CONSUMER PROTECTION ACT
2019
The digital age has led to a new era of commerce and digital branding making set of customer expectations. Digitization has provided easy access, a large variety of choice, convenient payment mechanisms, improved services and shopping as per convenience.

Keeping all this in mind, this Act is enforced to address new challenges faced by the customer at large, whereas, empowering the customer to seek remedy with different commissions and non-judicial body.
**COMPARISION**

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<td>• No Separate Regulator</td>
<td>• Regulator</td>
<td>• Central Consumer Protection Authority to be formed.</td>
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<td>• Complaint could be filed where the Seller’s (Defendant) office is located.</td>
<td>• Consumer Court</td>
<td>• Complaint can be filed where Complainant resides or work.</td>
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Consumer Protection Act, 1986

- No provision. Consumer could approach a civil court but not consumer court.

- District: Upto Rs. 20 Lakhs
- State: Rs. 20 Lakhs to Rs. 1 Cr.
- National: Above Rs. 1 Cr.

Provisions

- **Product Liability**

- **Pecuniary Jurisdiction**

Consumer Protection Act, 2019

- Consumer can seek compensation for harm caused by a product or service.

- District: Upto Rs. 1 Cr.
- State: Rs. 1 Cr. to Rs. 10 Cr.
- National: Above Rs. 10 Cr.
CONT.

Consumer Protection Act, 1986

• No Provisions

• No Legal Provision

Provisions

• E-Commerce

• Mediation Cell

Consumer Protection Act, 2019

• All rules of direct selling extended to e-commerce.

• Court can refer settlement through mediation.
PROVISIONS IN DETAIL
FOR BETTER UNDERSTANDING
Previously, the definition of Consumer had only one explanation given under Section 2(d).

Now, a Consumer is defined under **Section 2(7)** of the Act, and a new Clause ‘b’ is inserted to the explanation of Consumer defined under Section 2(7). The expressions "buys any goods" and "hires or avails any services" including offline or online transactions through electronic means or by teleshopping or direct selling or multi-level marketing are included.

Further, ‘Direct Selling' described under Section 2(12) includes marketing, distribution and sale of goods or provision of services through a network of sellers, other than through a permanent retail location.
CONSUMER RIGHTS

The new act through Section 2(9) has added rights of consumer which are as follow:

- Right to be protected against the marketing of goods, products or services which are hazardous to life and property;
- Right to be informed about the quality, quantity, potency, purity, standard and price of goods, products or services, as the case may be, so as to protect the consumer against unfair trade practices;
- Right to be assured, wherever possible, access to a variety of goods, products or services at competitive prices;
- Right to be heard and to be assured that consumer's interests will receive due consideration at appropriate fora;
- Right to seek redressal against unfair trade practice or restrictive trade practices or unscrupulous exploitation of consumers;
- Right to consumer awareness;
The new act mentions the establishment of Central Consumer Protection Authority which shall be known as ‘Central Authority’ that has been added under Section 10. It shall deal with the matters related to violations of rights of consumers, unfair trade practices and false and misleading advertisement which are prejudicial to the interest of public and consumers. It has also been designated to promote, protect and enforce the rights of consumers as a class.

Investigation Wing has been attached to Central Authority for the purpose of conducting inquiry which is to be headed by Director- General.

District Collector has been added in this new act and has been given the authority to make report on any case of violation of rights and submit a copy to the Commissioner.

Powers and Functions of the Central Authority are as follows:

- To protect, promote and enforce the rights of consumers as a class, and prevent violation of consumer rights, prevent unfair trade practices;
To ensure that no false or misleading advertisement is made of any goods or services which contravenes the provisions of this Act, and to ensure that no person takes part in the publication of any advertisement which is false or misleading;

- To inquire or cause an inquiry or investigation against the violations of consumer rights or unfair trade practices;

- To file complaints before the District Commission, the State Commission or the National Commission, to intervene in any proceedings before the District Commission or the State Commission or the National Commission in respect of any allegation of violation of consumer rights or unfair trade practices;

- To review the matters relating to, and the factors inhibiting enjoyment of, consumer rights, including safeguards provided for the protection of consumers under any other law for the time being in force and recommend appropriate remedial measures for their effective implementation;

- To recommend adoption of international covenants and best international practices on consumer rights to ensure effective enforcement of consumer rights, to undertake and promote research in the field of consumer rights, spread and promote awareness on consumer rights;
To encourage non-governmental organisations and other institutions working in the field of consumer rights to co-operate and work with consumer protection agencies, and to mandate the use of unique and universal goods identifiers in such goods, as may be necessary, to prevent unfair trade practices and to protect consumers’ interest;

- Power to investigate;
- Power to recall goods;
- Power to issue directions and penalties against false and misleading advertisements;
- Any publication by endorser or manufacturer which is false or misleading shall be fined up to extent of 1 lakh rupee;
- Power to grant search and seizure;
The District Consumer Redressal Commission under Section 40 has been given the right to review its order which was not provided in the previous act for which an appeal had to be made.

