
CONSUMER PROTECTION AND CONSUMER SOVEREIGNTY

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ABSTRACT

Consumer protection includes laws, regulations, and organizations that safeguard consumer rights, combat fraud, and promote fair competition. These elements are vital components of a functioning market economy as they balance the power dynamics between businesses and consumers. Although consumer protection is not a novel idea, its significance has grown considerably in light of expanding markets and increasing globalization. In a world where consumers face a growing complexity and variety of products and services, protective measures are essential for ensuring safety, rights, and satisfaction.

This article explores the various aspects of consumer protection, covering its historical evolution, fundamental principles, legal structures, and the part consumers play in championing their rights.

Keywords: Consumer Protection, Evolution of Consumer Laws, Consumer Sovereignty, Consumer Rights,

Introduction

How can we determine if an apple we purchase is safe for consumption; whether the pound of butter being sold is truly a pound (or actually butter); whether our smartphone might explode in our hands or transmit all our data to governmental authorities; or if a taxi driver might overcharge us (or worse)? These kinds of concerns have led to the establishment of consumer-protection legislation. However, with the rise of new methods for sharing information and assessing suppliers, are such laws still necessary?

Consumer protection is an activity that involves both the government and businesses, with the primary goal of ensuring consumer satisfaction. In India, even prior to independence, protecting consumers has been part of the responsibilities of those in authority. The notion of consumer sovereignty in the marketplace is largely an illusion, particularly in the context of India. In reality, the consumer is considered a king only in title, lacking any real power, privileges, or rights.¹

WHY CONSUMER PROTECTION

In the current socio-economic landscape, consumers often fall victim to numerous unfair and unethical practices prevalent in the marketplace. An untrained consumer is outmatched by the organized efforts of businesses that employ skilled professionals to market their goods and services. Unfortunately, they frequently face deception regarding the quality, quantity, and price of what they purchase. In a free market economy, a consumer is considered to be a king.

The dynamics between buyers and sellers have evolved over time. The principle of caveat emptor, which translates to "let the buyer beware," governed the interactions between sellers and buyers in earlier times. In traditional marketplaces, buyers and sellers interacted directly; the seller showcased their goods while the buyer scrutinized them thoroughly before making a purchase. It was anticipated that the buyer would approach the transaction with a high level of caution and expertise. The previous notion of caveat emptor has now shifted to caveat venditor, or "let the seller beware."

¹ Dr. Seema Kashyap and Priyanka "Evolution of consumer Protection legislations in India: A study" | Volume 8, Issue 6 June 2023 | ISSN: 2456-4184 | IJNRD.ORG

According to Mahatma Gandhi, “A customer is the most important visitor on us. We are dependent on him. He is not an interruption in our work. He is the purpose of it. He is not an outsider on our business. He is part of it. We are not doing him a favor by serving him. He is doing a favour by giving us an opportunity to do so.”²

A consumer is referred to as a king in a free market system. From the moment an individual enters this world, they start to consume. They need food, clothing, shelter, and various other essentials, which they will satisfy through different means over their lifetime.

EVOLUTION OF CONSUMER LEGISLATION

Laws for consumer protection have a long history. The code of Hammurabi from Babylon, created around 1760 BC, established pricing for different products and services, including everything from medical procedures to the rental of ships.³

The text also established "prices" for different types of harm, such as theft and injury (for instance, rule number 196 states: “If a man causes the loss of another man’s eye, his eye shall be lost in return.”). Roman emperors implemented various regulations to create standard weights and measures,⁴ which were later adapted by medieval kings and local governments under different forms. Some of these laws included very detailed stipulations. The Assisa panis et cervisia (“Assize of bread and ale”) issued by Henry III in 1256 standardized the selling prices of bread and ale in various amounts across England⁵. At the same time, Bavaria's Rienehtsgebot of 1516 mandated that beer could only be made from hops, barley, and water.

In the 19th century, scientific and industrial advancements significantly enhanced the precision of measurements, resulting in improved and more dependable standards, as well as more effective methods for identifying potentially harmful additives. Concurrently, the processes of industrialization and urbanization led to an increase in the availability of mass-produced

² S. A. Sherlekar, *Trade, Practices and Consumerism* 5 (Himalaya Publishing House, Bombay, 1977).

