

CONSUMER PROTECTION ACT, 2019: KEY FEATURES**M. Rani¹, J. Yadav², and T. Sinha³**^{1,2}Institute of Legal Studies & Research, Mangalayatan University, Aligarh, UP³Faculty of Law, Usha Martin University, Ranchi, Jharkhand**ABSTRACT**

Consumer Protection Act, 2019 could be a law to guard the interests of the consumers. This act was inevitable to resolve an outsized number of pending consumer complaints in consumer courts across the country. It's ways and means to unravel the buyer grievances speedily. This act aims to supply an insight into newly introduced provisions, dissect the scope, reach and impact of newly introduced provisions and supply a comparative analysis of a number of the key provisions of CPA 2019 vis-a-vis CPA 1986.

Keywords: Consumer Rights, Product liability, Central Consumer Protection Authority (CCPA).

Introduction

The basic aim 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 and related matters. The Parliament passed the Consumer Protection Bill, 2019 on 06.08.2019 to switch the Consumer Protection Act, 1986 ("1986 Act"). The President of India gave its assent to the Consumer Protection Act, 2019 ("2019 Act") on 09.08.2019 and also the same will acquire force on the date it is notified by the Central Government. The Government rather than bringing an amendment within the 1986 Act, enacted a replacement Act altogether so as to provide enhanced protection to the consumers taking into consideration the booming e-commerce industry and therefore the modern methods of providing goods and services like online sales, tele-shopping, direct selling and multi-level marketing additionally to the standard methods.

The 2019 Act has brought in some major changes and provides for more protection to the consumers in parimateria to the earlier 1986 Act which may be seen from the comprehensive great definition provided for the term 'Consumer' and 'Unfair Trade Practice'. The 2019 Act expands the scope of the definition of Consumer so as to include the consumers involved in online transactions and it now squarely covers the E-commerce businesses within its ambit. The 2019 Act has also widened the definition of Unfair Trade Practices as compared to the 1986 Act which now includes within its ambit online misleading advertisements; the practice of not issuing bill/memo for the products and

services; failing to require back defective goods or deactivate defective services and refund the quantity within the stipulated time mentioned within the bill or memo or within the absence of such stipulation; and disclosing personal information of a consumer unless such disclosure is in accordance with law.

Consumer-Someone is termed a person is called a consumer who avails the services and buys any good for self-use. Worth to say that if an individual buys any good and avail any service for resale or commercial purpose, isn't considered a consumer. This definition covers all sorts of transactions i.e. online and offline.

The Act define "consumer" as anyone who—
(i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of credit and includes any user of such goods aside from the one that buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of credit, when such use is formed with the approval of such person, but doesn't include a someone who obtains such goods for resale or for any commercial purpose; or

(ii) hires or avails of any service 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 beneficiary of such service apart from the one who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of payment, when such services are availed of with the approval of the primary mentioned person, but doesn't include a someone who

avails of such service for any commercial purpose¹.

The act provides the rights to the consumers

- i.** To own information about the amount, quality, purity, potency, price, and standard of goods or services.
- ii.** To be protected against hazardous goods and services.
- iii.** To be shielded from unfair or restrictive trade practices.
- iv.** To possess a range of products or services at competitive price

Product Liability

Insertion of “*Product Liability*”² as a separate chapter in CPA 2019 and replacement ground for filing a complaint has been one in every of the most significant additions to the Act.

Section 2(35) of CPA 2019 allows an individual to form a claim of product liability against such manufacturer, seller or service provider for such defective products. Product liability means the responsibility of a product manufacturer or product seller, of any product or service, associated with the merchandise to catch up on any harm caused to a consumer by such defective product manufactured or sold or by deficiency in services referring to the product.³

Who can be made liable

CPA 2019 has gone a step forward and defined as;

Product manufacturer⁴

Product seller⁵

Product service provider⁶

To provide clarity on who are often made chargeable for an action under Chapter VI of CPA 2019.

Introduction of latest regulator because the Central Consumer Protection Authority

Section 10 of CPA 2019 seeks to determine a central authority, the Central Consumer Protection Authority (“CCPA”) to market, protect, and enforce the rights of consumers qua misleading advertisements and unfair trade practices as a category. One of the amongst the first reasons for establishing CCPA is to fill an institutional void within the existing regulatory regime. An investigative wing is envisaged to be formed under the aegis of CCPA, which

shall perform inquiries and investigations in matters referring to consumer rights, unfair trade practices and misleading advertisements.⁷

Under the provisions of CPA 2019, CCPA is remitted to hold out the following subsequent functions⁸

- i.** inquiring into violations of consumer rights, investigating and launching prosecution at the acceptable forum;
- ii.** passing orders to recall goods or withdraw services that are hazardous, reimbursement of the value paid, and discontinuation of the unfair trade practices, as defined under the relevant provisions of CPA 2019;
- iii.** issuance of directions to the concerned trader/ manufacturer/ endorser/ advertiser/ publisher to either discontinue a false or misleading advertisement, or modify it;
- iv.** imposition of penalties, and;
- v.** issuance of safety notices to consumers against unsafe goods and services and guidelines to forestall unfair trade practices
- vi.** spread and promote awareness and research on consumer rights and
- vii.** recommend adoption of international covenants and best international practices on consumer rights to confirm effective enforcement of consumer rights

The district collectors have also been empowered to conduct such investigations that affect interests of consumer as a category under CPA 2019.⁹ They’ll investigate or inquire at the instance of a complaint or on a reference made by CCPA. The district collectors have also been provided powers such as CCPA’s but unlike CCPA they cannot initiate action *suo moto*. The establishment of a central authority and initiating action as a category comes as an extra mode of relief which may be exercised together with individual consumers filing complaints to address their grievances thereby having two parallel proceedings.

