | Cases Disposed of since inception | Cases Pending | % of Total Disposal |
|------|---------------------|-----------------------------|-----------------------------------|---------------|---------------------|
| 1 | National Commission | 132596 | 111597 | 20999 | 84.16% |
| 2 | State Commissions | 943620 | 818719 | 124901 | 86.76% |
| 3 | District Forums | 4301258 | 3959149 | 342109 | 92.05% |
| | TOTAL | 5377474 | 4889465 | 488009 | 90.92% |

Source:www.ncdrc.nic.in

The New Dawn: The most important feature of the new consumer protection Act 2019 is the provisions for the establishment of a regulatory body, the Central Consumer Protection Authority, with wide ranging powers to promote, protect and enforce the rights of consumers. The Authority will be headed by a Commissioner and will have five Deputy Commissioners heading five bureaus dealing with (a) safety in goods and services, (b) quality assurance and standards (c) enforcement of consumer protection laws, (d) prevention of unfair trade practices including misleading advertisements and (e) prevention of consumer detriment and unfair terms in consumer contracts. The Act also aims at improving the functioning of the consumer courts and in addition, provides for the establishment of consumer mediation cells attached to the consumer courts at the district and the state levels, for quicker resolution of disputes. The law also codifies the liability of a manufacturer for the injury, death or any destruction of property caused as a result of a defective product. If enforced well, the proposed new law is sure to revolutionize consumer protection in India.

Analysis of the cases disposed by Consumer Courts:

According to the data available from the Department of Consumer Affairs (Table-2), more than 80% case was disposed in 2016 while during 2019 more than 75% case are disposed. And more than 4.8 lakh cases are pending in the various consumer courts, which is an alarming figure. When the consumer courts were formed, the main purpose was to provide inexpensive and speedy redressal to consumers, where a consumer could itself plead her/his case in the consumer courts. Since the law was complex in nature, many consumers started hiring lawyers and there were frequent adjournments by the consumer courts which started delaying the entire adjudicatory process. Analysis of data regarding number of cases disposed by consumer courts shows that the performance of District Consumer Forums was better as 92.05% cases were disposed of.

Consumer Protection Act, 2019: The Consumer Protection Bill, 2019 has been passed by the Lok Sabha on Jul 30, 2019, and Rajya Sabha on Aug 06, 2019. This bill was introduced in

the parliament by the Minister of Consumer Affairs, Food and Public Distribution, Mr. Ram Vilas Paswan. The basic objective of the Consumer Protection Act, 2019 is to save the rights of the consumers by establishing authorities for timely and effective administration and settlement of consumers' disputes.

Some major highlights of the Consumer Protection Act 2019 are:

- a) The definition of Consumer would include both offline and online consumers. The expressions "buys any goods" and "hires or avails any services" would include offline or online transactions through electronic means or by teleshopping or direct selling or multi-level marketing.
- b) Establishment of the Central Consumer Protection Authority (CCPA) to promote, protect and enforce the rights of consumers, to investigate and intervene when necessary to prevent consumer detriment arising from unfair trade practices, and to initiate class action including enforcing recall, refund and return of products. Thus CCPA can act on:
 - (i) Issue safety guidelines,
 - (ii) Complaints of unfair trade practices.
 - (iii) Refer complaints to other regulators.
 - (iv) Order product recall or discontinuation of services.
 - (v) Can file actions before consumer commissions,
 - (vi) Has punitive powers such as imposing penalties. and
 - (vii) Intervene in proceeding in matters of consumer rights or unfair trade practices.

The Central Authority will have an Investigation Wing headed by a Director General for the purpose of conducting inquiry or investigation under the Act. For false and misleading advertisements CCPA may issue a penalty upto 10 lakh on a manufacturer and endorser and includes online marketing. For a subsequent offence, the fine may extend to Rs 50 lakh. For every subsequent offence, the period of prohibition may extend to three years. However, there are certain exceptions when an endorser will not be held liable for such a penalty. The CCPA has the authority to direct the removal of a misleading advertisement.

