



A CRITICAL ANALYSIS OF CONSUMER PROTECTION ACT 2019

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ABSTRACT

Consumer Protection Act (here after referred as COPRA or “the Act”) is an act of the parliament of India enacted in 1986 to protect the interests of consumer in India. Now the COPRA 2019 has recently replaced the three decade old Act of 1986. COPRA intended to protect consumers, as well as the relationship between the consumer and producer and the dealings they engage in. with a view to enhance consumer rights in digital economy, expand the scope of grievances consumer complaint and ease the process of filing complaints, the government has introduced the COPRA 2019. The objective of this article is to understand, what is COPRA, what are the differences between COPRA 1986 and COPRA 2019, what are the new changes in COPRA 2019 and the benefits of COPRA 2019.

KEYWORDS: COPRA, digital economy, consumer rights, consumer complaint.

INTRODUCTION

The COPRA 1986 is a piece of welfare legislation. In order protect the consumers from exploitation and adulterated and substandard goods and deficient services the COPRA came into force on 15th April, 1986

and it applies to the whole of India except to the state of Jammu and Kashmir¹. The Act provides certain rights certain rights to the consumer and also the remedies in case of defects or deficiencies. Thus, the COPRA 1986 is a comprehensive legislation made by the parliament to protect the rights of consumer². In mid-August, the COPRA 2019 repeals the previous consumer protection legislation which had been in effect since 1986. This prior legislation had been amended time to time to bring it in accordance with changes brought about by economic liberalization, globalization of markets and digitalization of products and services³. The 2019 COPRA brings about fundamental changes to the existing 1986 legislation. But it also envisages a Central Consumer Protection Authority and vests too much power and control in this authority without proposing adequate administrative safeguards⁴.

CONSUMER

Who is a consumer

❖ Section 2(d)/2(1)(d) defines consumer as any person who buys any goods or receives any services for consideration is called a ‘consumer’. It also includes a person used or using such goods or services with the permission of such buyer. Consideration may be money or barter or exchange or services etc. But the sale of Good Act1930 insists money only. Further, consumer is a person who uses the goods⁵.

¹<https://www.advocatekhaj.com/library/lawareas/consumer/Consumer.php?Title=consumer%20Protection%20Act&STitle=Introduction>

² Vijayasekhar .D.R.DR.; law of torts; Vijay law series; fifth edition;2017.;

³ <https://barandbench.com/consumer-protection-act-2019-enhancing-consumer-rights/amp/>

⁴ Ibid.,

⁵ Supra note 2 at [205].



- ❖ The COPRA 2019 has widened the definition of ‘consumer’. The definition now includes any person who buys any goods, whether through offline or online transactions, electronic means, teleshopping, direct selling or multi-level marketing. The earlier Act did not specifically include e-commerce transactions, and this lacuna has been addressed by this New Act⁶
- ❖ **Who is not a consumer⁷**
- ❖ A person is not a consumer if he/she:
- ❖ Purchases any goods or avails any services free of charge.
- ❖ Purchases a good or hires a service for commercial purpose.
- ❖ Avails any service under contract service.

	office is located.	resides or works.
➤ Product liability	No provision. Consumer could approach a civil court but not consumer court.	Consumer can seek compensation for harm caused by a product or service.
➤ Pecuniary jurisdiction	District: up to Rs.20 lakh, State: Rs.20 lakh to Rs.1crore, National: above Rs.1crore.	District: up to Rs.1crore, State: Rs.1crore to Rs.10crore, National: above Rs.10crore.
➤ E-commerce	No provision.	All rules of direct selling extended to e-commerce.
➤ Medication cells	No legal provision.	Court can refer settlement through medication.

CHANGES IN COPRA 2019

➤ PROVISIONS	COPRA 1986	COPRA 2019
➤ Regulator	No separate regulator.	Central consumer protection authority (CCPA) to be formed.
➤ Consumer court	Complaint could be filed in a consumer court where the seller’s (defendant)	Complaint can be filed in a consumer court where the complaint

Table 0.1⁸

WHAT IS MEANT BY CONSUMER RIGHTS

⁶<http://www.mondaq.com/india/x/838108/Doddfrank+wall+street+Reform+Consumer+Protection+Act/C+ONSUMER+PROTECTION+Act+2019+KEY+HIGHLIGHTS>

⁷ Consumer court FAQ’S

⁸ <https://m.economicstimes.com/wealth/spend/hereshow-consumer-will-benefit-under-the-new-consumer-protection-act/articleshow/70711305.cms>



