

A SEQUENTIAL APPROACH TOWARDS UNDERSTANDING THE LAW OF CONSUMER PROTECTION IN INDIA

Rajat Shandilya

ABSTRACT:

The historical backdrop of the idea of Consumer Protection can be at first followed back to the hour of mid 1960's the point at which it was, for the lady time, presented by the than President of the United States John Fitzgerald Kennedy, the 35th President of the United States on 15th March 1962. In Indian context, it is a well-accepted and widely acknowledged fact that India has a legal framework that ensures protection to every section of the society and to all its citizens.

In the same line, one such law which safeguards the interest of consumers presently is ‘The Consumer Protection Act 2019’. This paper aims on tracing the history of the consumer protection law which were applicable in the country at different time phases. Also this paper tries to focus on the importance, scope and impact of the consumer law on the Indian society. Furthermore a detailed analysis of ‘COPRA 2019’ is made in order to give a clear idea to the readers and subsequently in the further discourse of the paper in impact of the newly enacted consumer law on various sectors and consumers in particular has been highlighted. This paper has been written using the ‘*qualitative approach*’ and ‘*descriptive approach*’ of research with utmost precession and all the possible efforts have been made to avoid any errors and make this paper a fruitful read for the readers.

KEYWORDS: Consumer Protection, Consumer, Commerce, Consumer Protection Act 2019, Caveat Venditor

AIM AND OBJECTIVE:

The main aim of this research paper is to dive into the evolutionary aspect of the Consumer Protection Law of the country and to trace its status during different phases and also examine the changes brought in by the new ‘Consumer Protection Act 2019’ and also the effect of the new legislation over the consumers.

HYPOTHESIS:

This paper mainly focuses on 3 very important research questions which are as follows:

1. What has actually the chronological background of the ‘Consumer Protection Law’ in India?
2. What were the key changes brought in by the latest ‘Consumer Protection Act of 2019’
3. What will be the challenges and implications of the new law on the consumer.

RESEARCH METHODOLOGY:

Keeping in mind the importance of the issue in the present times, the author has used the ‘*Descriptive approach*’ and ‘*Qualitative approach*’ of Research. Best possible efforts have been made by the author to make this research error free and a fruitful one for the readers. The author placed reliance on both the mentioned methods of research because of the fact that the true essence of this research paper can be best understood through exhaustive description only.

INTRODUCTION:

The initial credit for the coinage of the term ‘*Consumer Protection*’ has to be given to the 35th president of the United States Mr. John Fitzgerald Kennedy who for the first time used this term on 15th March 1962. He talked about this idea in an extraordinary discourse to the Congress. His discourse focused on ensuring the consumer’s advantage. Kennedy additionally talked about the four essential privileges of the consumer in particular, which were:

- Right to Safety
- Right to be informed

- Right to be Heard
- Right to Choose.

His conversation started a thought and ensuing enactment to ensure buyers. 15th March is marked as World Consumer Rights Day, taking motivation from Kennedy. Another significant name in the worldwide circle while talking about consumer safety is Ralph Nader. He reformed Consumer Protection in the United States of America.

EVOLUTIONARY ASPECT OF THE COMSUMER PROTECTION LAW IN INDIA:

Till the middle 80s, the trend in India was that of a seller’s market. A seller’s market means that the buyer had to come to the seller for the goods instead of the seller marketing and advertising for his own goods.¹

. This inconsistent force balance will in general give the vender/comparue power to abuse the buyer. There have been a few laws ordered in India to defeat these issues. This research paper attempts to clarify the historical backdrop of the idea of Consumer Protection Laws, by tracing the evolutionary aspect of the same. Protecting the purchaser’s privileges and guaranteeing quality help ought to be a need for any organization in retail just as the public authority.

