



CONSUMER PROTECTION ACT: A REVIEW

Adeeba Shamshad., Sugandha Agarwal., Anuradha P and Shweta Singh

Public Health Dentistry Babu Banarsi Das College of Dental Sciences

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ABSTRACT

The major motivation for enactment of this act is self-evident: to safeguard consumers from unfair trade practises. In 1986, a formal Consumer Protection law was enacted that was only focused on Consumer Protection. This act is a watershed moment in the history of social-economic legislation, and it is widely recognised as the most progressive, comprehensive, and unique piece of legislation ever enacted. In India after 2019 no amendment acts were enacted but in 2020 International consumer laws came in to existence. Many developing countries, like India, used United Nations recommendations to build Consumer Protection rules and practises. So this review article deals with the importance of Consumer Protection Act in context to Indian scenario and its significance worldwide.

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INTRODUCTION

"Consumerism" refers to consumers' self-effort in order to protect them-selves. Consumerism is the result of market forces exploiting and suffering consumers. As a result, consumers must be aware of their legal rights before, during, and after purchases.¹ Consumer protection has become a topic of growing public concern in recent years, since unethical business practises have a negative impact on the nation's well-being.² All suppliers of goods and services, both in the private and in the public sector and the cooperative sector, are covered by the act.³ The consumer must be aware of his rights and the legal options available to protect himself from exploitation.⁴ Consumers are those who are sold goods or services, have transacted with suppliers, are consumers of certain goods, or are recipients/beneficiaries of services. Separate Consumer Tribunals have been established throughout India in each and every district under this law, where a consumer can file a simple paper complaint without paying any court fees, and his complaint will be decided by the Presiding Officer of the District Level.⁵

Unlike other current laws that are punitive and preventive in nature, the primary goal of this legislation is to provide for simple and quick justice to the consumer who have exploited in the market. Consumer protection is a socioeconomic activity that involves the government and businesses working together to ensure that consumers are satisfied. It is the government's primary role to defend consumers' rights and interests by

enacting appropriate policies, regulations, and administrative framework. Various Acts and Laws have been enacted in order to safeguard consumers. However, the Consumer Protection Act of 1986 is regarded as a watershed moment in India's history of consumer protection.⁶

Consumer Protection Act In India

Consumer Protection Act 1986- On July 1, 1987, the Consumer Protection Act of 1986 was signed into law. The primary goals of the Act are to provide stronger and more comprehensive consumer protection, as well as effective safeguards against various forms of exploitation, such as defective goods, poor services, and unfair trading practises. It also includes provisions for resolving customer complaints in a simple, quick, and low-cost manner.⁷

Amendments

The 1986 Consumer Protection Act has been revised four times: in 1991, 1993, 2002, and 2010, with a fifth revision on the way. On April 11, 2002, The Rajya Sabha passed the 2002 amendment, and on July 30, 2002, the Lok Sabha passed it with some changes. On November 22, 2002, the Rajya Sabha passed it again, and on December 17, 2002, the President of India granted his approval. The provisions of the Act are slated to go into effect on March 15, 2003.⁴ One amendment bill was introduced in Parliament in 2011, but it was lapsed, and amendments were presented in 2015, for which the bill is still awaiting approval. In the age of E-Commerce, the government has taken a number of initiatives to tighten consumer protection mechanisms.⁴ A platform – Grievance Against Misleading Commercials (GAMA) – has been developed to manage complaints against misleading advertisements, the release of guidelines, and an online case monitoring system in

*Corresponding author: **Adeeba Shamshad**
Public Health Dentistry Babu Banarsi Das College of Dental

the Consumer Fora. Even e-filing complaints in Consumer Fora is being considered by the government.⁴

Consumer Protection Act of 2019

On August 6, 2019, the Indian Parliament passed the Consumer Protection Bill, 2019, in response to this new and dynamic market. On August 9, 2019, the President of India signed the Consumer Protection Act, 2019 ("CPA 2019"), and the Government of India published it in the Official Gazette. Significant provisions of CPA 2019 were notified by the Ministry of Consumer Affairs, Food and Public Distribution via Notification dated 15.07.2020, and CPA 2019 was set to take effect on July 20, 2020.⁸

Modifications of 2019

The CPA's 2019 definition of "customer" has been expanded to include offline and online transactions via technological methods, as well as teleshopping, direct selling, and multi-level marketing. The creation of a Consumer Protection Council, enlarged financial jurisdiction of consumer courts, the introduction of "Product Liability," tools for alternative dispute resolution, and an e-complaints mechanism are all important characteristics of the new regime.⁸

The formation of a Central Consumer Protection Authority and Consumer Protection Councils is one of the fundamental components of the new law. The authority can take action under Section 18 to inquire about or investigate violations of consumer rights or unfair trade practises.⁹ Furthermore, Section 2(9) of the Act offers an all-encompassing definition of 'consumer rights,' which was glaringly absent from the previous Act but detailed in a slew of judicial declarations by the Hon'ble Supreme Court of India. The Act of 2019 also defines a new type of defect in the form of deceptive and unethical advertising.⁹