³The Code of Hammurabi Translated by L. W. King, YALE LAW SCHOOL (no date), <https://avalon.law.yale.edu/ancient/hamframe.asp>.

⁴Philip Smither, Roman Weights and Measures, UNIVERSITY OF KENT (Dec. 13, 2017), <https://blogs.kent.ac.uk/lucius romans/2017/12/13/roman-weights-and-measures>.

⁵ James Davis, Baking for the Common Good: A Reassessment of the Assize of Bread in Medieval England, 3 *ECON. HIST. REV.* 465 (August 2004). While the assize promulgated in 1256 (51 Henry III) is the best-known and longest lasting, it built upon earlier similar laws, including those proclaimed by Henry II (1154–89), Richard I (1189–99), and John (1199—1216) in England, and others imposed across Europe from 794 AD onwards.

processed foods. A number of these products included various "adulterants" that diminished the quality of the food, some of which posed health risks.

Brief History of Consumer Protection in India

Idea of Consumer protection During Ancient Times

Consumer protection has its origins deeply embedded in the rich heritage of Indian civilization, which can be traced back to 3200 B.C. In ancient India, human values were highly regarded, and ethical practices were deemed vitally important. The rulers prioritized the well-being of their subjects as a key concern. They showed a strong interest in regulating both social conditions and the economic activities of the populace, implementing numerous trade restrictions to safeguard the interests of consumers. This article explores the historical context of consumer protection in India, spanning from the Vedic age ⁶(ancient period) to the contemporary era. It also briefly examines the evolution of consumer law in India. Finally, an effort is made to discuss the legal framework established by the Indian Consumer Protection Act of 1986, which contributed to the emergence of a new legal culture in the country.

In ancient India, all societal groups adhered to the Dharma-sastras⁷ ("Dharma"), which outlined social regulations and norms, serving as the guiding principle for human interactions. The concepts of Dharma were derived from the Vedas.⁸ The Vedas were regarded as the divine words and law was believed to have a heavenly origin, communicated to society through sages⁹. Consequently, the Vedas were the foundational sources of law in India¹⁰.

Numerous authors and commentators from ancient times recorded the lifestyle of the populace through their creative and spiritual texts, such as Smriti¹¹ (tradition) and Sruti¹² (revelation). They also established guidelines for kings and rulers on how to govern the state and its citizens. The protection of consumers was also a significant issue addressed in their writings.¹³

⁶ Gurjeet Singh "The problem of Consumer Protection in India: A Historical Perspective" Consumer Protection Reporter 704 at 705, n.6 (1994 III)

⁷ Codes of morals. They also deal with the rules of conduct, law and customs.

⁸ Shraddhakar Supakar, Law of Procedure and Justice in India, 38 (1986). Veda means knowledge. There are four Vedas: the Rigveda, the Yajurveda, the Samaveda and the Atharvaveda.

⁹ Id. at 39.

¹⁰ Id. at 41

¹¹ It is also called Vedas.

¹² The words of God

¹³ Dr. A. Rajendra Prasad "Historical Evolution of Consumer Protection and Law in India" jccl_india.pdf

Consumer Protection During Medieval Times

The main concern of the rulers. During the period of Muslim governance, a variety of weight units, measures were utilized in India.¹⁴ During the Sultanate era, prices were influenced by local conditions.¹⁵ Under Alauddin Khalji's rule,¹⁶ stringent market controls were implemented¹⁷. At that time, there was a constant supply of grain to the city, and grain-carriers sold at prices set by the Sultan.¹⁸ There was a system in place for enforcing prices in the market. Likewise, shopkeepers faced penalties for providing insufficient weights for their products.¹⁹

Consumer Protection During British Period

In the modern era, the British system replaced the longstanding traditional legal framework of India. Nonetheless, one significant achievement of British rule in India was the establishment of a cohesive modern legal system across the nation²⁰. During the British era, the Indian legal structure underwent a complete transformation as the English legal system was introduced to deliver justice. However, it is crucial to acknowledge that Indian traditions and customs were not overlooked. The law itself was significantly modified, with British institutions and regulations being paired with structural elements (such as separate personal laws) and rules (like Dharma and local custom) that resonated with local comprehension. The adopted elements underwent over one and a half centuries of refinement in which British peculiarities and inconsistencies were removed, and rules were elaborated to address new categories of individuals, property, and transactions.²¹ To deliver justice, they faced the challenge of determining the appropriate value to assign to Indian traditions and customs in practical terms.²² Despite the difficulties of merging the British and Indian legal frameworks, the essence of modern Indian Law is distinctly Indian in its perspective and functioning, and consumer protection reflects this viewpoint as well.²³

¹⁴ Maulana Hakim Syed Abdul Hai, *India-During Muslim Rule* 127 (Mohiuddin Ahmad trans., 1977).

