



Consumer Protection Act 2019

A new era for consumers in India

History was created in August 2019, empowering Indian consumers further, when the new Consumer Protection Act 2019 was enacted by Parliament. This Act repealed the Consumer Protection Act, 1986 which was amended thrice. The need for a new Act arose as the market scenario has changed a great deal, mainly due to advancements in

technology and the rise of e-commerce. This created new issues for consumers which needed to be addressed.

Grahak Sathi brings to you the major provisions of the new Consumer Protection Act. We also discuss the impact they will have on consumers. Also know what remedies are available and how to seek redress.

Product Liability now in India

The New CP Act defines product liability as *"the responsibility of a product manufacturer or product seller, of any product or service, to compensate for any harm caused to a consumer by such defective product manufactured or sold or by deficiency in services relating thereto."*

A manufacturer or a service provider now has to compensate a consumer if their good/service causes injury or loss to the consumer due to manufacturing defect or poor service. For instance, if a TV's manufacturing defect causes short circuit and harms the consumer, earlier the consumer would be compensated

Nutshell

- Introduction of 'Product liability' provision to deter manufacturers and service providers from delivering defective products or product related deficient services
- E-commerce included within the ambit of Consumer Protection Act
- Establishment of Central Consumer Protection Authority (CCPA)
- Increase in pecuniary jurisdiction
- Penalties for misleading advertisements
- The limitation period for filing a complaint remains 2 years from the date on which cause of action



with the cost of the TV. But now with the provision for product liability, the manufacturer is liable to compensate the consumer even for the injury.

Another important aspect is that not only the manufacturer but the seller also is liable to compensate a consumer. The Act has also defined harm to include damage to any property; personal injury, illness or death; mental agony or emotional distress. Defect means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard of a product.

Liability of manufacturer and product service provider:

The product manufacturer and product service provider shall be liable in a product liability action if any harm is caused on account of a defective



Comparison of some provisions of Consumer Protection Act 1986 and Consumer Protection Act 2019

Sr. No.	Provision	Consumer Protection Act 1986	Consumer Protection Act 2019
1	Independent Regulator	No separate regulator	Central Consumer Protection Authority to be formed
2	Jurisdiction of complaint to be filed	Compliant could be filed in a consumer court only where the seller's/manufacturer's office is located	Compliant can be filed in a consumer court where the complainant either resides or works
3	Product Liability	No specific provision of product liability existed earlier	Consumer can now seek compensation for harm caused by a defective product or a product related deficient service
4	E-commerce	No provision for E-commerce	E-commerce transactions will now come under the same provisions as for direct sale
5	Alternate Dispute Redressal	No legal provisions for mediation existed earlier	Courts can now refer settlement through mediations

product or service. This includes among others a manufacturing defect, a defective design, deviation from manufacturing specification, not conforming to express warranty. If a product fails to contain adequate instruction of correct usage to prevent harm or any warning regarding improper/incorrect usage, the manufacturer is liable.

[Chapter VI Sec 83, 84 and 85]

Establishing Central Consumer Protection Authority

The Central Consumer Protection Authority (CCPA) is being constituted under Chapter III Section 10(1) of The Consumer Protection Act, 2019. The CCPA aims to protect the rights of the consumer by cracking down on unfair trade practices and false and misleading advertisements that are detrimental to the interests of consumers and the public at large.

The CCPA will have an Investigation Wing that will have the power to investigate complaints of violations of consumer rights, unfair trade practices, and false or misleading advts.

Illustrative Powers of CCPA [Sec 18]

- The CCPA shall protect, promote and enforce the rights of consumers as a class, and prevent violation of consumers rights.
- It shall prevent unfair trade practices and ensure that no person engages in unfair trade practices.
- The CCPA will have the power to inquire or investigate into matters relating to violations of consumer rights or unfair trade practices *suo motu*, or on a complaint received, or on a direction from the Central government. The Authority can then file a case in the respective commission if necessary. The CCPA can also intervene in any proceedings before the commission if there is any allegation of any consumer rights being violated or unfair trade practices.

Illustrative functions of CCPA [Sec 18]

- The CCPA also has powers to give directions for withdrawal or modification of advts that it finds to be, after investigation, false or misleading and harmful to the interests of consumers. The authority may also impose a penalty for misleading advts.
- The CCPA can recommend adoption of Global Best Practices to ensure

effective enforcement of consumer rights.

