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## ROADMAP OF CONSUMER PROTECTION LAWS IN INDIA

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Mr. Dev Parbhakar, Research Scholar, CT University, Ludhiana, Punjab, India.  
Dr. Divya Khurana, Assistant Prof. of Law, CT University, Ludhiana, Punjab, India

### ABSTRACT

Customers are the persons who buy or rent items and services from vendors, resulting in increased employment. Consumer rights are crucial to the success of any economy. Consumer rights must be protected as a result. As a result of globalization and heightened consumer awareness, consumer rights are becoming increasingly relevant. However, because not all vendors and service providers are legitimate, the availability of a wide choice of goods and services may frequently be damaging to clients. Despite the plethora of laws enacted to protect consumers' interests, the reality is that the efforts made thus far to ensure consumer protection have been few curative drops in an ocean of consumer misery, and the vast majority of people are unaware that they are protected as consumers by numerous laws. Although the government has taken a number of steps to protect consumers, it is up to customers to use all of the available safeguards and practice some self-care when purchasing items or seeking services. Only by utilizing their legal rights can consumers maintain control. The purpose of this article is to examine how to achieve consumer protection while taking present circumstances and realities into account. India now has a new consumer protection framework thanks to the passage of the Consumer Protection Act in 2019. The New Act improves consumer protection and expands the range of choices available, but it is not without challenges. The purpose of this research study is to show how we fulfilled our consumer protection goals and to suggest recommendations for improving them by incorporating new solutions to modern problems. As a consequence, we understand consumer protection in India from a variety of perspectives and evaluate the New Act critically. The objectives of this Research paper are to illustrate Judicial trends which tend to protect Consumers, and the evolution of laws in India at the end this Research paper offers some suggestions for developing awareness about Consumer Protection laws.

**Keywords:** Consumer, Consumer Protection, Awareness, Sustainable development goals

## INTRODUCTION

In order for an economy to survive, consumer rights must be maintained. Customers are the ones that buy or rent things or services from vendors, resulting in new jobs, hence consumer rights must be protected if an economy is to expand. They are the ones who purchase or rent products or services from merchants, and as a result, their employment levels are increasing. Customers' demands and expectations have developed throughout time as a result of globalization and more attention, thus consumer rights must be maintained in this regard. Customers may be harmed by the availability of a diverse selection of products and services since not all dealers and service providers are trustworthy.

The Consumer Protection Act of 1986 was enacted to address customer concerns and ensure that their transactions with businesses were secure. At the time, it was a brilliant move, and it was adjusted as required. In any event, the country's three-decade-old law couldn't keep up with market changes and technological breakthroughs. Because the Act did not offer the right to prosecute a person who had infringed a customer's rights, the State and District Consumer Redressal Forum had to be enlisted, and customers were compensated for their losses. On the one hand, there was no data collection or request for wounds or fatalities caused by defective products or administrations, and on the other hand, there was no data collection or request for deaths caused by faulty items or administrations.<sup>1</sup> In a nutshell, there was no administrative power to monitor or control buyer rights breaches. With the passage of the Consumer Protection Act of 2019 and the repeal of the 1986 Consumer Protection Act, India has entered previously uncharted territory in terms of consumer rights.

Customers are the ones that buy or rent items and services from vendors, resulting in more jobs, hence consumer rights are critical to any economy's growth. As a result, consumers' rights must be protected. As a result of globalization and better consumer awareness, consumer rights have become increasingly crucial. On the other side, offering a wide range of products and services may put customers at risk because not all suppliers and service providers are trustworthy. Despite the numerous laws designed to protect consumers' interests, the fact is that consumer protection measures have remained tiny healing drops in an ocean of shopper pain, and the vast majority of individuals are unaware that they are protected as customers by a

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<sup>1</sup> Chatterjee, A. and Sahoo, S. "Consumer Protection: Problems and Prospects", *Postmodern Openings*, 2011 7(9), pp.157-182.

variety of laws. Although the government has done a lot of effort to protect consumers, it is up to customers to use all of the safeguards and do their own due diligence when purchasing products or ordering services. Consumers can only keep control by using their legal rights. The Consumer Protection Act of 2019 has given India a new consumer protection framework. The new legislation strengthens consumer safeguards and expands consumer options, but it is not without flaws.

## **HISTORICAL BACKGROUND**

In India, consumer protection dates back to the dawn of time. Ancient India, Medieval India, and Post-Independence India may all be examined under the heading of consumer protection.