¹⁵ S.R.Bakshi, *Advanced History of Medieval India* Vol. 1 287 (2003)

¹⁶ 1296 – 1316.

¹⁷ Irfan Habib, *The Price Regulations 'Ala' Uddin Khalji – A Defence of 'Za' Barani*, in *Money and the Market in India 1100-1700* 85 (Sanjay Subrahmanyam ed., 1998).

¹⁸ *Id.* at 88.

¹⁹ *Id.* at 89.

²⁰ Marc. Galanter, *Law and Society in Modern India* 15 (1997).

²¹ Galanter, *supra* note 41, at 48

²² Robert Lingat, *The Classical Law of India* 137 (1998).

²³ Galanter, *supra* note 41, at 49.

Some of the legislations enacted during the British period that pertained to consumer rights include the Indian Contract Act of 1872, the Sale of Goods Act of 1930, the Indian Penal Code of 1860, the Drugs and Cosmetics Act of 1940, the Usurious Loans Act of 1918, and the Agriculture Procedure (Grading and Marketing Act) of 1937. These laws offered specific legal safeguards for consumers.

The Consumer Protection Act (CPA) of 1986 in India and the Development of a New Legal Framework

The Indian legal framework underwent a transformation with the implementation of the Consumer Protection Act of 1986 [“CPA”], which was specifically designed to safeguard consumer rights. The CPA was enacted with clear goals in mind. It aims to deliver justice that is “less formal, [and involves] less paperwork, less delay, and less [cost].” The CPA has gained widespread acknowledgment in India as legislation for the common man, facilitating easy access to justice. Nonetheless, the CPA merely adds a new perspective to rights that have been acknowledged and defended since ancient times. It is accurately stated that “the current emphasis on consumer rights . . . is not unprecedented and that rights such as the entitlement to safe, unadulterated, and defect-free products at fair prices have been recognized since ancient history.”²⁴

The CPA's significance lies in its adaptable legal framework, broader jurisdiction, and affordable justice. Within the CPA, one can see a blend of tort and contract principles. In simple terms, it serves as a concise reference for the numerous facets of general law.²⁵ Essentially, the CPA relaxes the rigid traditional standing rules and enables consumers to take action under it.²⁶ Consumer organizations, as well as central and state governments, have the authority to file complaints under the CPA. This relaxation illustrates a commitment to advocate for the interests of vulnerable, disengaged, and uneducated consumers. A unique aspect of the CPA is that it encompasses both goods and services. Consumers can file lawsuits for faulty products as well as for inadequate services. In cases of inadequacy, services rendered by both government and private entities can be challenged under the CPA. The CPA has also eased strict procedural stipulations and presented straightforward and accessible methods for seeking

²⁴ Singh, *supra* note 1, at 719.

²⁵ Bill Thomas, *The Legal Framework of Consumer Protection*, in *Marketing and the Consumer Movement* 49 (Jeremy Mitchell ed., 1978).

²⁶ The Consumer Protection Act, No. 68 of 1986; India Code (1986)

justice. To initiate a complaint under the CPA, a consumer is required to pay only a minimal fee and does not need to notify the opposing party. A simple letter sent to the consumer forum is sufficient to trigger legal proceedings. Another significant procedural flexibility is that consumers have the choice to hire a lawyer or represent themselves if they wish. These straightforward measures encourage consumers to take advantage of the CPA's benefits.

The Consumer Protection Act of 2019

The realm of consumer protection in India has experienced a significant transformation with the introduction of the Consumer Protection Act, 2019. This groundbreaking legislation supplants the previous Consumer Protection Act of 1986, which had increasingly fallen short in addressing the complexities of contemporary consumer markets, especially in light of rapid technological advancements and the growth of e-commerce. As consumers navigate a marketplace marked by digital transactions, complex supply chains, and aggressive marketing strategies, the demand for robust legal protections has become more urgent than ever.

