

Consumer Protection Act, 2019

July 21, 2020

Why was it in the news?

- The Consumer Protection Act, 2019 (New Act) received the assent of the President of India and was published in the official gazette on 9 August 2019.

Key Highlights:

Rights of consumers:

- Six consumer rights have been defined in the Bill, including the right to:
 - (i) be protected against marketing of goods and services which are hazardous to life and property;
 - (ii) be informed of the quality, quantity, potency, purity, standard and price of goods or services;
 - (iii) be assured of access to a variety of goods or services at competitive prices; and (iv) seek redressal against unfair or restrictive trade practices.

Covers E-Commerce Transactions: The earlier Act did not specifically include e-commerce transactions, and this lacuna has been addressed by the New Act.

Enhancement of Pecuniary Jurisdiction:

- The district forum can now entertain consumer complaints where the value of goods or services paid does not exceed INR 10,000,000.
- The State Commission can entertain disputes where such value exceeds INR 10,000,000 but does not exceed INR 100,000,000, and the National Commission can exercise jurisdiction where such value exceeds INR 100,000,000.

E-Filing of Complaints:

- The New Act provides flexibility to the consumer to file complaints with the jurisdictional consumer forum located at the place of residence or work of the consumer. This is unlike the current practice of filing it at the place of purchase or where the seller has its registered office address. The New Act also contains enabling provisions for consumers to file complaints electronically and for hearing and/or examining parties through video-conferencing.

Establishment of Central Consumer Protection Authority– with wide powers of enforcement.

- The CCPA will have an investigation wing, headed by a Director-General, which may conduct inquiry or investigation into consumer law violations.
- The CCPA has been granted wide powers to take suo-moto actions, recall products, order reimbursement of the price of goods/services, cancel licenses and file class action suits, if a consumer complaint affects more than 1 (one) individual.

Product Liability & Penal Consequences:

- The New Act has introduced the concept of product liability and brings within its scope, the product manufacturer, product service provider and product seller, for any claim for compensation.
- The term 'product seller' is defined to include a person who is involved in placing the product for a commercial purpose and as such would include e-commerce platforms as well.
- There are increased liability risks for manufacturers as compared to product service providers and product sellers, considering that under the New Act, manufacturers 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 New Act from liability claims, such as, that the product seller will not be liable where the product has been misused, altered or modified.

Unfair Trade Practices: The New Act introduces a specific broad definition of Unfair Trade Practices, which also includes sharing of personal information given by the consumer in confidence, unless such disclosure is made in accordance with the provisions of any other law.

Penalties for Misleading Advertisement:

- The CCPA may impose a penalty of up to INR 1,000,000 (Indian Rupees One Million) on a manufacturer or an endorser, for a false or misleading advertisement.
- The CCPA may also sentence them to imprisonment for up to 2 (two) years for the same. In case of a subsequent offence, the fine may extend to INR 5,000,000 (Indian Rupees Five Million) and imprisonment of up to 5 (five) years.
- The CCPA can also prohibit the endorser of a misleading advertisement from endorsing that particular product or service for a period of up to 1 (one) year. For every subsequent offence, the period of prohibition may extend to 3 (three) years.

Provision for Alternate Dispute Resolution: The New Act provides for mediation as an Alternate Dispute Resolution mechanism, making the process of dispute adjudication simpler and quicker.