- It also has to play a major role in spreading and promoting awareness on consumer rights.
- CCPA should encourage non-Government organisations and institutions working in the field of consumer rights to co-operate and work with consumer protection agencies.
- It will issue safety notices to alert consumers against dangerous or hazardous or unsafe goods or services.
- The proposed authority will have powers to recall goods or withdraw services that are dangerous, hazardous or unsafe. It can also order refund for such goods or services and discontinuation of practices which are unfair and prejudicial to consumer interest.
- It will also issue necessary guidelines to prevent unfair trade practices and protect consumer interest.
- Failure to comply with an order of CCPA shall draw punishment of jail term for up to 6 months or fine up to Rs.20 lakhs or both. The establishment of the CCPA creates a regulatory structure which is on the lines of global best practices in US and UK.





Strict norms against Misleading Advertisements

CCPA has been given powers to regulate misleading advts. If it is satisfied after investigation that an advt is false or misleading or is in contravention of consumer rights, it might issue a direction to the manufacturer or

endorser or advertiser or publisher to discontinue such advt or modify the same.

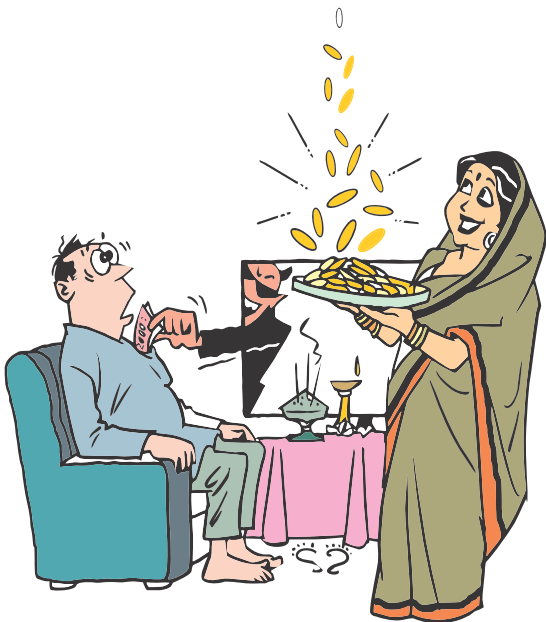
The New Act is being cautious on behalf of consumers by employing responsibilities even on the endorsers or publishers of an advertisement. The CCPA may impose a penalty on a manufacturer

Penalties for Misleading Advertisement			
	Manufacturer	Endorser	Publisher/Advertiser
First offence	Jail up to 2 years with fine up to Rs. 10 lakhs	1-year ban on future endorsements and fine up to Rs.10 lakhs	Fine up to Rs. 10 lakhs
Repeat offence	Jail up to 5 years with fine up to Rs. 50 lakhs	3-year ban on future endorsements and fine up to Rs.50 lakhs	

However, celebrities will not be held responsible if they have exercised due diligence to verify the veracity of the claims made in the advertisement [Sec 21(5)]



or an endorser which may extend to Rs. 10 lakhs. A subsequent contravention may result in a penalty to the tune of Rs. 50 lakhs. Further, the central authority may also prohibit the endorser from making endorsements of any product or service which may extend to one year and, on a subsequent contravention, to three years. **[Sec 89]**



Provision for Alternate Dispute Resolution

The CP Act 2019 provides for mediation under Chapter V as an Alternate Dispute Resolution mechanism, making the process of dispute adjudication simpler and quicker. This will help with the speedier resolution of disputes and reduce pressure on consumer courts, which already have numerous cases pending before them.

The provision encourages the parties to undergo mediation after the admission of a complaint. The Act provides for setting up of a mediation cell with a panel of mediators attached to every District, State as well as National Commission.

If it appears to the members of the commission that settlement is possible, they may refer a case for mediation and in case of failure of mediation, the complaint shall proceed further.

