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NEW CONSUMER PROTECTION ACT MOVING TOWARDS THE DIFFERENT HORIZON

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Abstract

The Consumer Protection Act, enacted by parliament in 1986 as replacement of Sales of Goods Act, 1930 had been protecting consumers from unfair and unjust trade practices of traders from 35 years. During these 35 years, the way as well as choice of consumers have changed considerably. From having products next to door to online window shopping, life of consumers as well as producers have witnessed a significant variation. The old legislation did not provide the provisions for modern technology which is used by consumers and producers for purchasing and selling products. The new act eliminates the odds of old act and provides benefits like transparency of e-commerce companies, e-filing of complaints, e-commerce including restrictions on misleading advertisements. The new Consumer Protection Act, 2019 aims at delivering justice to consumers by giving them opportunity to not pay a single penny to claim the damages upto Rupees 5lakh. Speedy dispute resolution is also granted under this act, SCRC and NCRC are authorised to deem into any terms of contract between consumer and manufacturer, service provider. As it was mentioned in older act 1986 that consumer can only file complaint where opposite party resides, but now through the new act, the consumer can file complaint where lives.

Introduction

The Consumer Protection Act, 2000 is the Act which is enacted by the Parliament in the year 1986 for the protection of the interest of the consumers in India. The Consumer Protection Act provides for fast and simple remedy to consumers under a three-tier quasi-judicial agency at the District, State and National levels. Act of Sales of Goods which was enacted in 1930 was the exclusive source of consumer protection in India till 1986. This Act was replaced by Consumer Protection Act, 1986 and then supplanted by The Consumer Protection Act, 2019. The act gave customers given rights –

- Right to Safety- This right protects the consumer from hazardous trading
 of goods and services. According to this right, the products should not
 fulfil only immediate need but also accomplish the future interests of
 consumers. Up
- Right to information- This right aim at providing information about quality, quantity, standard, goodness and costs of goods to consumers against the unjust trade practices. Without knowing the exact quality, quantity, purity, goodness, standard and potency of
- goods the consumer will not be able to make the right decision.
- Right to Choose- Consumer is insured to variety of goods and services under this right at competitive prices. In oligopoly market, consumer is not free to choose the best for himself/herself. It includes the right of basic goods and services. However, consumer is exploited despite the rights given to him like the supply of electricity, roads, public transports etcetera.
- Right to be heard and represent-This right aims to provide consumer simple and speedy trial so as to solve their problems immediately. Long and time taking trials prevent consumer from taking action. Right to representation in courts and forums made for consumer's welfare is also included in this right.
- Right to redress- Right to fair settlement for the loss of the consumer is contained in this right. Complaint for the loss must be filed by consumer.
 Grievance either small or big, it affects the society at large.

- Right to consume education- This right talks about awareness, skills and knowledge which are needed to consumer in order to make correct, valid and assured choices about goods and services. The consumer should be aware of basic consumer rights and duties and at the same time should know how to act on them. The knowledge of rights is important to become a sophisticated consumer.
- Right to basic needs- Basic needs like clean and proper food, fresh
 drinking water, health, sanitation and education constitute non-negotiable
 right. Every consumer either rich or poor has access to these basic rights
 without any discrimination. Without them life would be impossible to live.

This Consumer Protection Act 2019 received the President's stamp of approval to publish it on official gazette on 9thAugust, 2019 and it will come into force after the notification released by Central Government of India. The Consumer Protection Bill, 2019 attempts to strengthen the consumer rights and provides a mechanism for redressal of complaints regarding defects in goods and deficiency in services. The major provisions of this act are to provide administration for the smooth and prompt redressal of consumer disputes. With this new act now through this act the jurisdiction can be bought under e-commerce and tele-shopping industry.

With the evolution of the time and technology, traditional method of providing goods and services are substituted by modern methods. In earlier times, the goods, products were usually advertised in newspapers, magazines or pamphlets or through radio or television. Through the advancement of internet in 21st century and social media apps like Facebook, Twitter, Instagram, Youtube are used as medium of advertisement by various production companies. Now, shops, malls, bazaars are not only the places/source where consumer can buy products. e-commerce companies like **Amazon**, **Flipkart**, **Snapdeal**, **Meesho**

¹InsightsIAS, Insights into Editorial: The Consumer Protection Bill, 2019 (2019), https://www.insightsonindia.com/2019/08/13/insights-into-editorial-the-consumer-protection-bill-2019/ (last visited Jul 22, 2020).

provides variety of products including edible items and these are used by a lot of people. Website **india.com** has reported in April 2020 that **64%** Indian Consumers prefer online shopping. During the pandemic the rate was **46%**. Metropolitan cities likeBangalore, Delhi, Mumbai, Kolkata, Pune, Chennai, Gurgaon, Hydrabad, Ahmedabad, Cochin prefer online shopping the most. With the introduction of Urban Pro, the prodecure to get services has become as easy as using smartphones. Just one click, the services are available at Hence, there is an urge to the protection of consumers from the threat, harm which they are frequently prone to.

The Consumer Protection Act, 2019

The Ministry of Consumer Affairs, Food and Public Distribution on 20th July 2020 laid down the following provisions of this Act which will later come into force. This act has formed numerous liabilities for the manufacturer and producer of the services or products, electronic service provider, mislead advertisements. In case of drugs and medicines, to control the advertisement of drugs and to prohibit the advertisement for remedies related to magic qualities, the Drugs and magic remedies also known as Objectionable Advertisement Act was enacted in 1954. The amendment in this act has also brought the mediation process in the picture which will provide the additional or smooth settled mechanism for the consumer disputes.