HISTORY AND DEVELOPMENT OF THE LAWS SAFEGUARDING THE CONSUMER LAWS IN INDIA:

The thought of consumer safety has been available since the earliest tracable point of human development. In spite of plethora of laws to check supply of substandard products, check profiteering and pursuing the industry and trade to take care of the consumers much could not be achieved. It is because of economic law of demand and supply, When demand is more than the supply drops, it is then that the manufacturers try to match the same. In India till the middle of 80’s; it was sellers market and the principle of *caveat emptor* was placed the reliance upon actually there was no marketing because consumer was coming to seller rather the opposite which is the trend in countries of West, and Japan where the position is just the opposite as they

¹ Lex Forti, <https://lexforti.com/legal-news/evolution-and-development-of-the-consumer-protection-act/> (last visited, May 26,2008)

have to compete with each other to attract customers for all types of goods and services.² Consumer's Insurance is a quest for safety of consumers, by the public authority. Organizations need to focus on consumer fulfillment which can be guaranteed just when the government steps in to give security to all customers. The public authority satisfies that onus through a construction of approaches, guidelines, and enactment. All the stated facts and circumstances mentioned led to the concrete enactment of Consumer Protection Act 1986.

One should comprehend that before this Act came into force, there were a line of different laws made in order to achieve a common objective which was the 'Protection of Consumers'. In any case, none of them effectively safeguarded the buyers from abuse to the extent that was required. Without a powerful consumer protection law, the onus of being cautious while evaluating the nature of the item vested upon the consumer. It helped the vendors with evading their responsibilities and obligations. If in any case the consumer discovered an imperfection in an item, he would essentially try not to get it from a similar brand or shop later on. This is because of an absence of redressal systems, just as restricted admittance to the current ones. It required long periods of activism to create awareness with respect to this issue. Eventually the Consumer Protection Act 1986 came to be seen as a solution to all the consumer related issues.

To comprehend the development in more prominent detail, the historical backdrop of customer security can be categorized into three sections:

1. Before the 1950's
2. The phase from 1950-1986.
3. The period 1986-present

1. BEFORE 1950's:

In the time period preceeding 1950, the matters related to consumer safety were countered by the guidelines of the 'Common Law' of the Englishmen. The authorities fulfil that onus via a

² Akash Choudhury, Consumer Protection Act: Consumer Protection Act : History, Definition , Forums and Evaluation <https://www.yourarticlelibrary.com/consumer-behaviour/consumer-protection/consumer-protection-act-history-definition-forums-and-evaluation/64207> (last visited May 26, 2021)

shape of rules, regulations, and rules. To apprehend the manner that brought about the drafting of the Consumer Protection Act 1986, one have to apprehend that earlier than this act got here into force, there have been a string of different legal guidelines created for the identical goal. However, none of them effectively shielded the customers from exploitation to the required extent. In the absence of an powerful consumer protection law, the onus of being cautious whilst assessing the quality of the product became positioned upon the customer. It helped the dealers shirk their responsibility. The dealers had the liberty to get away with with substandard or defective merchandise because of the loopholes in the legal framework to protect consumers. If a customer discovered any defect in a product, he might clearly keep away from shopping for it from the identical brand or keep withinside the future. This is because of a lot of shortcomings in the Redressal mechanism of redressal mechanisms.

2. THE PHASE FROM 1950- 1986:

After independence, several laws were enacted in India for protecting innocent consumers from unfair and restrictive trade practices like a false and misleading description about the nature and quality of the goods exaggerated statements about their power and potency, false weights and measurements and obstruction of capital and resources into the stream of production.³ Once the Indian Constitution got here into force, in 1950, the Central Government enacted more than one law to address the problem of consumer related issues and concerns. The scope of those provisions became confined because of one or the other limitation which was present in every statute. The purchaser needed to set up the applicability and relevance of at the least this sort of statutes. If he became not able to do that, he might must record the problem as a tort, settlement or beneathneath fiduciary law. The rules and laws enacted within the period of 1950-1986 for consumer’s safety are listed as under:

³ Dr. M Rajnikanth, A Study On Evolution of Consumer Protection Act in India- CPA 1986, International Journal of Application or Innovation in Engineering and management (IJAIEEM) 133, Pg. 134 (2017).

- The Essential Commodities Act, 1956
- The Trade and Merchandise Marks Act, 1958
- The Monopolies and Restrictive Trade Practices Act, 1969
- The Drugs Control Act, 1950
- The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1954
- The Prevention of Food Adulteration Act, 1954
- The Bureau of Indian Standards Act, 1986.
- The Standards of Weights and Measures (Enforcement) Act, 1985

However, none of those Acts have been completely able to tackle the malaise of unjust practices that exploited the consumer. Although the authorities has initiated numerous legislative rules to protect the interests of the consumer, they were not able to obtain their goal.

