



## **THE CONSUMER PROTECTION BILL, 2018**

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### **ABSTRACT**

*“Customers are the most important visitor on our premises, they are not dependent on us and we are dependent on them. They are not an interruption in our work. They are the purpose of it. They are not outsiders in our business. They are part of it; we are not doing them a favor by serving them. They are doing us a favor by giving us an opportunity to do so.”*

This era is an era for consumers. The philosophy which is behind marketing of a product is based on the taste of a consumer. Consumer is one who controls the market and its function and is called as the heart of marketing. The present scenario of the market is no more product centric but buyer centric. There are some lofty traders which misguides the innocent consumers as a consumer we have to face problems related to goods which are defective, poor service, adulteration in food, duplicate goods, late deliveries, no after sales service, advertisements which are false and misleading and price discrimination. These problems are there because some manufactures wants to take an undue advantage of the consumers which are helpless. The Consumer Protection Act, 1986 was one of the examples which can be termed as a milestone for ensuring the rights of consumers are protected but now Government has introduced Consumer

Protection Bill, 2018 which replaces the thirty year old act and is redefined and framed according to the present scenario of the industry. The sole motive of the Consumer Protection is ensure that the rights of the consumers are protected. This paper will focus on the difference between The Consumer Protection Act, 1986 and The Consumer Protection Bill, 2018 and will highlight the key features of Consumer Protection Bill, 2018 and will talk about the importance of Consumer Protection Act in today’s world.

### **INTRODUCTION**

Indian market is mostly dominated by consumerism particularly from the reforms of economy. It is being transferred from sellers’ market to<sup>1</sup> buyers’ market. Exploitation is increasing day by day inspite of having the rigid consumer laws and measures taken by the government in the interest for consumers. One of the reasons for this situation is lack of awareness there in consumers about the rights and protective measures. The Consumer Protection Act provides protection of rights to the consumers and gives them chance for redressal. Consumer Protection Act provides consumer redressal at three levels: district, state and national. This Act is applicable to all the goods and services, but does not include the goods which are for resale.

The Consumer Protection Bill, 2018 will replace the Consumer Protection Act, 1986 and will set up a Central Consumer Protection Authority<sup>1</sup> which will protect and promote the rights of the consumers. The Bill

<sup>1</sup> [“https://www.prsindia.org/billtrack/consumer-protection-bill-2018”](https://www.prsindia.org/billtrack/consumer-protection-bill-2018)



helps in safeguarding the rights for the consumers on the account of changes that have taken place in the e-commerce industry. It serves notices for goods and services and can give a ruling against the misleading advertisements. This bill will also help in establishing Consumer Protection Council at the three levels as an advisory body for consumer protection. The sole objective of this bill is “to provide for the protection of the interests of consumers and for the said purpose, to establish authorities for timely and effective administration and settlement of consumers’ disputes.”<sup>2</sup> This Bill will give powers to Central Consumer Protection Authority to fine a manufacturer for a false advertisement. It has been noted that by the Traders body that “It is imperative that liability should be cast upon brand ambassadors under the Consumer Protection Act.” This Bill also envisages provisions for the liability of a product and action taken on the account of harm which has been caused to consumers due to a defective product. Further, provision of “Mediation” as an ADR mechanism has also been given in this bill<sup>3</sup>.

### **OBJECTIVES OF THE CONSUMER PROTECTION BILL, 2018**

The main objective of the Consumer Protection Bill, 2018 is “to provide for the protection of the interests of consumers and for the said purpose, to establish authorities

<sup>2</sup> “<https://www.exchange4media.com/marketing-news/consumer-protection-bill-2018will-parliament-pass-it-this-time-88723.html>”

<sup>3</sup> “<https://taxguru.in/corporate-law/consumer-protection-bill-2018-passed-lok-sabha.html>”

for timely and effective administration and settlement of consumer disputes”<sup>4</sup>.

The Consumer Protection Bill, 2018 will set up a Central Consumer Protection Authority which aims “to promote, protect and enforce the rights of the consumers. The Central Consumer Protection Authority can also act on the complaints of unfair trade practices, issue safety guidelines, order product recall or discontinuation of services and has punitive powers which can impose penalties.”

The Consumer Protection Bill, 2018 will set up “Consumer Disputes Redressal Commissions at District, State and National level to look into the consumer complaints. Consumer Protection Councils and Consumer Mediation cells will be set up at National, State and District levels as an advisory body”.

