

# Consumer Protection Bill, 2018

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## Manifest Pedagogy

UPSC may cover aspect of consumer protection highlighting recent issues such as Johnson & Johnson and Maggi controversy. Moreover, the issues of celebrity endorsements also remain in the news from time to time. Thus, it has both prelims and mains dimensions.

## In news

Recent Passage of Consumer Protection Act

## Placing in Syllabus

Paper 3: LPG Reforms

## Static dimensions

1. Consumer Protection Act, 1986
2. Rights of consumers
3. Jago Grahak Jago Campaign

## Current dimensions

1. Key Features of the bill
2. Stakeholders (Including Celebrities)
3. Criticism of the bill

## Content

The Bill replaces the Consumer Protection Act, 1986. A Consumer Protection Bill to replace the Act was introduced in

2015, but has been withdrawn post the introduction of the 2018 Bill.

**Key features of the Bill include:**

**Definition of consumer:** A consumer is defined as a person who buys any good or avails a service for a consideration. It does not include a person who obtains a good for resale or a good or service for commercial purpose.

- It covers transactions through all modes including offline, and online through electronic means, teleshopping, multi-level marketing or direct selling.
- **Rights of consumers:** Six consumer rights have been defined in the Bill, including:
  1. The right to be protected from all kind of hazardous goods and services
  2. The right to be fully informed about the performance and quality of all goods and services
  3. The right to free choice of goods and services
  4. The right to be heard in all decision-making processes related to consumer interests
  5. The right to seek redressal, whenever consumer rights have been infringed
  6. The right to complete consumer education

**Central Consumer Protection Authority:**

- The central government will set up a Central Consumer Protection Authority (CCPA) to promote, protect and enforce the rights of consumers.
- It will regulate matters related to violation of consumer rights, unfair trade practices, and misleading advertisements.
- The CCPA will have an investigation wing, headed by a Director-General, which may conduct inquiry or investigation into such violations.

**CCPA will carry out the following functions, including:**

1. Inquiring into violations of consumer rights, investigating and launching prosecution at the appropriate forum;
2. Passing orders to recall goods or withdraw services that are hazardous, reimbursement of the price paid, and discontinuation of the unfair trade practices, as defined in the Bill;
3. Issuing directions to the concerned trader/ manufacturer/ endorser/ advertiser/ publisher to either discontinue a false or misleading advertisement, or modify it;
4. Imposing penalties, and;
5. Issuing safety notices to consumers against dangerous or unsafe goods and services.

- **Penalties for misleading advertisement:** The CCPA may impose a penalty on a manufacturer or an endorser of up to to Rs 10 lakh for a false or misleading advertisement. In case of a subsequent offence, the fine may extend to Rs 50 lakh. The manufacturer can also be punished with imprisonment of up to two years which may extend to five years for every subsequent offence.

- CCPA can also prohibit the endorser of a misleading advertisement from endorsing that particular product or service for a period of up to one year. For every subsequent offence, the period of prohibition may extend to three years. However, there are certain exceptions when an endorser will not be held liable for such a penalty.

- **Consumer Disputes Redressal Commission:** Consumer Disputes Redressal Commissions (CDRCs) will be set up at the district, state, and national levels. A consumer can file a complaint with CDRCs in relation to: (i) unfair or restrictive trade practices; (ii) defective goods or services; (iii) overcharging or deceptive charging; and (iv) the offering of goods or services for

sale which may be hazardous to life and safety. Complaints against an unfair contract can be filed with only the State and National Appeals from a District CDRC will be heard by the State CDRC. Appeals from the State CDRC will be heard by the National CDRC. Final appeal will lie before the Supreme Court.

- **Jurisdiction of CDRCs:**The District CDRC will entertain complaints where value of goods and services does not exceed Rs one crore. The State CDRC will entertain complaints when the value is more than Rs one crore but does not exceed Rs 10 crore. Complaints with value of goods and services over Rs 10 crore will be entertained by the National CDRC.
- **Product liability:**Product liability means the liability of a product manufacturer, service provider or seller to compensate a consumer for any harm or injury caused by a defective good or deficient service. To claim compensation, a consumer has to prove any one of the conditions for defect or deficiency, as specified in the Bill.

### **Criticisms of the bill**

- The first issue is that of the clash that might occur within the 'to be established CCPA' and the prevailing consumer forums in cases of a certain class of consumers or subject matter which may be taken up by both the bodies. There must have been a prescribed hierarchy or creation of separate class in order to avoid such conflict. Further, Section 99 of the Bill directs the CCPA to act according to the directions of the central government thereby restricting its autonomy.
- Secondly, in case of product liability, it can be anticipated that there may be frivolous claims solely on the basis of discrepancy in designs, even when it results in no actual damage to the consumer or is done in order to improve functionality.

- Thirdly, in case of misleading advertisements where even the endorsers may be held liable, the Bill has provided merely one straitjacketed punishment for different classes of endorsers where they may vary in terms of remunerations as well as social reach.
- Fourthly, in case of Consumer protection Councils that are to be setup at the district state and national level which will be headed by the Ministers as advisory bodies, However it is not clear from the bill that the minister will advise to whom and in what capacity.
- Fifthly, the bill has proposed to empower the Central government to appoint remove and prescribe conditions of service for members of District, State and National Consumer Disputes Redressal Commissions, however the bill has failed to specify the composition of the board and whether a judicial member will be onboard or not. Composition is left completely to the discretion Central government; there are chances of independence of the commission being jeopardized.

**However, lawyers say that instead of a new bill , the government should have added more provisions to the existing act to make it more broad based and cover new and emerging trends such as e-commerce companies, contracts and celebrity endorsements.**

## **Test Yourself: Mould your thoughts**

Consumer protection without consumer awareness and consumer outreach is futile. Critically analyse.

### **Prelims Questions**

1. Which of the following is not a consumer right?
  - (a) Right to seek redressal
  - (b) Right to get connected

(c) Right to information

(d) Right to fair treatment