

Webinar on Consumer Protection Act, 2019 – Report

Speaker –

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Moderators –

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CONCEPT NOTE

A webinar was conducted on 17th October 2020 by Pro Bono Cell, Symbiosis Law School, Noida, on the Consumer Protection Act, 2019. The primary objective for the same was to spread awareness on the recent issues on the consumer rights and how consumers can benefit from these laws.

OBJECTIVES

- Spreading awareness on the Consumer Protection Act, 2019
- Discussing the following questions –
 1. Who is a consumer?
 2. When can a consumer complaint be filed?
 3. Who can file a complaint?
 4. Where can a complaint be filed?
 5. Penalties under the Consumer Protection Act

Preliminary Preparation

People and organisations interested in Consumer Protection Act were invited for the webinar. Among the attendees, everyday consumers and civil society organisations working for the right of consumers were present. The aim was to engage in a discussion and enable education and awareness on how the laws can be accessed and remedies accessed.

Discussion undertaken

I. INTRODUCTION OF THE ACT

The Consumer Protection Act is a big part of country and has a special dedicated ministry towards it. The Act was introduced in India in 1986 during the License Raj. The first act was introduced in 1986. After that 1991, the country saw liberalisation and e-commerce was introduced and service industry greatly expanded. Thus, a lot of revenue started being generated from advertising and it became a sector by which people through which people were influenced and encouraged to go and buy a certain product. This led to a lot of complaints as wrong products were being advertised to people and misleading them into buying products which were of improper quality.

Because of all this, 2019, the Central Government brought in a new Consumer Protection Act. This was notified on 20 July 2020 and it is applicable now and consumer can seek redressal under this law.

II. WHO IS A CONSUMER?

Firstly, we must know who a consumer is. A consumer is defined under Section 2 (7) as any person who either buys a product, or avails a service against money, or promise to pay a sum of money will be known as a consumer. There is one exception to this, that is, the product must not be brought for a commercial purpose. Any product brought by the end user will make the buyer the consumer.

It must thus be determined if a person is a consumer or not.

III. WHEN CAN A COMPLAINT BE FILED?

Then it must be noted as to what are the things against which a complaint can be filed.

- Under this new law, complaint can be filed if someone makes a one-sided contract with the consumer, or mistreats the consumer, or to end his competition, practices restrictive trade. A consumer can go to a consumer court in these cases.
- Other than this, if the product or service has some issue, lacks in what was promised, a complaint can be filed.
- Also, if any product is sold to the consumer above the fixed price or as given in a price list, or a price decided between both the parties.
- Also, there are some products hazardous in nature having a particular way in which they can be used. If the safety measures are not taken despite knowing the consequences, a complaint can be filed.
- There are also some services which may be harmful for people. If any hazardous service is offered, a complaint can be filed. Product liability has been defined in the act and the product must be up to the mark else a case may be filed.

All these have been discussed in the Act of 2019.

IV. WHO CAN FILE A COMPLAINT?

A complainant is defined under Section 2 (5) of the Consumer Protection Act, 2019 as—

- (i) a consumer; or
- (ii) any voluntary consumer association registered under any law for the time being in force; or
- (iii) the Central Government or any State Government; or (iv) the Central Authority; or
- (iv) one or more consumers, where there are numerous consumers having the same interest; or
- (v) in case of death of a consumer, his legal heir or legal representative; or
- (vi) in case of a consumer being a minor, his parent or legal guardian.

For example, in the case of Maggi, the case was filed by the Central Government acting as the complainant.

The Consumer Protection Act, 2019 establishes the Central Consumer Protection Authority (CCPA) whose primary objective will be to promote, protect and enforce the rights of consumers. It is empowered to conduct investigations into violations of consumer rights and institute complaints/prosecution. It also has the right to investigate any matter before it. Every order passed by the CCPA can only be challenged before the Central Consumer Forum.

V. WHERE CAN COMPLAINT BE FILED?

The complaint can be filed at the following places:

- District Consumer Disputes Redressal Commission: Claim does not exceed Rs. 1 cr. [Sec. 34]
- State Consumer Disputes Redressal Commission: Claim exceeds Rs. 1 cr. but does not exceed Rs. 10 cr. [Sec. 47]
- National Consumer Disputes Redressal Commission: Claim exceeds Rs. 10 cr. [Sec. 58]

In the earlier Act, jurisdiction was decided based on whatever was claimed by the consumer. However, the new law decides jurisdiction based on the amount of money paid.

As per the old act, the lied in the place where the seller resided or where the purchase took place. In the new Act however, the complainant can even file a complaint in his place of residence.