### **IN ANCIENT INDIA**

Consumer protection against unscrupulous, unfair, and unethical acts, as well as defending customers' interests, has been a feature of the Indian government for ages. Ancient Indian Dharmas such as Manu Smriti (800 BC to 600 BC), Yajnavalkya Smriti (300 B.C. to 100 B.C), Narada Smriti (100 A.D to 200 A.D.), Brihaspati Smriti (200A.D. to 400 A.D.), and Katyayana Smriti (300 A.D. to 600 A.D) (Prasad A.R, 2008) detailed the lifestyle. Kautilya suggested many punishments for various sorts of exploitation, as well as incorrect measures and services. Consumer protection was an element of common law throughout their time. (Shamasastri, 1951).

### **IN MEDIEVAL PERIOD**

During the medieval period, Muslim rulers that controlled India, such as Alauddin Khilji, Sher Shah Suri, and Akbar, among others, considered consumer protection to be one of their top priorities (Singh, 2014). They initiated the standardization of weights and measures.

### **IN PRE-INDEPENDENCE**

British monarchs merged traditional practices and culture (dharma) with a unified national legal system that incorporates contemporary features of British localism (Prasad, 2008). They have introduced Acts like:

- The Indian Penal Code, 1860

- Carriers Act, 1865 Law of Tort
- The Indian Contract Act, 1872
- The Agricultural Produce (Grading & Marking) Act, 1937
- The Drugs and Cosmetics Act, 1940

## **IN POST-INDEPENDENCE**

Several laws were passed in India after independence to protect innocent consumers from unfair and restrictive trade practices such as false and misleading descriptions of the nature and quality of goods, exaggerated statements about their power and potency, false weights and measurements, and obstruction of capital and resources into the production stream.<sup>2</sup>

The Drug Control Act of 1950 was the first bill enacted to safeguard consumers following independence. It was followed by the Industries (Development and Regulation) Act of 1951, the Indian Standards Institution (Certificate Marks) Act of 1952, and the Drugs and Magic Remedies (Objectionable Advertisements) Act of 1954. Despite the fact that these Acts were meant to safeguard consumers, they did not produce the expected outcomes.

## **CONSUMER PROTECTION ACT, 2019- WHY THIS ACT?**

The digital revolution ushered forth a new era of commerce and digital marketing. Because of digitalization, consumers now have quick access to a choice of options, flexible payment systems, enhanced facilities, and convenience-based purchasing. However, it has also raised concerns about consumer safety along the route. In light of this, and in an effort to address the new set of challenges that consumers face in the age of digitalization, the Indian Parliament passed the landmark Consumer Protection Bill, 2019, on August 6, 2019, with the goal of providing timely and effective management and resolution of consumer disputes. The Consumer Protection Act, 2019 (New Act) received the President of India's assent and was published in India's official gazette on August 9, 2019. The New Act, which superseded the Consumer Protection Act of 1986, went into effect on July 20, 2020.

The most essential aspect of the new Consumer Protection Act 2019 is the formation of a

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<sup>2</sup> Aggarwal, VK. Consumer Protection: Law and Practice, Bharat Law House, Delhi.

regulatory organization, the Central Consumer Protection Authority, with broad powers to promote, defend, and enforce consumer rights. The Act also attempts to improve the operation of consumer courts and provides for the formation of consumer mediation cells affiliated to consumer courts at the district and state levels in order to resolve conflicts more quickly. The legislation also establishes a manufacturer's duty for bodily harm, death, or property damage caused by a faulty product.<sup>3</sup> If properly implemented, the proposed new law will undoubtedly revolutionize consumer protection in India.

### **CONSUMER PROTECTION ACT, 2019- INDIAN REGIME:**

The Lok Sabha approved the Consumer Protection Bill, 2019, on July 30, 2019, and the Rajya Sabha passed it on August 6, 2019. Mr. Ram Vilas Paswan, Minister of Consumer Affairs, Food and Public Distribution, proposed this measure in Parliament. The main goal of the Consumer Protection Act of 2019 is to protect consumers' rights by establishing authorities for fast and effective administration and resolution of consumer complaints.