The Consumer Protection Act, 2019, not only expands the range of consumer rights but also implements crucial structural reforms intended to improve the efficiency and effectiveness of mechanisms for addressing consumer grievances. At the heart of this reform is the establishment of the Central Consumer Protection Authority (CCPA), a specialized regulatory body tasked with the promotion, protection, and enforcement of consumer rights. The CCPA is empowered to investigate unfair trade practices, recall unsafe products, and initiate class-action lawsuits, effectively shifting the responsibility for enforcement from individual consumers to a centralized authority.

In addition to bolstering enforcement mechanisms, the Act tackles modern challenges in consumer protection, including those stemming from the digital marketplace. With specific provisions for e-commerce, this legislation aims to guarantee transparency, accountability, and consumer safety in online transactions. Furthermore, the Act outlines rights related to product liability, unfair trade practices, and deceptive advertising, equipping consumers with a comprehensive framework for seeking redress.²⁷

²⁷ Hariom Gupta and Amit Singh "The Consumer Protection Act, 2019: A comparative analysis of legislative frameworks in India and Other Jurisdictions" *International Journal of Criminal, Common and Statutory Law* 2024; 4(2): 155-162

Key Provisions of the Consumer Protection Act, 2019

1. Creation of the Central Consumer Protection Authority. (CCPA)

A key aspect of the 2019 Act is the establishment of the Central Consumer Protection Authority (CCPA). This regulatory organization is responsible for safeguarding, promoting, and enforcing consumer rights. The CCPA is endowed with extensive powers, such as the ability to investigate breaches of consumer rights, pursue class-action lawsuits, recall hazardous products, and issue directives to halt unfair trading practices.

The CCPA represents an important advancement as it transfers the responsibility of enforcement from individual consumers to a centralized authority. This makes it simpler for consumers to obtain redress for problems such as misleading advertisements, defective products, and unfair business practices, which can now be addressed more rapidly and effectively. Additionally, it takes a proactive stance in promoting consumer awareness and educational initiatives, ensuring that consumers understand their rights.

2. Consumer Grievance Redressal Mechanism.

The 2019 Act maintains the three-tier framework for resolving consumer disputes that was established under the 1986 Act, albeit with some updates. This structure comprises:

- a) District Consumer Disputes Redressal Forum for claims up to ₹1 crore.
- b) State Consumer Disputes Redressal Commission for claims ranging from ₹1 crore to ₹10 crore.
- c) National Consumer Disputes Redressal Commission (NCDRC) for claims exceeding ₹10 crore.

A notable enhancement in the 2019 Act is the incorporation of mediation as an alternative dispute resolution (ADR) option. If both parties agree, disputes may be directed to mediation to accelerate the resolution process. This measure aims to alleviate the strain on consumer courts, which have historically encountered significant delays due to a large number of cases.

3. Product Liability and Penalties.

The 2019 Act introduces specific clauses concerning product liability, which hold manufacturers, service providers, and sellers responsible for any damage resulting from defective goods or inadequate services. This implies that consumers can pursue compensation not only from the seller but from any participant in the supply chain, including manufacturers and service providers. The inclusion of product liability is especially relevant in the current marketplace, where products are frequently created and sold by multiple parties within intricate supply chains.

The Act also imposes strict penalties for misleading advertisements and unfair trade practices. As an example, endorsers of misleading advertisements can now be held liable and fined up to ₹10 lakh for their initial violation. Repeated offenses may lead to imprisonment for a term of up to five years. This provision seeks to ensure increased responsibility and accountability, particularly from celebrities and influencers who promote products.

4 E-commerce and Online Consumer Protection.

The growth of e-commerce and digital markets has introduced new challenges for consumer protection, which were not sufficiently addressed by the 1986 Act. The 2019 Act contains specific regulations tailored for e-commerce platforms and online transactions. E-commerce platforms must adhere to the Act's guidelines, including providing seller information, establishing consumer-friendly return policies, and ensuring transaction transparency. Furthermore, the Act grants consumers the ability to seek redress for issues arising from online purchases, thereby safeguarding their rights in digital transactions as well. The Consumer Protection (E-Commerce) Rules, 2020, which are derived from the 2019 Act, further outline the responsibilities of e-commerce companies. These responsibilities include mandatory guidelines for price transparency, ensuring product authenticity, establishing a clear refund process, and safeguarding consumer data privacy. This is especially crucial given the swift expansion of online marketplaces and digital transactions in India.