THE PERIOD FROM 1986-2019:

With the goal of strengthening the rights of a consumer, the Consumer Protection Bill 1986, was initially tabled in the Lok Sabha on 5th December 1986. Consequently, each the Houses of Parliament surpassed the Consumer Protection Bill, 1986. It got the assent of the Honourable President on 24th December 1986. Thus, the Consumer Protection Act (COPRA) got here into impact in 1986. It was milestone legislation since it was first of its kind when it came to consumer protection.⁴ The 1986 Act became drafted as to create an extra layer of safety for customers and now no longer the derogation of the legal guidelines that existed previous to it was required. It additionally created a one-of-a-kind platform for redressal by mandating a specific types of courts. The work structure of the Consumer Courts is as follows – In order to serve effective and powerful remedy to the aggrieved customer, the courts pronounce their verdict inside 3 months from the date of receiving the reply by the opposing litigant. The statutes consist of each financial repayment in addition to correctional damages. The Consumer Protection Act 1986 underwent a sequence of amendments in the years 1991, 1993 and 2002.

⁴ Sheen Kaul, History And Development of Consumer Protection Laws in India, Legal Bites, (last visited May 26, 2021, 3:12PM) <https://www.legalbites.in/history-development-of-consumer-protection-laws/>

These amendments widened the scope of the authority given to consumer courts. For instance, the 2002 modification delivered a provision that enabled the court to attach the property of the man or woman in the event that they have been disobeying the orders of the court.

COPRA 2019: THE ‘NECESSARY STEP’

It is a well acknowledged fact that law is there to maintain peace and harmony within the society and make it a just place to live in for everyone. The societal setup is based upon various mechanisms which play a key role in the regulation for the society, be it socially or economically. One such law is the new Consumer Protection Act of 2019 which took almost a decade to come into force. It cannot be denied that from last 10 years the governments at the central level have been trying their level best to make improvement in the earlier existing law on the consumer protection which was passed in the year 1986. The consumer Protection Act of 1986 notably served the nation for a span of 36 long years. And it is quite obvious that every law needs to undergo changes to cope up with the dynamic nature of the society. And the same can be said to be true in the case of the Consumer protection Act also. in the recent times it can be evidently seen that the rise of e-commerce, telemarketing and various other new services have enabled the consumers to have a large variety of options available for themselves and have made the market wide open for the competition as well. Notably the new technical advancements like E-Commerce telemarketing and various other ‘Technical Services’ that have been a part of consumer industry now was not covered specifically under the old act of 1986 and hence there was a need to bring a change in the existing law of the country regarding this subject so that the existing law can be improved. This law had an interesting and long journey before getting implemented. I it was in the year 2015 that this law was presented in the Lok Sabha and was ultimately passed by the Lok Sabha but unfortunately it did not make through the Rajya Sabha. And eventually it was on 8th August 2019 that the law was passed by both the houses and the Honourable President also gave his consent over the same. Another noteworthy aspect regarding this law that the law was made but the rules were not made so later on 15th of July 2020 the rules

were made and finally it was on 20th July 2020 that the new law came into force and the consumer protection act of 1986 was repealed.

CHANGES INTRODUCED BY THE CONSUMER PROTECTION ACT OF 2019:

1. The district forum state Forum and national forum have been renamed as district Commission state commission and national commission respectively.

2. The beginning jurisdiction of the district Commission has now been increased to 1 crore rupees, and that of the State Commission to 10 crore. And matter which would be involving pig urinary amount of more than 10 crore all such method should be handled by the National Commission.

3. Another very important feature in this new Consumer Protection Act of 2019 is that it gives all the commissions the power to review their own judgements. This is a great incorporation as this gives room to the commissions to ratify their own mistakes (if any). A provision of this sort was found to be missing in the earlier Act.

4 Another important addition to the new act is the addition of a specific chapter which is chapter number V which talks about the provision of mediation to be introduced in the cases which will allow the parties to settle their cases outside the court with the help of qualified and specialized mediators.

This feature of the act can be said to be a very wise move as around 35 to 40 of cases would be disposed off at the mediation stage itself and would also indirectly serve to reduce the burden of cases.

