

CONSUMER PROTECTION LAWS IN THE DIGITAL AGE: EVALUATING THEIR EFFECTIVENESS AND ADEQUACY

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Abstract:

The present study examines how consumer protection laws have changed in the digital era and evaluates how well they have protected consumers' rights and interests. This article seeks to highlight the shortcomings and difficulties in the current regulatory frameworks through a thorough examination of the relevant laws, case studies, and empirical data. It sheds light on the necessity of flexible and responsive regulatory frameworks by analysing how digital technologies, e-commerce sites, and online marketplaces affect consumer transactions. The results add to the continuing conversations among stakeholders, regulators, and policymakers on how to protect consumers' interests in a market that is changing quickly. To safeguard the interests of online shoppers who prefer to make purchases online, this study examines the existing legislative environment in India. This study contains a thorough analysis of recently enacted laws, i.e. The Consumer Protection Act, 2019 and Consumer Protection (E-commerce) Rules, 2020.

Keywords: consumer protection, consumer rights, e-commerce, consumer interests, regulatory framework

Introduction:

The term "consumer welfare" describes the advantages that each individual receives from using products and services. Theoretically, an individual's subjective evaluation of their level of contentment in relation to prices and income defines their own welfare. Thus, precise measuring of customer welfare necessitates personal preference data.

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The practice of defending consumers against deceptive business practices involves defending consumers as well as the general public against purchasers of goods and services. Laws frequently set safeguards aimed at protecting consumers. These regulations aim to stop companies from using fraud or other unfair business practices to outdo rivals or deceive customers. In addition, even in cases when they are not the product's direct buyer or customer, they might offer extra protection for the broader public, which might be harmed by the product (or its manufacture). Government rules, for instance, can mandate that companies provide comprehensive information on their goods, especially in sectors like food or autos where public health or safety is a concern.

What is a Consumer⁴?

A consumer is an individual who purchases products or services for their own use or possession, as opposed to reselling them or using them for manufacturing and production. Consistent with economic efficiency, consumer interests can also benefit consumers; nevertheless, competition law addresses this issue.

Consumer Law:

Consumer law, often known as consumer protection law, is thought of as the branch of law that controls the private law interactions between individual customers and the companies that provide those products and services. A vast array of subjects falls under the umbrella of consumer protection, including as product liability, privacy rights, unethical corporate practices, fraud, deception, and other consumer/business interactions. It is a means of guarding against deception and fraud arising from sales and service agreements, eligible fraud, regulations governing bill collectors, pricing, utility turnoffs, consolidation, and personal loans that might result in bankruptcy. Some have argued that, given the complexity of tax law, consumer law is also a more effective means of implementing large-scale redistribution than tax law because it does not require legislation.

⁴ (Bose)

Consumer Protection Act,⁵ 2019:

2019 saw Parliament enact the revised Consumer Protection Act. It took the place of the Consumer Protection Act of 1986 and went into effect in July of 2020.

Need for the new act:

A new era of digital branding and commerce, together with a new set of client expectations, have all been brought about by the Digital Age. Easy access, a wide range of options, practical payment methods, enhanced services, and simple purchasing have all been made possible by digitization. There are, however, additional difficulties that pertain to consumer protection.

The Indian Parliament enacted the historic Consumer Protection Bill, 2019 with the goal of providing prompt and efficient administration and resolution of consumer complaints, in an effort to help meet the new set of difficulties faced by consumers in the digital age.

Consumer Protection Act 2019 Details:

- A law known as the Consumer Protection Act of 2019 was created to safeguard consumer interests. Customers are protected by this Act from unfair trade practices, subpar products, and unsatisfactory services.
- The primary goal of the Consumer Protection Act of 2019 is to protect consumer rights by creating mechanisms for the prompt and efficient handling of customer complaints.

Consumer rights:

⁵ Byjus Exam Prepp, “Consumer Protection Act 2019” *Byjus Exam Prepp* (2023).