5. Unfair Trade Practices and Misleading Advertisements.

The 2019 Act offers a more thorough definition of unfair trade practices and incorporates strategies to address misleading advertisements. It empowers the CCPA to take proactive

measures against businesses that engage in practices such as false advertising, misleading claims regarding product quality or standards, and unfair contract terms. Additionally, the Act allows consumers to lodge complaints about misleading advertisements directly with consumer commissions. This provision marks a significant advancement in combating the growing issue of deceptive marketing, which has proliferated with the rise of social media and online advertising.

6. Broadened Consumer Rights

The 2019 legislation outlines various rights for consumers, including:

- The right to protection from the marketing of dangerous products.
- The right to receive information regarding the quality, quantity, potency, purity, and pricing of goods.
- The right to have a voice in suitable forums.
- The right to pursue redress for unfair trade practices or exploitation by unscrupulous entities.
- The right to consumer education, ensuring individuals understand their rights and obligations.

7. Penalties for Producers and Service Providers

The law also establishes new penalties for producers and service providers found to be guilty of offering defective goods or services. When defective items lead to injury or fatalities, the responsible party could face severe fines and possibly imprisonment. This provision aims to ensure business accountability and discourage the distribution of inferior products in the marketplace.

Conclusion

The Consumer Protection Act of 2019 represents a significant advancement in the development of consumer rights in India, especially as it tackles the challenges brought about by rapidly evolving market conditions and technological progress. This legislation replaces the previous

framework established in 1986 and introduces several essential provisions aimed at empowering consumers, enhancing transparency, and holding businesses accountable for their actions. A key feature of this Act is the creation of the Central Consumer Protection Authority (CCPA), which acts as a regulatory entity with the power to initiate inquiries, recall unsafe products, and take action against unfair trade practices. This transition not only bolsters consumer protection but also greatly alleviates the burden on individuals who previously had to navigate the complexities of legal recourse independently. Moreover, the Act's focus on a comprehensive grievance redressal system is crucial for effectively resolving consumer disputes. The three-tier structure, consisting of district, state, and national forums, makes it easier for consumers to access justice at various levels.

The integration of mediation as an alternative dispute resolution mechanism further strengthens this framework by providing a quicker and less confrontational way to settle conflicts. These provisions are particularly crucial in an age where consumer transactions increasingly take place online, often involving significant complexities and risks. Nevertheless, despite the Act's progress, several implementation challenges persist. The effectiveness of resolving consumer disputes is hindered by delays and backlogs in the legal system, discouraging consumers from seeking justice. Additionally, there is a considerable lack of awareness among consumers regarding their rights and the available redressal mechanisms. This lack of knowledge, particularly among marginalized populations, can weaken the law's efficacy. Furthermore, as e-commerce continues to develop, concerns related to data privacy and cybersecurity introduce new hurdles for consumer protection.²⁸

The growth of globalization and cross-border e-commerce brings additional complexities, especially concerning jurisdiction and regulatory enforcement. Indian consumers engaging in international transactions frequently encounter inadequate protection when disputes arise, underscoring the necessity for more cohesive regulatory frameworks. In summary, while the Consumer Protection Act of 2019 provides a solid foundation for safeguarding consumer rights in India, continuing efforts are essential to overcome its implementation challenges. Policymakers should prioritize boosting consumer education, enhance the efficiency of grievance redressal, and adapt regulatory measures to the swiftly changing digital market. By doing this, India can ensure that consumer rights are not only acknowledged but also actively

²⁸ Sinha R, Das A. Consumer Awareness and the Consumer Protection Act, 2019: A Study of the Indian Context. *International Journal of Consumer Studies*. 2019;43(5):482-9.

shielded in a fair and transparent manner, thereby promoting a more equitable economic landscape.²⁹

²⁹ Rai S. Challenges in the Implementation of Consumer Protection Laws in India. *Journal of Consumer Policy*. 2020;43(4):423-39.