The Consumer Protection Act of 2019 has undergone some significant revisions:

- Both physical and online clients are referred to as "consumers." "Buys or hires any products" and "hires or avails any services" would include offline or online transactions via electronic means, such as teleshopping, direct selling, or multi-level marketing.
- Establishment of the Central Consumer Protection Authority (CCPA) to promote, protect, and enforce consumer rights, to investigate and intervene when necessary to prevent consumer harm from unfair business practices, and to file class actions, such as product recall, refund, and return.
- Product liability laws create a manufacturer's responsibility to a claimant in the event of harm caused by or resulting from any product.
- Under consumer protection law, e-commerce standards would be required, with a 14-day timeframe to process refund requests. It would require merchants to post information on vendors who provide products and services on their websites, as well as rethink the process for resolving customer complaints. E-commerce businesses would likewise be obligated to

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<sup>3</sup> [www.consumeraffairs.nic.in](http://www.consumeraffairs.nic.in)

secure their consumers' personally identifiable information. Terms of contract between an e-Commerce organization and a seller pertaining to return, refund, exchange, warranty/guarantee, delivery/shipment, method of payment, grievance redressal system, and so on must be presented to allow customers to make informed judgments.

- Sections 74-80 of the Consumer Protection Act of 2019 include provisions for mediation as an alternative dispute resolution (ADR) process. Its goal is to create a legal foundation for the resolution of consumer disputes through mediation, making the process less burdensome, simpler, and faster.
- According to Section 74 of the New Consumer Protection Act, the State Government would establish a consumer mediation cell that would be linked to the consumer courts and each regional bench.
- The 2019 Act criminalizes wrongdoing. Though Indian Consumer Law has mostly met the needs of consumers who have been harmed by unfair commercial practices and other wrongs committed against them, it has lacked criminal punishments for all such wrongs. For the first time, some wrongs committed against customers have been designated as crimes under the Consumer Protection Act 2019.
- Wrongdoing is penalized by law under Sections 88 and 89 of the new Act. According to the Act, if an investigation reveals acts of "violation of consumer rights" or "unfair trade practice," the Central Consumer Protection Authority [Central Authority] may order the recall of dangerous, hazardous, or unsafe goods or services, or the reimbursement of prices for such goods or services, or the discontinuation of such unfair and other practices prejudicial to consumers under Section 20. Recalls are currently available as a remedy for hazardous items under the BIS Act 2016, the Drugs and Cosmetics Act, 1940, the Medical Devices Rules 2017, and other statutes.
- According to Section 89, a manufacturer or service provider that makes a false or misleading marketing that is harmful to clients faces a two-year prison sentence or a fine of up to ten lakh rupees. Repeated offences can result in a five-year prison sentence and a fine of up to Rs. 50 lakh.
- Section 90 of the revised Consumer Act deals with offences involving adulterants.

## **WHETHER NEW CHANGES REQUIRED?**

On August 9th, 2019, the President signed the Consumer Protection Act of 2019, which was enacted by Parliament. It won't go into effect until July 20, 2020, though. This legislation replaced the Consumer Protection Act of 1986. Rather than amending the 1986 Act, the government enacted a new Act to provide enhanced consumer protection, taking into account the booming e-commerce industry as well as modern methods of providing goods and services, such as online sales, tele-shopping, direct selling, and multi-level marketing, as well as traditional methods. Several consumer advocates have applauded the new Act for being forward-thinking and including creative measures to protect the interests of unwitting customers. This is an important step in the backdrop of India's transition to one of the world's largest e-commerce markets, with the government pushing MSMEs that depend increasingly heavily on online marketing. Apart from the epidemic, the online transactions have been greatly influenced all over the world.

The creation of Consumer Protection Councils at the Central, State, and District levels, as well as the introduction of a new in-house machinery, the Central Consumer Protection Authority (CCPA), which will have broad investigative powers, including the power of search and seizure, will mark a watershed moment for this new Act.

The Consumer Protection Act of 2019 defines product liability as "the duty of a product maker or product seller of any product or service to pay for any harm caused to a consumer by such faulty product created or sold or by deficiency in services connected thereto Section 2(34)<sup>4</sup>. The customer is entitled to compensation for any injury caused by a defective product created by a manufacturer, maintained by a service provider, or sold by a seller. As a result, the impact includes not only the manufacturer, but also the service provider and sale. According to the new legislation, these business channel middlemen are equally liable for deceptive ads.

The Consumer Protection Act of 2019 is, indeed, a solution to long-discussed concerns about different changes that have occurred in the marketplace over the last three decades, particularly digital consumerism.

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<sup>4</sup> [www.ncdrc.nic.in](http://www.ncdrc.nic.in)

## JUDICIAL TRENDS

The twenty-first century is recognized for globalization, which implies that the importance of consumers cannot be overlooked since the entire structure of globalization is built on the pillar of consumerism. It is widely held that business begins with customer requirements and ends with customer happiness; hence, it is critical to protect consumers' interests and rights. It is difficult for any nation in today's world to survive in the twenty-first century without building a welfare consumerism system or mechanism. Customers who are informed, convinced, and driven are regarded as the engines of monetary change in any community.