The new act specifically mentions that the District Commission shall have the power to review any of the order passed by it if there is an error apparent on the face of the record, either of its own motion or on an application made by any of the parties within thirty days of such order.
A new chapter V has been added in the new act which under Section 74 deals with establishment of Consumer Mediation Cell at District, State and National Consumer Dispute Redressal Commission. It has also been stated that if District, State and National Consumer Dispute Redressal Commission finds that a matter shall be referred to mediation it can do so.

- It further provides for making a list of empanelled mediator which shall have a term of five years and can be re-empanelled for another term.
- It further mentions that the duty of mediator shall be to disclose personal, professional and financial interest in outcome of consumer dispute, circumstances which may give rise to a justifiable doubt as to his independence or impartiality, or such other facts as specified by regulations.
If an agreement is reached between the parties with respect to all of the issues involved in the consumer dispute or with respect to only some of the issues, the terms of such agreement shall be reduced to writing accordingly, and signed by the parties to such dispute or their authorised representatives.

The mediator shall prepare a settlement report and forward the signed agreement along with such report to the concerned commission. In case no agreement is reached between the parties within the specified time or the mediator is of the opinion that settlement is not possible, he shall prepare his report accordingly and submit the same to the concerned commission.

The District, State or National Commission shall, within 7 days of receipt of settlement report between the parties, pass such order and record the settlement and dispose of the matter.
Under Section 2(34), a new definition has been added in the present act defining product liability as the responsibility of the 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.

The term ‘product seller’ is defined as a person who is involved in placing the product for a commercial purpose and as such would include e-commerce platforms as well. The defense that e-commerce platforms merely act as ‘platforms’ or ‘aggregators’ will not be accepted.

There are increased liability risks for manufacturers as compared to product service providers and product sellers, considering that under the new act, manufacturer will be liable in product liability action even where he proves that he was not negligent or fraudulent in making the express warranty of a product. Certain exceptions have been provided under the Act from liability claims, such as, that the product seller will not be liable where the product has been misused, altered or modified.
Under Section 72 of the Act, the term for imprisonment for non-compliance of order given by District, State and National Commission is same as previous act but the fine has been increased, which shall not be less than twenty-five thousand rupees and may extend to one lakh rupees, or with both.
OFFENCES AND PENALTY

- Section 88 Penalty for noncompliance of direction of Central Authority under section 20 (power of central authority to recall goods), 21 (power of central authority to issue direction and penalties against false or misleading advertisement) shall be punishable with imprisonment for term which may extend to six months or with fine which may extent to twenty lakh rupees or both.

- Section 89 Punishment for false or misleading advertisement shall be punished with imprisonment for a term which may extend to two years and with fine which may extend to ten lakh rupees and for every subsequent offence, be punished with imprisonment for a term which may extend to five years and with fine which may extend to fifty lakh rupees.
Section 90 Punishment for manufacturing for sale or storing, selling or distributing or importing products containing adulterant. The act done by any person or on behalf of any person shall be punished, if such act:

- does not result in any injury to the consumer, with imprisonment for a term which may extend to six months and with fine which may extend to one lakh rupees.

- Causes injury not amounting to grievous hurt to the consumer, with imprisonment for a term which may extend to one year and with fine which may extend to three lakh rupees.

- Causes injury resulting in grievous hurt to the consumer, with imprisonment for a term which may extend to seven years and with fine which may extend to five lakh rupees.
Results in the death of a consumer, with imprisonment for a term which shall not be less than seven years, but which may extend to imprisonment for life and with fine which shall not be less than ten lakh rupees.

The offences under last two clauses shall be cognizable and non-bailable. Under sub-section (1), the court may, in case of first conviction, suspend any licence issued to the person referred to in that sub-section, under any law for the time being in force, for a period up to two years, and in case of second or subsequent conviction, cancel the licence.

Section 91 Punishment for manufacturing for sale or for storing or selling or distributing or importing spurious goods. Whoever, by himself or by any other person on his behalf, manufactures for sale or stores or sells or distributes or imports any spurious goods shall be punished, if such act:
CONT.

- Causes injury *not amounting to grievous hurt* to the consumer, with *imprisonment* for a term which may extend to one year and with fine which may extend to three lakh rupees.

- Causes injury resulting in *grievous hurt* to the consumer, with *imprisonment* for a term which may extend to seven years and with fine which may extend to five lakh rupees.

- Results in the *death of a consumer*, with imprisonment for a term which shall not be less than seven years, but may extend to *imprisonment* for life and with fine which shall *not be less than ten lakh rupees*. The offences under last two clauses shall be cognizable and non-bailable. Under sub-section (1), the court may, in case of first conviction, suspend any licence issued to the person referred to in that sub-section, under any law for the time being in force, for a period up to two years, and in case of second or subsequent conviction, cancel the licence.
Section 93 Vexatious Search the Director General or any other officer, exercising powers under section 22, who knows that there are no reasonable grounds for doing so and yet

- Searches, or causes to be searched any premises.

- Seizes any record, register or other document or article, shall, for every such offence, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees or with both.
Thank you 😊
Raj Dev Singh & Ragini Sharma