- ❖ The definition of a consumer right is the ‘right to have information about different aspects of a good or service such as its quality, quantity, potency, purity, price and standard’⁹.
- ❖ **Consumer Protection Bill, 2019**
- ❖ The Consumer Protection Bill, 2019 was introduced in Lok Sabha by the Minister of Consumer Affairs, Food and public Distribution, Ram Vilas Paswan on July 8, 2019. The Bill replaces COPRA 1986¹⁰.
- ❖ **Existing rights of consumers**
- ❖ There were a total of 6 consumer rights which have been defined in the Consumer Protection Bill they are¹¹:
 - ❖ Right to safety.
 - ❖ Right to information.
 - ❖ Right to choose.
 - ❖ Right to be heard.
 - ❖ Right to redressal.
 - ❖ Right to consumer education.
- ❖ So in addition to the existing consumer rights, there are five new consumer rights they are¹²:
 - ❖ Right to file a complaint from anywhere.
 - ❖ Right to seek compensation under product liability.
 - ❖ Right to protect consumers as a class.
 - ❖ Right to seek a hearing using video conferencing.
 - ❖ Right to know why a complaint was rejected.

COMPLAINT

- ❖ **Definition of complaint**
- ❖ Any person who buys any goods or receives any services for

consideration is called a ‘consumer’. It also includes a person used or using such goods or services with the permission of such buyer. According to Section 2(1) complaint must be made in writing by complainant against¹³:

- ❖ Defects in goods.
- ❖ Deficiency in services.
- ❖ Excess of price.
- ❖ Hazardous goods, which are dangerous to life and safety.
- ❖ An unfair trade practice or restrictive trade practice.
- ❖ In COPRA 2019 the government has introduced online portals for the consumers to make complaints easily thus saving time (E-filing of complaints).
- ❖ **Who can file a complaint**
- ❖ The consumer
- ❖ Recognized consumer association through consumer
- ❖ Government
- ❖ One or more consumers in case of common interest.

REMEDIES TO AN AGGRIEVED CONSUMER: SECTION 14

- ❖ To remove the defect.
- ❖ To replace with defect-free goods.
- ❖ To refund the price.
- ❖ To remove the deficiency.
- ❖ To discontinue or not to repeat unfair trade practice.
- ❖ To stop the sale of hazardous good.
- ❖ To provide costs¹⁴.

⁹ <https://www.indiatoday.in/education-toaday/gk-current-affairs/story/5-new-consumer-protection-bill-divd-1580371-2019-08-13>

¹⁰ Id.,

¹¹ Id.,

¹² Id.,

¹³ Supra note 2 at [213]

¹⁴ Supra note 2 at [214]



NEW PROBLEMS AND NEW REMEDIES

- ❖ Changing business models can create new sets of problems for consumers.
- ❖ The COPRA 19 has introduced new concepts like product liability and protection against unfair contracts. This new frame work expand the scope of grievances that consumer can complain against.
- ❖ **Product liability**
- ❖ A consumer can claim compensation under a product liability action for a 'harm' caused to him due to deficiency in a product or service. Although, under the 1986 Act, the district, state and national commissions could allow claims as a result of mental agony, what qualified as 'harm' wasn't specified. The 2019 Act provides a statutory ground to consumers by defining harm and injury to include stress and mental agony. A product liability action will lie against the manufacturer or design defects or if it deviate from manufacturing specification or express warranties said Swathy Satyaamurti, director of operations at Consumer Association of India¹⁵.
- ❖ **Unfair contracts**
- ❖ A contract between a manufacture or trader and consumer will be deemed to be unfair under the COPRA 2019, if it causes a significant change in rights of consumer. Contractual terms which specify excessive security deposits, provide for unilateral termination or assignment without

consent of other party are among the several grounds which render a contract unfair. The 1986 Act did not provide consumers with a single forum against such contracts¹⁶.

❖ **False and misleading advertisements**

- ❖ Under the new law, a consumer can file complaint with the Central Consumer Protection Authority against any advertisements which gives or conveys false description of a product or service or contains a representation constituting an unfair trade practices etc. the authority can direct the Director General-its investigation wing-to investigate complaints against misleading advertisements by any person if a prima facie case is established again the advertiser¹⁷.

❖ **Jurisdictional changes**

- ❖ Jurisdiction under 2019 Act will decide on the basis of 'value of goods or services paid as consideration' by the consumer. Enhancement of jurisdiction amounts at all levels reflects the escalation in commodity prices in the last 30 years said by Ashim Sanyal, chief operating officer of Consumer Voice¹⁸.