Articles 47, 46, 43, 42, 39, and 38 impose on the state the task of attempting to establish social order in society for the advancement of people's interests. It is also essential of the state that its policies be directed in such a way that there is no concentration of wealth. The concentration of business in a few hands is detrimental to the consumer's interests, and so is outlawed by India's constitution. Concentration of wealth, means of production, and common detriments are the three types of concentration that have been rightfully outlawed.

Some of the significant judgments are as follow:-

1. In *Arkadeep Sarkar v. Yauatcha, Kolkata*<sup>5</sup>, Kolkata Unit-II(Central) of the District Consumer Disputes Redress Commission: While opposing a restaurant's service fee, Coram of Swapan Kumar Mahanty (President) and Ashoke Kumar Ganguly (Member) declared that a customer cannot be forced to pay a "service charge" in a restaurant: The Consumer Forum judges the restaurant's behaviour to be in violation of the Consumer Protection Act's principles.

2. *Shrikant G. Mantri vs Punjab National Bank*<sup>6</sup>, the court decided that the links between the parties in this case are exclusively contractual "a "business-to-business" association As such, the transactions would unquestionably fall under the heading of commercial purpose.' It is not permissible to argue that the services were utilized "exclusively for the purpose of earning a living" or "through self-employment." If the appellant's point of view is accepted, then 'business-to-business' conflicts must also be interpreted as consumer disputes, undermining the entire goal of enabling rapid and easy resolution of

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<sup>5</sup> Complaint Case No. CC/391/2019

<sup>6</sup> 2022 LiveLaw (SC) 221



consumer difficulties "In its conclusion dismissing the appeal, the court stated.

3. Vodafone Idea Cellular Ltd. vs. Ajay Kumar Agarwal, the Supreme Court ruled that consumer complaints against telecom providers can be filed with the Consumer Forum/Commission and dismissed Vodafone - Idea's appeal. The three-judge panel, comprised of Justices DY Chandrachud, Surya Kant, and Vikram Nath, held that the presence of an arbitral remedy under the Indian Telegraph Act, of 1885, does not exclude the consumer forum's jurisdiction.

4. Manohar Infrastructure and Constructions Pvt. Ltd. v. Sanjeev Kumar Sharma<sup>7</sup>

The Supreme Court ruled that the National Consumer Disputes Redressal Commission (NCDRC) has the authority to mandate the deposit of the whole amount or more than 50% of the amount set by the State Consumer Disputes Redressal Commission for conditional stay.

5. Co-operative Housing Society Ltd v. Mumbai Mahalaxmi Construction Pvt. Ltd

The Supreme Court ruled that the builder's failure to provide an occupancy certificate is a continuing breach of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management, and Transfer) Act 1963, as well as a deficiency in service under the Consumer Protection Act, and amounts to a continuing wrong.

Furthermore, the government has begun to promote in order to attract consumers or customers, and government websites have been established in response. Consumers may now register complaints online using e-dakhil.

## CONCLUSION

Consumers are being abused by deceptive and misleading marketing, despite the fact that different legislation exist to protect them from unfair trade practices. Consumer awareness through consumer education and government, consumer activist, and organization actions, however, are critical to the success of the consumer protection movement in the nation. The Consumer Protection Act of 2019 amends the Consumer Protection Act of 1986 in a variety of

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<sup>7</sup> 2022 SCC Online SC 35

ways, as can be observed. India's consumer protection regulations have been broadened under the Consumer Protection Act of 2019. The Consumer Protection Act of 2019 appears to provide customers more power by imposing greater accountability on sellers, manufacturers, and service providers, as well as product endorsers.

It is intended that the new Consumer Protection Act 2019 would address the deficiencies of the old legislation, and that consumer forums will act quickly to clear the backlog of cases standing before them, therefore bolstering India's consumer movement.

Thus, unlike earlier legislation, the Act not only establishes consumer rights, but also includes legal requirements necessary to preserve those rights, such as declaring violations of some of those rights to be crimes. It was also necessary to restrict advertising endorsements that were deceptive, as well as to enforce product responsibility for items that caused injury to customers. The significant change brought in by the new law is the imposition of criminal culpability in addition to civil punishments. This course of action was neither inevitable nor entirely justified. Will this strategy have the desired 'deterrent' effect? This is a question that may be addressed in time.

The Consumer Protection Act of 2019 is, indeed, a solution to long-debated concerns regarding numerous developments in the marketplace over the last three decades, particularly digital consumerism. Without a question, the new legislation has empowered consumers to a larger extent, but it also has the potential to have major consequences for numerous business channels.