[Sec 37]



The mediator will be nominated by the commission. As per the draft Mediation Regulations the time limit for completion of mediation is 30 days which can be further extended by 15 days. **[Sec 79]**

If an agreement is reached between the parties, the terms of such agreement shall be in writing and needs to be signed by the parties. The mediator shall prepare a settlement report and send it to the concerned commission along with the signed agreement. If no agreement is reached between the parties or if the mediator decides that settlement is not possible, he/she shall prepare a report accordingly and submit the same to the concerned commission. **[Sec 80]**

The commission shall pass an order as per the settlement report within seven days of the receipt of the report. In case of only part settlement of the dispute, the commission shall record settlement

of the issues as per the settlement report and continue to hear the other issues. The commissions will hear all the issues of a dispute where no settlement could be achieved. **[Sec 81]**



Disclosure of a consumer's personal information has been classified as an unfair trade practice **[Sec 2(47)(ix)]**



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complainant satisfies the commission that he/she had sufficient cause for not filing the complaint within two years. **[Sec 69]**

A consumer can file a case either in a written manner or in electronic mode. Even the jurisdiction of the commissions has also been expanded to allow complaints to be made where the complainant resides or works. This will ease the burden on consumers who will now be able to lodge complaints at the district level where they reside and will not be compelled to travel too far to pursue redressal. **[Sec 35 (1) and Sec 34(2)(d)]**

Consumer District/State/ National Commissions

The Consumer Protection Act, 2019 has enhanced the pecuniary jurisdiction of the Consumer Dispute Redressal Commissions at the District, State and National levels. Pecuniary jurisdiction means the monetary value of complaints that can be entertained. A consumer can now approach the District Commission for complaints valued up to Rs 1 crore. This will help to reduce the load on the State and National Commissions. **[Sec 34 (1) and Sec 47(1)(a)(i)]**

A commission shall not admit a complaint unless it is filed within two years from the date on which the cause of action has arisen. Unless the

Pecuniary Jurisdiction

Commission	Under Consumer Protection Act 1986	Under Consumer Protection Act 2019
District Commission	Up to Rs.20 lakhs	Up to Rs. 1 crore
State Commission	Rs.20 lakhs to Rs.1crore	Rs. 1 crore to Rs. 10 crores
National Commission	More than Rs. 1 crore	More than Rs. 10 crores

The admissibility of complaints has to be decided within 21 days by the commission. Though such provision was part of the 1986 Act, an addition to the 2019 Act is that if the issue of admissibility of the complaint is not decided within such time, the complaint shall be deemed to have been admitted.

The new Act gives power to the commissions to review their orders in case of clerical or technical errors within 30 days. This was not provided in the earlier Act. A consumer had to appeal to the higher commission or file a revision petition in case of error. This proposed change works in favour of the consumer and also reduces the burden faced on account of appeals being preferred to rectify errors apparent on the face of the record. **[Sec 36(3) and Sec 40, 50 and 60] Sec 94 and Sec 101(2) (zg)]**



E-commerce also under the ambit

E-commerce has been defined as buying or selling of goods or services including digital products over digital or electronic network. It defines electronic service provider as a person who provides technologies or processes to enable a product seller to engage in advertising or selling goods or services to a consumer. It also includes any online market place or online auction sites. The definition covers almost all aspects of trade carried out over the internet.



As per the new act, all the laws that apply for direct selling would also be applicable for E-Commerce. The central government has been authorized to take measures and make rules to prevent unfair trade practices in e-commerce.

[Sec 2(16)]

Introduction of Unfair Contracts

Earlier a complaint could be filed only if an unfair trade practice was adopted by a seller or service provider. Now "unfair contract" has also been added in the new Act which gives a right to the consumer to file a complaint against contracts which are unfair, unilateral and unreasonable. If a contract between a trader/manufacturer or services provider and a consumer has terms which significantly changes the rights of a consumer, the contract will be deemed unfair.

A contract having terms that refuses to accept early repayment of debt on payment of penalty, can be challenged as unfair. This would specifically take into account contracts entered with banks and finance companies where consumers are left with no option but to agree to the standard terms to get financial assistance. Often consumers are not allowed to repay their loans earlier than the scheduled period. The consumer will now have the choice to do so with the payment of applicable penalty. **[Sec 2 (46) (iii)]**

Grahak Sathi's conclusion

The Consumer Protection Act, 2019 has been drafted keeping in mind the interests of consumers across all models of modern age retail trade including online shopping. If implemented well consumers of India may look forward to "sellers beware", a twist in the maxim.

<http://www.havenrm.com/consumer-rights-act-2015/>