Features of The New Consumer Protection Act, 2019

Jurisdiction

In the new act there are the key amendments in both the pecuniary and territorial jurisdictions i.e. consumer redressal forum

Territorial Jurisdiction: - In the provisions of Consumer Protection Act, 1986 the consumers (complainant) could lodge the complaint where other (opposite) party lives or do business. Now, new act has provided the benefit to the consumer of giving ease to file complaint wherever the consumer resides. This will aid the consumer in smooth and effective redressal of their grievances against their business for which there is no

branch or office in their state. The new law has provided e-filing of consumer complaints as well. Also consumers are not required to pay any fees if the claim is within Rupees 5lakhs. With this feature, consumers who were not able to file complaint after being cheated, thinking that their own money will spend in seeking justice. They too will now be able to file complaint.

Pecuniary Jurisdiction:-Earlier the pecuniary limit for the District Consumer Forum, State Consumer Forum, National Consumer Forum was up to 20 Lakhs, up to 1 crore, 1 crore respectively but the amendment in the act has increased the limit for District Forum to 1 crore, State Forum to 10 crore and National Forum to above 10 crore. Determination of the pecuniary jurisdiction for filing the complaint has also been changed. The financial jurisdiction was decided as per the worth of the goods and services earlier, as well as the damages were demanded. But now it is decided on the basis of the value of goods and services paid as payment. With this, the complaint would brought within the jurisdiction of State and National.

Transparency

As it is above mentioned that people now prefer online shopping, the chances of being cheated in online platform are huge. Keeping in mind the need for protection on consumer from such frauds and cheating, the e-commerce companies are expected to **disclose** all relevant information of products including the country of origin of products. This will ensure transparency between consumer and buyer. E-commerce is now tightly regulated and ordered to respond to the grievance of consumers within the prescribed time limit.

E-Filing of Complaints

The benefit for lodging complaints before the District Forums electronically within the rules which are yet to be prescribed by the government is given under the new Consumer Protection Act, 2919. In comparison to the provision of 1986 Act. Earlier there was no such relief but now the consumer can file the complaint electronically with this clause

and it will bring the speedy redressal for the complaint registered by them and this will also minimise manual labour of the consumers.

Now, complaint can be filed anywhere in the country so the restriction or barrier that the complainant had earlier is now diminished with the key changes in the following Act. Immediate action could be taken on the complaint and the consumers need not to hold back it for longer period. A consumer can conduct her/his case via video conferencing.

Empowerment of State and National Commission

The provisions in Section 49(2) and 59(2) empowers both the State and National to deem any terms of contract between the consumer and the manufacturer or service provider, as the case which may be unfair to any consumer, ineffective or void. This is a new provision which is vested upon State Consumer Disputes Redressal Commission(SCDRC) and National Consumer Dispute Redressal Commisson (NCDRC) which was not the part of old Consumer Protection Act.

Changed definition of Consumer

The amendments in the Consumer Protection Act have modified the definition of Consumer "buys any goods" and "hires or avails any services" includes offline or online transactions through electronic means or by teleshopping or direct selling or multi-level marketing"². With the magnification in the information and technology this act has also includes e-commerce provisions into this.

E-Commerce Transaction Inclusion and Misleading Advertisements

Earlier technology wasn't advanced for every transaction and purchase of products and services producers and consumers face to face contact was prerequisite but with the evolution and exploration in time and technology the face to face to contact is substituted with online dealing of goods and services along with transaction. According to the study conducted by YouGov and ACI Wordwide (NASDAQ:ACIW) in October 2019, **42%** of

²Section (2)(7) Explanation (b) of Consumer Protection Act, 2019

consumers prefer digital payment in India. Only 27% people prefer payment with cash. Unfair Trade Practices ambit has also been increased. With the amendment, where there is inclusion of misleading advertisement the consumers are protected from all the practices such as failing to take back the defective goods, no issue of the memo or bill after the purchase of the goods or services, disclosing the identity of the consumer, refund of the amount within the specified period of time. Celebrities endorsing misleading advertisements may not be punished but can be barred from endorsing.

Product Liability Clause

The concept of the Product Liability includes that consumer can claim the compensation from the product producer, item, service giver and salesperson of the product. It defines that the manufacturer, service provider of the goods will be held responsible to compensate for the harm which has been caused to the consumer from the selling or manufacturing of the defective goods. This clause has the exception that product service provider won't be held responsible in the case of altered, modified or misused goods. Earlier there was no specific provision for the product liability hence with the inclusion of this clause it will seek help to consumers against any harm they have suffered.

Central Consumer Protection Authority

In the 1986 Act there was no regulator to protect the interest of the consumer and incidents regarding unjust trade operations, misleading advertisements. Rights and interests of consumers were violated by profiteer and selfish businessmen. But under the new act Central Consumer Protection Authority will regulate, enforce and protect the interest of the consumer. They have the wide and vast power to take action against the violations of the provisions of 2019 act.

Limitation Period

The limitation period to file the complaint have been increase to 45 days from 30 days. The date from which the cause of action arises shall be valid

till the period of 2 years and the commission should not admit later exceeding this period of filing for the complaint.

Alternate Dispute Mechanism

For the speedy dispute resolution mediation process took the way to resolve the issue between the producers and consumers. The Forums must refer to the written consent from both the parties. It has been introduced under Section 74 of the act. The earlier method was very time consuming but with the help of this act there is no requirement to reach the commission for the dispute resolution.

Conclusion

The New Consumer Protection Act, 2019 has unlatched the horizons for consumers, to keep pace with the growing technological world certain changes were required. Consumer Protection Act means protection of consumer from all the unfair trade and practices, hence to comply with this ideology amendments are must. The earlier act has the provisions with the respect to the scenario of that time but now the avenues have taken different direction. This New Act will be more effective then the previous one and will assist the consumers in every possible way.