- Customers are entitled to information on a range of products and services. This could include details like the amount, Caliber, potency, purity, standard, cost, and quantity of goods or services.
- to be shielded against dangerous products and services. the right to be shielded from products and services that could endanger life or property.
- to be shielded against trade practices that are unjust or limiting.
- Customers are entitled to a wide range of products and services at reasonable costs.
- Customers ought to be able to seek recourse.

Salient Provisions of the Consumer Protection Act⁶ 2019

The new act has defined the consumer in a new way it defined the consumer as a person who avails the services and buys the goods for self-use. It also mentioned that if a purchase the goods for resale or commercial purpose, he/she cannot be considered a consumer.

This definition of the consumer covers all the types of transactions such as offline and online or through a multilevel marketing.

Central Consumer Protection Authority (CCPA)⁷:

This act proposes for the establishment of the Central Consumer Protection Authority as a regulatory body to protect, promote and enforce the rights of the consumers related to unfair trade practices and places where the consumer rights are being violated.

CCPA will be given wide range of powers that it has the right to take independent actions against any violations of consumer rights. It will also have an investigation wing to conduct inquiry or investigation on its own during the violation of the consumer rights.

⁶ Byjus Exam Prepp, “Consumer Protection Act 2019” *Byjus Exam Prepp* (2023).

⁷ Byjus Exam Prepp, “Consumer Protection Act 2019” *Byjus Exam Prepp* (2023).

Consumer Disputes Redressal Commission⁸:

The act has the provision of the establishment of CRDSs at national, state and district levels to monitor complains of consumers.

The CRDCs will look after the complains regarding to:

- 1- Overcharging or deceptive charging
- 2- Unfair trade practices
- 3- Sale of hazardous goods and services
- 4- Sale of defective goods or services

As per the CRDC there will be no charges for filing up cases up to 5 lakhs.

E- filing of complains:

the new act also has a provision for filing cases electronically for which there is no need of hiring a lawyer to represent the case.

Penalties for Misleading Advertisements:

CCPA may impose a penalty on the producer for a false or misleading advertisement. The CCPA may also sentence them to imprisonment in such cases.

Provision for alternate Dispute Resolution:

The new law provides for mediation as an alternative dispute resolution method. A strict time limit will be set in the rules for mediation. Mediation will take place at the mediation conference to be established with the support of the Consumer Council. There will be no objection to a solution through mediation.

⁸ Wikipedia, "Consumer Protection" *Wikipedia* (2023).

Unfair Trade Practices:

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

The Central Consumer Protection Council⁹:

The Central Consumer Protection Council (CCPC) is a statutory body in India established under the Consumer Protection Act, 2019. Its primary objective is to protect and promote the rights and interests of consumers across the country. The council serves as a platform for discussing various issues related to consumer protection and formulating policies to address them effectively.

Here are some key points about the Central Consumer Protection Council:

Composition: The council is chaired by the Union Minister of Consumer Affairs, Food and Public Distribution, and comprises members representing various stakeholders, including consumers, industry, and experts in relevant fields.

Functions: The CCPC is tasked with advising the Central Government on matters related to the implementation of the Consumer Protection Act, reviewing the functioning of consumer protection laws, and suggesting measures for improvement. It also plays a role in promoting consumer awareness and education.

Meetings: The council meets periodically to discuss emerging issues in consumer protection, review the performance of consumer forums and commissions, and propose measures for strengthening consumer rights.

⁹ Wikipedia, "Consumer Protection" *Wikipedia* (2023).

Policy Formulation: One of the key functions of the CCPC is to contribute to the formulation of policies and regulations aimed at safeguarding consumer interests. These policies may cover areas such as product safety standards, unfair trade practices, and consumer redressal mechanisms.

Consumer Advocacy: The council acts as a platform for consumer advocacy, raising awareness about consumers' rights and responsibilities and advocating for their protection in various forums.

Enforcement: While the CCPC itself does not have direct enforcement powers, it plays a crucial role in influencing policy decisions and ensuring that consumer protection laws are effectively enforced by relevant authorities.

Overall, the Central Consumer Protection Council plays a vital role in safeguarding consumer interests and promoting a fair and transparent marketplace in India.