### **HIGHLIGHTS OF THE CONSUMER PROTECTION BILL, 2018**

Consumers are not aware about their rights which are given under the Consumer Protection Act<sup>5</sup> and there have been many hurdles in the implementation of the act. The rate at which consumer cases were getting disposed of was 90% which is good but the time taken for the disposal is long.<sup>6</sup> It takes more than an year on an average to settle a consumer case. Law Commission of India

<sup>4</sup> “<https://www.careeranna.com/articles/consumer-protection-bill-2018/>”

<sup>5</sup> “The Consumer Protection (Amendment) Bill, 2011’, 26th Report, Standing Committee on Food, Consumer Affairs and Public Distribution, December, 2012”

<sup>6</sup> “Total Number of Consumer Complaints Filed/Disposed since inception Under Consumer Protection Law, National Consumer Dispute Redressal Commission, as on March 12, 2018”



had stated that there should be separate law in relation with unfair contract terms and should be presented as a draft bill in the Parliament.<sup>7</sup> In 2015, a bill was introduced to replace the Consumer Protection Act 1986.<sup>8</sup> The Bill stated various provisions regarding liability of the product, contracts which were unfair and setting up a regulatory body.

**KEY FEATURES:-**

- There will be Consumer Dispute Redressal Commissions to hear the disputes on good which are defective, trade practices which are unfair, excessive pricing, goods which do not comply with the norms of the safety and the liability of the product. These complaints can be filed online and from where the complainant resides.
- These Commissions will be at three different levels which are District, State and National. Jurisdiction of these commissions will be upto Rs one crore for District, Rs one crore to Rs ten crore for State and above Rs ten crore for National. These Commissions can declare the terms which are unfair as null and void.
- The Consumer Appeals from District Commission will go to State Commission and from State Commission it will go to National Commission. Appeals from National Commission will go to Supreme Court.
- The time period to dispose a complaint will be three months if there is no analysis or testing required and if analysis or testing

of a commodity is required then it will be five months.

- The District Commission will consist of a President and at least two members and State and National Commission will consist of a President and at least four members.
- There will be Mediation cell also in each Commission. The Commission may refer the case for mediation if both the parties agree upon it.

**PRODUCT LIABILITY**

The bill allows the consumer to file a claim for the liability of the product against the seller for defects in the product. Consumer can also file for compensation for the harm which has been caused including damage to the property, personal injury or illness and mental agony.

**UNFAIR AND RESTRICTIVE TRADE PRACTICES**

An unfair trade practice means a statement which is false about the “quality “or“standard of a good or a service”, selling of goods not up to the standard, no issue of a receipt, refusing to refund good within 30 days. Restrictive trade practice means unjustified costs on consumers which includes delay in supply which leads to increase in the price.

**PENALTIES FOR THE SELLERS**

- The seller may face “imprisonment of up to three years or a fine of Rs 25000 extendable to Rs one lakh”, or both if he does not comply with the orders of the Commissions.

<sup>7</sup>“199th Report of the Law Commission of India: Unfair (Procedural and Substantive) Terms in Contract, August 2006.”

<sup>8</sup>“The Consumer Protection Bill, 2015, Ministry of Consumer Affairs, Food and Public Distribution”



- The seller may face “imprisonment of up to six months or fine of up to Rs 20 lakhs”, or both if he does not comply with the order issued by the Central Consumer Protection Authority.
- The seller may face a “penalty of up to Rs 10 lakh and can extend to Rs 50 lakh” for a subsequent offence and “imprisonment of up to two years and can extend to five years” for a subsequent offence for a false and misleading advertisements.
- The Central Consumer Protection Authority may charge a fine for selling or importing adulterated products and if there is injury caused to the buyer then the seller would have to pay a “fine of up to Rs three lakh along with imprisonment of up to one year” and if no injury is caused to the buyer then the seller would have to pay a “fine of up to Rs one lakh with the imprisonment of up to six months”. If the hurt is grievous then the penalty would be up to “Rs five lakhs along with imprisonment up to seven years “and if there is a death then the “penalty would be Rs ten lakh or more along with imprisonment of seven years which can extend to life imprisonment.”
- The Central Consumer Protection Authority can impose penalty for manufacturing duplicate goods. The penalties for this are that if there is an injury then it would be a “fine of up to Rs three lakhs along with imprisonment of up to one year” and if there is grievous hurt then then a “fine of up to Rs five lakhs with imprisonment of up to seven years” and in case of death then the penalty would be “Rs ten lakhs or more along with imprisonment of seven years” which can extend to life.