If a consumer is not satisfied by the decision of the District Consumer Disputes Redressal Commission, they can appeal in forty-five days. If a consumer is not satisfied by the decision of the State Consumer Disputes Redressal Commission, then under 30 days he can appeal to the Central Consumer Dispute Redressal Commission. In the old act, appeal was allowed only up to one level after which revision petition needed to be filed. Now there lies a right of second appeal if a question of law arises.

If a product is bought or service is availed and there lies a scope of complaint, then the consumer sends a legal notice to the seller to either correct the product, to exchange it, or to compensate for it. If the loss is not covered, then an official complaint is filed as per the pecuniary jurisdiction. Online complaint may also be filed, and a consumer can ask for an online hearing.

In a complaint, the following things need to be mentioned.

- Name, address and description of both the parties.
- Cause of action, approximate date, time and place.
- Relevant causes behind the action.
- The compensation or remedy claimed by the consumer
- Signature of the complainant or authorized lawyer.
- Material evidence and documents are required to be produced before the court to support the complaint.
- Copy of bill, delivery receipt, packaging, record of online booking.
- Warranty/Guarantee cards.
- Copy of the written complaint and notice.

The consumer needs to choose the proper forum. He must pay the requisite court fees and then file an affidavit with the court.

If the forum deems the complaint fit, then it is brought forth in the court. The 2019 Act talks about the option of a mediation. If the matter is solved with a mediation, then it will not be discussed further in the court. Only if a mediation fails to clear it, will be brought in front of a judge.

Section 84 (1) discusses when a product manufacturer will be liable for a case of product liability. A product manufacturer shall be liable in a product liability action, if—

- (a) the product contains a manufacturing defect; or
- (b) the product is defective in design; or
- (c) there is a deviation from manufacturing specifications; or
- (d) the product does not conform to the express warranty; or
- (e) the product fails to contain adequate instructions of correct usage to prevent any harm or any warning regarding improper or incorrect usage.

VI. **PENALTIES**

- False or Misleading Advertisements: Penalty of up to Rs 10 lakhs and imprisonment for up to two years.
- Injury to consumer due to adulterated products: Manufacturer, seller, or distributor can be fined up to Rs 5 lakhs and imprisonment up to seven years.
- Death of consumer due to adulterated products: Minimum fine of Rs 10 lakhs and seven years of imprisonment which may extend to life imprisonment.

In the new act, there is a power of review with consumer forums. If the consumer forum's decision is not followed, imprisonment of 1 year to 3 months or fine of 25 thousand to one lakh or both. Since e-commerce has grown so much, e-commerce websites have also been brought under the ambit of the consumer protection act and the websites cannot escape liability by saying that they are just aggregators and not the manufacturers. Advertisement has been

defined under the act and for the first-time consumer rights have been clearly defined and categorised.

The consumer will have the following rights:

- Right to protection from hazardous production
- Right to knowledge of purity, quality, and quantity of product
- Right of protection from unfair trade practices.
- Right to have a decisive price for a product.
- Right to file a complaint.
- Right of awareness.
- Right to protection from misleading advertisements.

These are the things that every consumer must be aware of.

REPONSE OF THE TARGET POPULATION

Question 1: What about the case when a complaint must be filed against mobile applications that offer loan? They never reveal proper name and address, so in this case what resort will a consumer have in these cases?

Adv. Mihir: In the matters of loan, the aggrieved party would not be a consumer. There is an important judgement, Lucknow Development Authority vs. M.K. Gupta. In the case it was said that matters of banking and real estate would come under the ambit of consumer courts but even after that, for loans taken we would not be a consumer.

Question 2: How can an organisation get connected to the consumer forum directly.

Adv. Mihir: The CCPA under the new act would work with voluntary consumer association and it is the job of the CCPA to coordinate with such organisations. Since the act has been notified, you can work with them by contacting them.

Question 3: How can we seek file complaints against e-commerce websites?

Adv. Mihir: As per the new guidelines established for e-commerce aggregator, all such sites mandatorily must keep an in-house grievance officer. Other than this, they must give a helpline which can be contacted. If the dispute still does not get solved, a complaint may be filed in the consumer forum.

MOMENTS FROM THE EVENT



CCPA के कार्य

- संबन्धित व्यापारी, निर्माता, विज्ञापनकर्ता, विज्ञापनदाता, प्रकाशक को या तो एक मालत या धामक विज्ञापन बंद करने, या इसे संशोधित करने के लिए निर्देश जारी करें।
- उपभोक्ता अधिकारों के उल्लंघन की जांच करें और उचित मंचों में अभियोजन का पीछा करें।
- असुरक्षित वस्तुओं और सेवाओं के खिलाफ उपभोक्ताओं को सुरक्षा नोटिस जारी करें।

उपभोक्ता संरक्षण क्या है?