- c) The Bill also lists punitive actions against those who are found to be manufacturing, storing, distributing, selling, or importing products that are spurious or contain adulterants.
- d) The pecuniary jurisdiction of adjudicatory bodies increased in case of District Commission to Rs. 1 crore, in case of state Commission between 1 crore to 10 crore, and for National Commission, above Rs. 10 crore. Further simplification of procedure for filing of complaints and online filing of complaints has also been envisaged.
- e) Provisions for mediation as an Alternate Dispute resolution (ADR) mechanism which aims at giving legislative basis to resolution of consumer disputes through mediation, thus making the process less cumbersome, simple, and quicker. This will be done under the aegis of the consumer fora.
- f) Several provisions aimed at simplifying the consumer dispute adjudication process in the consumer for a are envisaged. These include, among others, enhancing the pecuniary jurisdiction of the consumer disputes redressal agencies, increasing minimum number of members in the consumer for a to facilitate quick disposal of complaints,

power to review their own orders by the State and District commission, constitution of 'circuit bench' to facilitate quicker disposal of complaints, reforming the process for the appointment of the President and members of the district for a, enabling provisions for consumers to file complaints electronically and file complaints in consumer for a that have jurisdiction over the place of residence of the complainant, and deemed admissibility of complaints if the question of admissibility is not decided within the specified period of 21 days.

- g) Provisions for product liability action for or on account of harm caused by or resulting from any product by way of fixing the liability of a manufacturer to a claimant.
- h) E-commerce guidelines would be mandatory under consumer protection law which would include 14 days deadline to effect refund request. It would mandate e-tailers to display details of sellers supplying goods and services on their websites and moot the procedure to resolve consumer complaints. The e-commerce companies would also be required to ensure that personally identifiable information of customers are protected. Terms of contract between e-Commerce entity and the seller relating to return, refund, exchange, warranty/guarantee, delivery/shipment, mode of payments, grievance redressal mechanism etc. to be displayed to enable consumers to make informed decisions.

There are huge challenges faced by online buyers such as breach of data privacy and security, substandard and duplicate products, phishing, territorial jurisdiction. In case of misleading advertisements, especially digital, the consumer courts or the Consumer Protection Councils at Centre, state and District level, till now do not have *suomotu* powers. Only when somebody complains in the consumer forums, action is being taken and also the compensation is given to only the aggrieved consumer who files a case in the consumer court. CCPA would function on the same lines as the Federal trade Commission in the USA and investigate into consumer complaints, issue safety notices for goods and services, and pass orders for recall of goods and work against misleading advertisements. Under the CPA, 1986 Central Government or State Government are empowered to file a legal case against manufacturers if they come across defective products, deficiency in service, unfair trade practice, or a restrictive trade practice. But till date we have found that hardly any case has been filed by the Government *suomotu*. Since the adjudication process in consumer courts is slow, setting up of mediation centres at District, state and National Commissions annexed to the consumer courts can play an important role in delivering justice.

Clauses 74-80 in the Consumer Protection Act, 2019 contain provisions for Mediation as an Alternate Dispute Resolution (ADR) mechanism. It aims to provide legislative basis to resolution of consumer disputes through mediation thus making the process less cumbersome, simple, and quicker. The mediation centres would work under the aegis of the Consumer Commissions, and the State Government and the Central Govt. would decide the composition of the mediation cell.

Section - 74 of the New Consumer Protection Act mentions that the State Government would establish a consumer mediation cell which would be attached to the consumer courts and each of the regional benches. Every consumer mediation

cell would submit a quarterly report to the District Commission, State Commission, or the National Commission to which it would be attached. Thus, every consumer mediation cell would maintain:

- a. A list of cases handled by the cell.
- b. A list of empanelled mediators.
- c. Record of proceeding. and
- d. Any other information as may be specified by regulations.