**CONSUMER PROTECTION ACT, 1986**  
**V/SCONSUMER PROTECTION BILL,**  
**2018.**

<b><u>PROVISIO</u></b> <b><u>Ns</u></b>	<b><u>CPA1986</u></b>	<b><u>CPA2018</u></b>
<b>Ambit of law</b>	Goods and services were taken into consideration excluding services which were free and personal.	All goods and services including online and teleshopping are taken into consideration excluding services which were free and personal.
<b>Trade Practices which are unfair</b>	Six types of Unfair and Trade Practices including representations which are fake and misleading advertisements	Added three more types of practices namely failure to give a receipt, refusing to accept goods which are returned within the time period.
<b>Product Liability</b>	No provision was given.	Buyer can claim from the seller.
<b>Unfair Contracts</b>	No provision was given.	Listed six terms which can called as unfair.
<b>Regulating Authority</b>	No provision was given.	Establishes CCPA which



		can issue safety notices and can impose fine on advertisements which are false.		recommend the members for the Commission.	for the Commission.
			<b>ADR Mechanism</b>	No provision was given	There will be mediation cell in each commission.
<b>Jurisdictions of the Commissions</b>	District – till Rs 20 lakhs  State – Rs 20 lakhs to Rs 1 crore National – above Rs 1 crore	District – till Rs 1 crore  State – Rs 1 crore to Rs 10 crores National – above Rs 10 crores	<b>Penalties</b>	If the seller does not comply with the order given by the Commission, “he may face imprisonment between one month and three years or a fine of Rs 2000 to Rs 10,000 or both”.	If the seller does not comply with the orders given by the Commission, “he may face imprisonment of up to three years or a fine of not less than Rs 25,000 which can extend up to Rs one lakh or both.”
<b>Compositions of the Commissions</b>	District: Presided by a judge of a district court with at least two members.  State: Presided by a judge of a high court with his two members. National: Presided by a judge of a supreme with his four members.	District: Presided by a President with his two members  State: Presided by a President with his four members. National: Presided by a President with his four members.	<b>E-Commerce industry</b>	No provision was given	Defines “direct selling and e-commerce and the central government may give rules for preventing unfair trade practices in E-commerce”.
<b>Appointments</b>	Judicial members and other members will	Central Government will recommend the members			



### IMPORTANCE OF CONSUMER PROTECTION IN TODAY'S WORLD.

Consumer Protection is important as it protects the customers and brings confidence in different institutions within the country. A country can have a growth when “consumers have trust in the producers, so the producers should provide an assurance to the consumers so as to win their trust. Consumer Protection laws are important so as to protect the consumers from misleading advertisements and poor services.”

- ❖ **To protect against Quality of the product:** - Rarely, companies produce products which are shoddy in nature on purpose. However, producers may produce products which are of low quality so as to increase their profits. This can be prevented if consumer files a complaint and a successful complaint can stop the manufacturer to stop the production of those goods.
- ❖ **To stop practices which are Unethical:** - The economy is very competitive nowadays and business owners will “cut corners to the health or safety of the consumers”. It can also produces bad service which a consumer has to deal with it. This can be prevented if countrywide attorneys prepare a case before the court and should also educate consumers about their rights and how can they redressed it.
- ❖ **Unorganized Consumers:** Consumers are generally dispersed and they are not united. On the other hand, sellers and manufacturers are organized and powerful. They should be united and should fight against the unfair trade practices.

- ❖ **Duplicate Goods:** There is a rise in the duplicate products and difficult for a buyer to distinguish between a duplicate and genuine product. It is necessary that the products should comply with the safety norms of quality.
- ❖ **Misleading Advertisements:** - Sellers give misleading information about the products and generally consumers are misled by these false advertisements. There should be a mechanism which should prevent these advertisements.
- ❖ **Adulteration:** Consumers do not get pure or quality products even after paying a higher price. Organization usually provide these adulterated goods for profit maximization. Consumers should file a complaint against these companies.
- ❖ **Irregular Supply:** Organizations creates scarcity which is artificial of the goods by hoarding them which results in the rise in the prices. This is generally done due to shortage of storage area.
- ❖ **Some common problems:** Malpractices of Businessmen, Black marketing, Misleading and False advertisements and warranties.

### CONCLUSION

Consumers are still exploited in India with the prevalence of poverty and illiteracy. The government has continuously tried to safeguard the interest of the consumers through new legislations. By introducing new issues like misleading advertisements, creating of a regulator which can keep a check and adding mediation cell and product liability for the first time, the Consumer Protection Bill, 2018 does fairly well. Consumer cases will be resolved faster now but there are certain issues which should be



revisited like jurisdiction which is overlapping between CCPA and Consumer Forums. Consumer Protection Bill, 2018 is definitely a right step and will strengthen the consumer rights and sentiments in the future. However consumer awareness is also required which can come through consumer education and the actions which are taken by the government , consumer activist ,NGOs and other agencies as it required the most to make consumer protection movement a success in India which can benefit our society in general.

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