- उपभोक्ता संरक्षण अधिनियम, 2019 केंद्रीय उपभोक्ता संरक्षण प्राधिकरण (CCPA) की स्थापना करता है जिसका प्राथमिक उद्देश्य उपभोक्ताओं के अधिकारों को बढ़ावा देना, उनकी रक्षा करना और उन्हें लागू करना होगा। यह उपभोक्ता अधिकारों और संस्थान की शिकायतों / अभियोजन के उल्लंघन की जांच करने का अधिकार है।
- 2019 के अधिनियम ने उपभोक्ता संरक्षण अधिनियम, 1986 को निरस्त कर दिया।
- अधिनियम का उद्देश्य उपभोक्ताओं के हितों की सुरक्षा के लिए और उच्च उद्देश्य के लिए, उपभोक्ताओं के विवादों के समय पर और प्रभावी प्रशासन और निपटान के लिए अधिकारियों को स्थापित करना और



उपभोक्ता संरक्षण अधिनियम, 2019



शिकायत कहां दर्ज करें

- जिला उपभोक्ता विवाद निवारण आयोग
- दावा 1 करोड़ रुपये से अधिक नहीं है। [धारा: 34]
- राज्य उपभोक्ता विवाद निवारण आयोग
- दावा 1 करोड़ रुपये से अधिक है, लेकिन 10 करोड़ रुपये से अधिक नहीं है। [धारा: 47]
- राष्ट्रीय उपभोक्ता विवाद निवारण आयोग
- दावा 10 करोड़ रुपये से अधिक है। [धारा: 58]

दंड

- गलत या धामक विज्ञापन: 10 लाख रुपये तक का जुर्माना और दो साल तक की कैद।
- मिलावटी उत्पादों के कारण उपभोक्ता को चोट: निर्माता, विक्रेता या वितरक को 5 लाख रुपये तक का जुर्माना और सात साल तक की कैद हो सकती है।
- मिलावटी उत्पादों के कारण उपभोक्ता की मौत: 10 लाख रुपये का न्यूनतम

उपभोक्ता मामला दर्ज करने की प्रक्रिया

चरण 1

सूचना: उत्तेजित पार्टी माल और सेवाओं के प्रदाता को एक नोटिस भेजती है। यह नोटिस उपभोक्ता के कार्य करने के इरादे के बारे में सूचित करता है।

चरण 2

शिकायत का प्रारूपण: यदि विक्रेता या सेवा प्रदाता मुआवजे की पैदावार करने के लिए तैयार नहीं है, तो उपभोक्ता संरक्षण उपभोक्ता संरक्षण के तहत एक औपचारिक शिकायत दर्ज की जाती है। इस प्रक्रिया से उपभोक्ता स्वयं निपट सकता है। उपभोक्ता को निम्नलिखित विवरणों का उल्लेख करना होगा:

1. दोनों पक्षों का नाम, पता और विवरण कार्रवाई का कारण, अनुमानित लिपि, समय और स्थान।
2. कार्रवाई के पीछे प्रासंगिक कारण।
3. उपभोक्ता द्वारा दावा या मुआवजा शिकायतकर्ता या अधिकृत वकील का हस्ताक्षर।

चरण 3

आवश्यक दस्तावेज संलग्न करें: शिकायत का समर्थन करने के लिए अदालत के समक्ष सामग्री साक्ष्य और दस्तावेजों का उत्पादन किया जाना आवश्यक है।

- बिल की कॉपी, डििलीवरी रसीद, पैकेजिंग, ऑनलाइन बुकिंग का रिकॉर्ड।
- कार्टी / गारंटी कार्ड।
- लिखित शिकायत और नोटिस की प्रतिलिपि।

चरण 4

उपयुक्त आयाम: उपभोक्ता को उचित मंच चुनने की आवश्यकता है।

चरण 5

वैतन अदालत मुक्त: शिकायत के साथ एक निश्चित राशि का भुगतान किया जाना चाहिए।

चरण 6

अदालत में शपथ पत्र प्रस्तुत करें: यह प्रमाण है कि वर्णित सभी तथ्य



SUGGESTIONS / FEEDBACK

Conduction of the webinar in Hindi as the language proved very helpful as we were thereby able to reach more people and communicate easily to people who may not be well versed with English.

CONCLUDING REMARKS

The webinar and the discussion proved very helpful and we were able to reach a lot of people and spread information on laws on consumer protection and their accessibility for the general public. Awareness of the laws is a very important keystone in ensuring its accessibility and through explaining people their rights and remedies, and also the penalties, we were able to bring a lot of people knowledge that they can easily apply in their everyday lives and be aware consumers henceforth. Webinars like these are important in today's date so that the general public can be made aware of the concerning laws that can help them in their everyday life.