The tenure of the panel of mediators would be valid for a period of five years, and the empanelled mediators shall be eligible to be considered for re-empanelment for another term, subject to such conditions as may be specified by regulations. The mediation shall be held in the consumer mediation cell attached to the various consumer Courts (Clause 75). The Consumer Protection Act, 2019 with its innovative changes, would help in empowering consumers and provide justice to the needy in time.

Major Recommendations and Suggestions

- (i) Strengthening of the existing redressal mechanism to make it more efficient for delivering speedier justice.
- (ii) Supplement the existing redressal system with an active ADR Mechanism.
- (iii) Building a strong consumer information and advisory system.
- (iv) Integrate State Consumer Helplines and Consumer Advice Centre to facilitate mediation.
- (v) Effective implementation of Consumer Protection Act 2019 and take adequate measures to plug loopholes with a view to reduced delays and enhance its reach to new areas of consumer issues.
- (vi) Consumer education and proper awareness of building measures.
- (vii) Information Technology tools for better delivery of service.
- (viii) Countries such as the UK, Ireland and Belgium have specifically banned celebrity endorsement of unhealthy foods. The impact of such restrictions has been reported to be significant.

Conclusion

It may be concluded that even though several laws meant to protect consumers against such unfair trade practices, false and misleading advertisements continue to exploit the consumers. If the hour is better laws in keeping with the times, better enforcement, corrective advertisements, better self-regulations by industry independent regulator to regulate health and children-related advertisements. Outdated laws, poor enforcement of them are some of the lacunas in order to control advertising. However, consumer awareness through consumer education and actions by the government, consumer activists, and associations are needed the most to make consumer protection movement a success in the country.

Positively, TV programmes have begun to discuss the problems of consumer protection and consumer's movement and a separate cell for consumer protection has been formed in the Ministry of Food and Supplies. Therefore, the domestic products should be of high quality to attract the interest and build the trust of consumers, and the government should enact certain standards for the quality assurance of not only the domestic but also the imported products. As is evident, CPA 2019 has made several changes to the erstwhile CPA 1986. CPA 2019 has widened the reach of consumer protection regime in India. The changes made vide CPA 2019 seem to further empower consumers by leveraging responsibilities not only on their counterparts, i.e., the sellers, manufacturers, service providers, but also the endorsers of such products. It also attempts to address the issues that were not comprehensively touched upon by CPA 1986, such as interests of consumers as a class, etc. CPA 2019 has also attempted to ease and fasten the process of consumer disputes resolution by increasing the pecuniary jurisdiction of the commissions, attaching mediation cells, increasing the members of the commissions, imposing higher penalties etc. The ramifications of CPA 2019 cannot be precisely gauged beforehand, as many new concepts have been introduced. However, what can definitely be said is that everyone involved in a transaction, other than the consumer, will have to be more careful, and cautious than ever before. There is still a long road ahead to ensure effective consumer justice. It is hoped that the new Consumer Protection Act 2019 will overcome the shortcomings of the existing law and the consumer forums will act expeditiously to end the heavy backlog of cases pending before them, so as to give a boost to the consumer movement in India.

REFERENCES

- Aggarwal, VK. Consumer Protection: Law and Practice, Bharat Law House, Delhi.
- Chadha, Sapana. Responsibility of service providers. *Yojana* Feb 2009.
- Consumer Protection (Distance Selling) Regulations 2000
- Ganesan, G. and Sumathy, M. Globalisation and Consumerism: Issues and Challenges, Regal Publications, New Delhi.
- Gerard Joe, media@customerexpressions.com
- Kapoor Sheetal. Consumer Affairs and Customer Care, Galgotia Publication Company.
- Kapoor, Sheetal. Consumer Protection Act 2019, *Yojana*, A Development Monthly.
- Kulkarni Preeti, Five basic rights for bank customers laid down by RBI, *The Economic Times*.
- Mishra, Suresh. Is the Indian Consumer Protected? *One India One People*.
- The Consumer Protection Act, 1986
- The Consumer Protection Act, 2019 (*The Gazette of India*)
- Unfair Terms in Consumer Contracts Regulations 1999
- www.consumeraffairs.nic.in
- www.ncdrc.nic.in