CENTRAL CONSUMER PROTECTION AUTHORITY

The new bill, passed by the Lok Sabha proposes to set up a Central Consumer Protection Authority (CCPA) to tackle e-commerce frauds, violation of consumer rights, unfair trade practices and misleading

¹⁵ <https://www.bloomberquint.com/amo/law-and-policy/will-the-new-consumer-protection-act-make-consumers-king>

¹⁶ Id.,

¹⁷ Id.,

¹⁸ Id.,



advertisements. With the passage of the consumer protection Bill in the Lok Sabha shoppers come a step closer to initiating class action lawsuits over grievances such as refund and return of products¹⁹. The new Bill, which would replace the COPRA 1986 aims to address consumer vulnerabilities to new forms of unfair trade and unethical business practices in the fast-changing new-age economy. The current three-decade old law does not adequately cover the ecommerce sector or even direct selling²⁰. “Under the Bill, there is provision for central government to set up a central Consumer Protection Authority (CCPA) to promote, protect and enforce the rights of consumers and it will be empowered to investigate, recall [faulty/unsafe goods and services], refund and impose penalties”, the Ministry of Consumer Affairs, Food & Public Distribution said in a statement²¹.

CONSUMER WELFARE FUND

- ❖ **Meaning**
- ❖ Consumer Welfare Fund was created to promote and protect the welfare of consumer, to create consumer awareness and strengthen consumer movement in the country, particularly in rural areas. Amount of refund which is not payable to the applicant is credited to the Consumer Welfare Fund²².
- ❖ **History**
- ❖ The consumer Welfare Fund Rules were framed and notified in the

Gazette of India in 1992, which have been incorporated in Consumer Welfare Fund Rule 97 of the CGST Rules, 2017. Consumer Welfare Fund has been setup under section 57 of the CGST Act, 2017²³. Earlier, the Central Excise and salt Act, 1944 was amended in 1991 to enable the Central Government to create a Consumer Welfare Fund (CWF) where the money which is not refundable to manufacturers and others is being credited²⁴. The Consumer Welfare Fund rules were notified in the Gazette of India in 1992. Guidelines for seeking financial assistance from Consumer Welfare Fund were framed based on the report of a working Group set-up in 1993, which was subsequently revised twice, in 2001 and 2014²⁵.

CONSUMER COURT

Consumer court is a special purpose court in India that deals with cases regarding consumer disputes, conflicts and grievances. They are judiciary hearings set up by the government to protect the consumer's rights. Its main function is to maintain the fair practices & contracts by sellers. Consumers can file a case against a seller if they are cheated or exploited by sellers. The court will only give a verdict in favour of the consumers/customers if they have proof of exploitation, i.e. bills or purchase memos. If a consumer does not have the proper

19

<https://www.businesstoday.in/current/corporate/new-consumer-protection-bill-mandates-action-against-ecommerce-frauds-unfair-trade-practices/story/369447.html>

²⁰ Id.,²¹ Id.,

22

<https://www.caclubindia.com/amp/articles/consumer-welfare-fund-under-gst-38051.asp>

²³ <https://consumeraffairs.nic.in/organisation-and-units/division/consumer-welfare-fund/overview>²⁴ Id.,²⁵ Id.,



documents required for filing a case then it would be very difficult for the consumer to win or even file a case²⁶. Now with the help of COPRA 2019 the cases can be solved without going to court via video conferencing.

CONCLUSION

Consumer protection has social, ethical and economic dimensions²⁷.” Every man is a consumer, and ought to be a producer. He is by Constitution expensive, and needs to be rich.”- Ralph Waldo Emerson. COPRA 2019 framework has many benefits for consumers and the new reformation in the old Act has brought many changes which were useful for the consumers. This new Act establishes Central Consumer Protection Authority, product liability & penal consequences, penalties for misleading advertisements, provision for alternate dispute resolution, covers E-Commerce transaction, enhancement of pecuniary jurisdiction and E-filing of complaint. In this digital era digitization has provided easy access, a large variety of choice, convenient payment mechanisms, improved services and shopping as per convenience. Keeping this in mind and to address the new set of challenges faced by consumers in the digital age, the Indian Parliament, on 6 August 2019, passed the landmark Consumer Protection Bill, 2019 which aims to provide the timely and effective administration and settlement of consumer disputes²⁸. The Government has given consumer their rights as a consumer it is our duty to beware of our rights and to voice our rights whenever it has been violated.

²⁶

<https://web.archive.org/web/20110721172525/http://ncdr.nic.in/>

²⁷ <https://shodhganga.inflibnet.ac.in>

²⁸ Supra note at 6