Prohibition and penalty for a misleading advertisement

The Central Consumer Protection Authority (CCPA) will have the facility to impose fines on the endorser or manufacturer up to 2-year imprisonment for misleading or false advertisement (Like Laxmi Dhan Warsha

Yantra).Worth to say that repeated offence may attract a fine of Rs 50 lakh and imprisonment of up to 5 years.

Mediation

The CPA 2019 now provides for settlement of disputes by way of mediation just in case there is a prospect of settlement at the stage of admission of complaint or at any later stage, if acceptable to both parties. Mediation cells are going to be attached to every district, state and National Commission and its regional Benches for quick resolution.The 2019 Act to ensure speedy resolution of disputes is to provide for referring the disputes to mediation. As per the 2019 Act, the Consumer Forum shall refer the matter to mediation on written consent of both the parties.

(1) The State Government shall establish, by notification, a consumer mediation cell to be attached to every of the District Commissions and the State Commissions of that State.

(2) The Central Government shall establish, by notification, a consumer mediation cell to be attached to the National Commission and each of the regional Benches. (3) A consumer mediation cell shall accommodates such persons is also prescribed. (4) Every consumer mediation cell shall maintain—

- a) a list of empanelled mediators;
- b) a list of cases handled by the cell;
- c) record of proceeding; and
- d) any other information as could also be specified by regulations.

(5) Every consumer mediation cell shall submit a quarterly report back to the District Commission, State Commission or the

National Commission to which it is attached, in the manner specified by regulations¹⁰.

Pecuniary Jurisdiction

The 2019 Act also changed the pecuniary jurisdiction for the District, State and National Commissions, respectively. The pecuniary limit for the District Commission has been increased to up to Rs.1 Crore¹¹ as against Rs.20 Lakhs; for State Commission it has been increased to up to Rs.10 Crores¹² as against Rs.1 Crore; and for National Commission the pecuniary jurisdiction has been increased to over and above Rs.10 Crores¹³ as against Rs.1 Crore within the 1986 Act, the 2019 Act additionally to present and also changed the way for determining the pecuniary jurisdiction for filing the Complaint. Now the pecuniary jurisdiction are determined on the premise of the worth of product or services paid as consideration as against the 1986 Act wherein, the pecuniary jurisdiction resolve as per the worth of products and services likewise as compensation claimed. This could help in doing away the practice of inflating the compensation claimed so as to bring the complaint within the jurisdiction of State or National Commission.

E-Complaints

The 2019 Act also provides for filing of Complaints before the District Forums electronically in accordance with the foundations which are yet to be prescribed by the Government.¹⁴

S.No.	Consumer Protection Act, 1986	Consumer Protection Act, 2019
1.	No separate regulator	Central Consumer Protection Authority (CCPA) to be formed.
2.	No specific provision of product liability existed earlier.	Consumer can now seek compensation for harm caused by a defective product or a deficient service.
3.	Jurisdiction: District: up to INR 20 Lakh. State: INR 20Lakh to INR 1 Crore. National: above INR 1 Crore.	Jurisdiction: District: up to INR 1 Crore. State: INR 1Crore to INR 10 Crore. National: above INR 10Crore.
4.	No legal provisions for mediation existed earlier.	Courts can now refer settlement through mediation.

Conclusion

The Consumer Protection Act, 2019 when put next with the 1986 Act shows that it provides for greater protection of consumer interests taking into consideration the current age of

digitization. The 2019 Act also deals with the technological advancements in the industry, provides for easier filing of complaints and also imposes strict liability on businesses including endorsers for violating the interest of

the consumers. However, the test of your time will prove the fate of the 2019 Act as and when it is notified by the Central Government, which, prima-facie, appears to be rather more

consumer-friendly than the 1986 Act and also includes the current industry trends of e-commerce.

References/End Notes

Jigyasa, An interdisciplinary Peer Reviewed refereed Research journal, ISSN 0974-7648 Volume 12, No.VI, June 2019-Adulteration In Drugs and Cosmetics- Health Security: Mamta Rani

¹Section 2(7) of Consumer Protection Act, 2019.

²Sections 82-87 of CPA 2019, Chapter VI.

³Section 2 (34) of CPA 2019.

⁴Section 2 (36) of CPA 2019.

⁵Section 2 (37) of CPA 2019.

⁶Section 2 (38) of CPA 2019.

⁷Section 15 of CPA 2019.

⁸Section 18 of CPA 2019.

⁹Section 16 of CPA 2019.

¹⁰ Section 74 -81 of CPA 2019 (chapter v).

¹¹ Section 34 of CPA 2019.

¹² Section 47 of CPA 2019.

¹³ Section 58 of CPA 2019.

¹⁴Section 35 of CPA 2019.