5. It should be taken into account that the limitation period however the same i.e. 2 years. And additionally Section 69 has been incorporated in the newly adopted act of 2019 with deals with the provision related to condo nation of delay. Any specific delay can be condoned if there is any reasonable cause regarding the same. A another important thing to be taken into account under this new act is that there has been an establishment of the administrative control and an umbrella structure is being created for the smooth functioning of the district Commission state

commission and national commission. As per the new act now all the district commissions would be controlled by the state commissions and all the state Commission would administrator be controlled by the National Commission.

6. Also under this new act or provision related to the product recall is added where if there is any particular product which is having any defect can be called back from the market in part or in full and can be asked to match the standards set up by the competent authorities. Furthermore the class action suit has been codified under this act. Also if any manufacturer any person is dealing with hazardous items and causes any sort of Hurt or harm to the consumers then there is a strict provision to deal with such people and a fine upto rupees 10 lakhs can be imposed in such a case.

7. The power to take Sue-Moto action has been also granted to the commissions and keeping in mind the vigilance in the same regard in mind, under this act, a watch dog has been created in this matter in the form of Central Consumer Protection Authority (CCPA) at the central level and the State Consumer Protection Authority (SCPA).

CHALLENGES AND IMPLICATIONS OF THE NEW LAW ON CONSUMERS:

Financial advancement of any nation starts and finishes with customers. This stands valid on the off chance that we pass by the current massacre of the Indian economy, which went into additional dejection in light of the effect of Coronavirus drove lockdowns. An early form of movement in defense of consumers was born in the United States, where the bases for the birth and development of monopoly and oligopolistic capitalism had started.⁵ The first consumer organizations were born in Denmark in 1947 and Great Britain in 1955 where the Government created the Consumer Council in order to enable consumers to express themselves on issues reserved to producers and traders.⁶ The union government required very nearly one year for informing the new customer security law of 2019 to carry out its significant arrangements from July 20, 2020.

⁵ Vineet Kumar, All you need to know about Consumer Protection Laws in India, Ipleaders Blog (May 26, 2021, 8:41 PM) <https://blog.ipleaders.in/analysis-consumer-protection-laws-india/>

⁶ Ibid.

Industrialism is discernible to Ecclesiastes 5:11 of the Old Confirmation where it was said, "When assets increment, so does the quantity of buyers, thusly what benefit are they to their proprietors, but to take a gander at them?" ⁷

The proactive consumer groups emerged in Denmark in 1947 and in England in 1955, which prompted production of Consumer organisations and groups to battle against deceitful makers and dealers, however real "commercialization" began in the US, because of pioneers like Ralph Nader. The defining moment, nonetheless came in the year 1962, when the then US President, John F. Kennedy, tended to the US Congress, underlining that, "If a consumer is offered substandard items, if costs are extreme, if drugs are hazardous or useless, assuming the purchaser can't pick on an educated premise, his dollar is squandered, his wellbeing and security might be compromised and public premium endures."

On April 16, 1985, the UN General Assembly passed a goal containing the UN guidelines for Consumer Protection, perceiving more buyer rights — the privilege to fulfillment of fundamental necessities, the option to change, the privilege to consumer training, and the privilege to solid climate.

THE EVOLUTION OF SELF RELIENT CONSUMERISM DURING THE PANDEMIC:

Lockdown in India changed many things about daily life, but one outlier trend that might just be here to stay is one of self-reliance and is an emerging space that savvy brands can capture, argues Grashima Sahni. The advent of COVID-19 in India sparked significant trends on the back of a sudden change in consumer environments and their behaviour.

In the absence of a hard catalyst like the pandemic, Indian consumers would have taken at least a few more years to reach the current state. Most trends that leapfrogged into something big in this new normal, were at various nascent stages of adoption in pre-COVID India. Take for example digital media adoption, preference for video content, rise in digital payments, health consciousness, and even acceptance of e-learning – all had some level of existing traction in the

⁷ GB Reddy and Akash Baglekar, Challenges lie ahead as the new consumer law is now in force, Deccan Chronicle (July 24, 2020, 7:02PM) <https://www.deccanchronicle.com/opinion/op-ed/240720/challenges-lie-ahead-as-the-new-consumer-law-is-now-in-force.html>

Indian consumer’s life but has now become mainstream in a matter of weeks, if not days, during the lockdown.