The Significance of Consumer Protection Act, 2019¹⁰:

The Consumer Protection Act, 2019, holds significant importance in the realm of consumer rights and protection in India. Here are some key aspects highlighting its significance:

Comprehensive Protection: The Act provides comprehensive protection to consumers against various unfair trade practices, misleading advertisements, and deficiencies in goods and services. It covers a wide range of issues, including product liability, e-commerce transactions, and unfair contract terms.

Enhanced Consumer Rights: The Act strengthens consumer rights by introducing provisions such as the right to seek redressal for unfair trade

¹⁰ Abanti Bose and Sneha Mahawar, "I Pleaders" (2022).

practices, the right to information about products and services, and the right to seek compensation for harm caused by defective goods or services.

Simplified Redressal Mechanisms: The Act simplifies the redressal process for consumers by establishing Consumer Commissions at the national, state, and district levels. These commissions have been empowered to adjudicate disputes quickly and efficiently, ensuring timely justice for consumers.

Stringent Penalties: The Act imposes stringent penalties on manufacturers, sellers, and service providers found guilty of engaging in unfair trade practices or supplying defective goods and services. This serves as a deterrent to businesses and encourages them to comply with consumer protection laws.

Promotion of Consumer Awareness: The Act emphasizes the importance of consumer awareness and education by mandating the establishment of Consumer Protection Councils at the national, state, and district levels. These councils play a crucial role in spreading awareness about consumer rights and responsibilities.

Regulation of E-commerce: With the proliferation of e-commerce in India, the Act introduces specific provisions to regulate online transactions and protect the interests of online consumers. It mandates e-commerce platforms to provide accurate information about products and services, address consumer grievances promptly, and ensure the safety and security of online transactions.

Focus on Product Safety: The Act places a strong emphasis on product safety by holding manufacturers and sellers accountable for supplying goods that pose risks to consumer health and safety. It provides consumers with the right to seek compensation for injuries or damages caused by unsafe products.

Overall, the Consumer Protection Act, 2019, represents a significant step towards strengthening consumer rights and ensuring a fair and transparent marketplace in India. It aims to empower consumers, promote responsible business practices, and uphold the principles of equity and justice in consumer transactions.

Drawbacks of Consumer Protection Act,2019¹¹:

While the Consumer Protection Act, 2019, represents a substantial improvement in consumer rights and protection in India, it also has some drawbacks and limitations:

Enforcement Challenges: One of the primary drawbacks is the challenge of enforcement. Despite the presence of stringent provisions and penalties, the effective implementation of the Act relies heavily on the enforcement mechanisms at various levels of administration. Inadequate resources, lack of awareness among consumers, and delays in the judicial process can hinder the enforcement of consumer rights.

Complexity of Legal Procedures: The Act introduces simplified redressal mechanisms through Consumer Commissions; however, the legal procedures involved can still be complex for consumers, especially those from marginalized or disadvantaged backgrounds. Navigating the legal process to seek redressal for grievances may pose a challenge for many consumers, leading to underutilization of the available remedies.

¹¹ Pujarai Dharani and Sneha Mahawar, "I Pleadings" (2022).

Limited Coverage of Services: While the Act covers a wide range of goods and services, there may be certain services or sectors that are not adequately addressed. For example, issues related to healthcare services, education, and housing may require specialized regulations and mechanisms for consumer protection, which are not explicitly addressed in the Act.

Inadequate Consumer Awareness: Despite provisions for promoting consumer awareness, there may still be a lack of awareness among consumers regarding their rights and available remedies under the Act. Limited access to information, especially in rural and remote areas, can hinder consumers from exercising their rights effectively.

Challenges in Regulating E-commerce: While the Act includes provisions for regulating e-commerce transactions, the rapidly evolving nature of online commerce presents challenges in enforcement. Ensuring compliance with consumer protection laws by numerous e-commerce platforms and addressing emerging issues such as counterfeit products, data privacy, and online fraud requires continuous monitoring and adaptation of regulatory frameworks.

Burden on Consumer Commissions: The effectiveness of the Act relies heavily on the functioning of Consumer Commissions at various levels. However, these commissions may face challenges such as backlog of cases, shortage of staff, and delays in the disposal of cases, which can impact the timely resolution of consumer disputes.

Addressing these drawbacks requires concerted efforts from policymakers, regulators, consumer advocacy groups, and other stakeholders to strengthen enforcement mechanisms, enhance consumer awareness, and adapt regulatory frameworks to evolving market dynamics and consumer needs.

Laws under Indian Penal Code for Consumer Protection Act,2019¹²:

The Consumer Protection Act, 2019, primarily focuses on consumer rights and protection, and it does not directly incorporate provisions from the Indian Penal Code (IPC). Instead, it establishes a separate legal framework for addressing consumer grievances, regulating unfair trade practices, and promoting consumer welfare.

However, certain actions that harm consumers or violate their rights may also constitute criminal offenses under the IPC. For example:

Cheating:Section 415 of the IPC deals with cheating and dishonestly inducing delivery of property. If a seller engages in fraudulent practices, such as misrepresenting the quality or characteristics of a product, they may be charged under this section.

Counterfeiting: Section 478 of the IPC pertains to counterfeiting property marks. If a seller sells counterfeit products or falsely represents them as genuine, they may be liable under this provision.

Criminal Breach of Trust: Section 405 of the IPC addresses criminal breach of trust. If a seller accepts payment for goods but fails to deliver them as promised, they may be charged with criminal breach of trust.

¹² Pujarai Dharani and Sneha Mahawar, "I Pleadings" (2022).

Forgery: Sections 463 to 477A of the IPC cover offenses related to forgery. If a seller forges documents, such as invoices or warranties, to deceive consumers, they may be prosecuted under these provisions.

While the Consumer Protection Act, 2019, primarily focuses on civil remedies and administrative measures to protect consumers, the IPC provides a criminal law framework to address more serious offenses that harm consumers' interests. In some cases, both civil and criminal actions may be pursued simultaneously to ensure adequate redressal and deterrence against misconduct in consumer transactions.

Conclusion:

In conclusion, consumer protection laws in the digital age are crucial for safeguarding the interests of consumers in an increasingly digitized marketplace. As technology continues to reshape how goods and services are bought and sold, it is essential to adapt regulatory frameworks to address emerging challenges and protect consumers from new forms of harm and exploitation.

Consumer protection laws in the digital age should prioritize several key principles:

Transparency and Information Disclosure: Consumers must have access to accurate and comprehensive information about products and services, including pricing, terms of sale, and potential risks. Digital platforms should be transparent about their practices, data collection policies, and algorithms that may impact consumer choices.

Data Privacy and Security: Protecting consumer data privacy is paramount in the digital age. Legislation should establish clear guidelines for the collection, storage, and use of personal data by businesses, ensuring that consumers have control over their information and are protected from data breaches and unauthorized access.

Fair Competition and Anti-Monopoly Measures: Digital markets often exhibit characteristics of monopolistic behaviour or unfair competition practices. Consumer protection laws should promote fair competition, prevent abuse of market dominance, and ensure a level playing field for businesses of all sizes.

Dispute Resolution and Redressal Mechanisms: Efforts should be made to streamline dispute resolution processes and provide accessible and efficient mechanisms for consumers to seek redressal for grievances, including online dispute resolution platforms and alternative dispute resolution methods.

Consumer Education and Awareness: Empowering consumers with knowledge about their rights and responsibilities in the digital marketplace is essential. Consumer protection laws should support initiatives to promote digital literacy and raise awareness about online risks and best practices for safe online transactions.

Adaptability and Flexibility: Given the rapid pace of technological innovation, consumer protection laws should be adaptable and flexible enough to accommodate evolving business models, emerging technologies, and changing consumer behaviours.

Consumer protection laws in the digital age play a vital role in fostering trust and confidence in online commerce, mitigating risks, and ensuring a fair and equitable marketplace for all participants. By upholding these principles and adapting to the dynamics of the digital economy, policymakers can better protect consumers and promote sustainable economic growth in the digital age.

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