One interesting behavioural change at the fringe of this accelerated change is that of self-reliance and self-dependence emerging in Indian consumers. It is a streak which was not strongly visible earlier, or at least prominent enough to be visible as a trend in the urban Indians before the forced lockdowns. Most basic household services even in middle-class Indian homes are outsourced i.e. cleaning and cooking, and basic salon services. This is owing to their extreme affordability, almost cheap if one compares prices to Western counterparts. But Covid-19 stripped all these comforts away, forcing a life of self-reliance. A lot of product categories hence found traction with this enforcement.

A primary reason for this sudden traction in such categories is that the ‘buyers’ and ‘influencers’ of the product purchases in a household are now finally regularly interacting with these areas. The pain points are being understood first-hand during the prolonged lockdown after a long time, if not the first. Most people are now spending increased time at home and expect this trend to mostly continue into the next year. Therefore, they are preparing themselves for a more comfortable self-reliant space at their homes.

Below are the top areas in a household where such product tractions can be observed. Please note that this trend-spotting, verified by trend searches and conversations on social media and not based real sales numbers.⁸

STAND OF INDIAN PARLAIMENT:

The Indian Parliament instituted the Consumer Protection Act in 1986 containing 31 segments and guaranteeing 6 rights in particular. To implement these rights, the law given to foundation of

⁸ Grashima Sahni, , , Self-reliance: An outlier trend for Indian consumers, WARC, (Jul 10, 2021, 1:14 P.M), <https://www.warc.com/newsandopinion/opinion/self-reliance-an-outlier-trend-for-indian-consumers/3794>

consumer committees and a three-level redressal setup for the betterment of the sector in particular. In all decency, this law worked effectively, with the guide of the legal executive, generally.

For giving more successful security of consumers, the central government established the new enactment in 2019 comprising of 107 provisions. The cardinal standards of expedient, cheap and casual equity seem to have been trimmed somewhere around the new enactment, told as of late. Other than presentation of new ideas like item risk, insurance against ridiculous exchange rehearses web based business and discipline for misdirecting commercials, the new law conceives foundation of Consumer Protection Councils at local, state and national level to deliver guidance on the consumer related awareness.

The novel arrangement in the new law is the foundation of the consumer intercession cells to be connected to each region, state and public commission for settlement of debates through intervention, which is gladly received. Be that as it may, the arrangements identifying with CCPA, expected to be a superhuman in buyer protection, direct selling, chief general, online business and discipline arrangement for bogus or deluding commercials, etc, are yet to be advised.

A committed buyer undertakings service is the need of great importance. Further in the time of bogus and puffed-up ads, punitive arrangements identifying with deluding and bogus ads need to introduced at the most punctual. Customers Worldwide, a notable global NGO, gave the subject "reasonable commercialization" to the current year's Reality Buyer Day, visualizing "utilization of items and administrations that insignificantly affect the climate so people in the future can address their issues".

CONCLUSION AND SUGGESTIONS:

From the entire discourse of this research paper it comes evidently clear that the ‘Consumer Protection Law in India’ has had a long and vivid history which can be traced back from the time even before independence. Author has tried the level best to analyse the chronological history of consumer law in Indian Context.

Also, A detailed analysis has been done of the ‘Consumer Protection Act 2019’ and the following salient features can be seemed to be impliedly imbibed in the act:

1. The latest Act provides added protection to the consumers by covering the aspect of e commerce expressly which was missing in the previous Act of 1986.
2. This Act would definitely help in the speedy disposal of the consumer disputes due to the adoptability of ‘ADR Mechanism’ under the ambit of this Act.
3. The implementation of this act in particular can be seen as a mark of the ‘Progressive Approach’ in the arena of consumerism.
4. Further it would be interesting to see that how will the principle of ‘Sustainable Consumerism’ be brought onto a wider front.

Moreover, due to the ever increasing technological advancements, countering the cyber treats in the arena of consumerism would be an emerging challenge.

The area of consumer safety and has always been a matter of concern for the consumer matter related authorities and it would be interesting to see what the future has on offer in concern with the new law in existence.