Consumer Protection Act Internationally

Law remains one of the least globalised aspects of society in an increasingly worldwide world with a deeply internationalized economy. Even law, however, is becoming increasingly internationalized, crossing national jurisdictional boundaries. That is also true in consumer law, where there is a clear trend toward developing supranational standards, or at the very least internationally recognized consumer law principles.¹⁰

International Consumer Law's Two goals

The initial purpose of internationalizing consumer law is to establish a "floor" standard for consumer protection that is acceptable by all countries. Consumer law authorities and policymakers are increasingly using international benchmarking into their work.¹⁰

The first goal of international consumer law is to provide a global minimum standard of consumer protection that extends beyond national borders. Consumer protection has now become a matter of democracy and fundamental democratic ideals in any society, and consumer law development can be considered as part of the democratization process of countries, nations, and societies.¹⁰

The second goal is removal of barriers to cross-border trade driving the establishment of an unified international consumer law. The primary purpose of international consumer law is to set equivalent standards in consumer protection regulatory

frameworks in order to improve the performance of cross-border consumer transactions. The emphasis of rule internationalisation in this case is clearly not on consumer protection, but rather on making compliance requirements easier for dealers eager to trade regionally or globally.¹⁰ The World Trade Organization (WTO) is expected to play a leading role in achieving the second goal of internationalising consumer law. Surprisingly, the World Trade Organization's (WTO) work in the area of global consumer protection has been minimal to date.¹⁰

Laws Protecting Dentist in India

Dentistry is a profession that teaches people how to apply their knowledge and skills to help others. A dentist owes a duty to his or her patients and to society as a whole. This obligation must be at the heart of a dentist's ethical conduct. However, as commercialization spreads across all aspects of life, this vocation has come under criticism.¹¹

Medical services, being necessary services, are sometimes entangled in legal quagmires, resulting in disproportionate harassment of the medical community. On this front, the Consumer Protection Act of 2019 appears to be a step forward in terms of resolving issues through mediation. This allows for a settlement at the stage of complaint admission on mutually accepted conditions between the parties. According to the requirement, each district, state, and National Commission, as well as its regional benches, would have a mediation cell for the speedy resolution of conflicts.¹²

The Consumer Protection (Amendment) Act, 1993, took effect on 18.6.1993 and revised the Act. We will only discuss the provisions of the Act that are relevant to the Medical Profession as they currently exist. The definitions of legal terminology are limited to those that pertain to the Medical Profession. Doctors were not subject to prosecution under the Consumer Protection Act until 1995.¹³

Supreme Court Decision on Service As Related To Medical Profession

Service rendered at a government hospital/health centre/dispensary or a non-government nursing home where charges are required to be paid by persons in a position to pay and persons who cannot afford to pay are rendered service free of charge would fall within the ambit of the term "service," regardless of whether the service is rendered free of charge to persons who cannot afford to pay. Free services provided by such doctors and hospitals would also be considered "service" and the recipient would be considered a "customer" under the Act.¹³

Service rendered by a medical or hospital/nursing home cannot be considered free of charge if the person receiving the service has purchased a medical insurance policy, under which the insurance company bears the costs of consultation, diagnosis, and medical treatment, and such service would fall within the ambit of 'service'.¹³

Duty on The Part of A Hospital And Doctor to Obtain Prior Consent of A Patient

For the sake of diagnosis, treatment, organ transplant, research, disclosure of medical information, and educational and medico-legal objectives, there is a legal obligation to get prior agreement (from living patients). It is critical to secure informed consent from the patient for pathological post

mortem, medico-legal post mortem, organ transplant (for legal heirs), and medical record disclosure in the case of the deceased. Consent can be given in a variety of ways: Express Consent, Implied Consent, Tacit Consent, Surrogate consent.¹⁴

Doctors and Hospital Coverage under the Consumer Protection Act

The Supreme Court eventually determined on the issue of medical profession coverage under the Consumer Protection Act, 1986 in the matter of the Indian Medical Association vs. V.P. Shanta and Ors., III (1995) CPJ 1 (SC), clearing away any uncertainty on the subject. Doctors and hospitals realised that as long as they had paid patients, all patients are consumers, even if treatment is provided for free. While the apex court decision accepts that a small percentage of patients may not respond to medication, medical literature reports on such failures despite the best efforts of doctors and hospitals.¹⁴

Consumer Grievance Resolution

A three-tier quasi-judicial procedure for redressing consumer claims is in place under the provisions of the Consumer Protection Act of 1986. District Forums are located in districts, State Consumer Disputes Redressal Commissions are located in states, and the National Consumer Disputes Redressal Commission is located at the national level. Consumers can also file complaints with the National Consumer Helplines as an alternative to filing a lawsuit (NCH). Around 250 businesses have joined with NCH to help consumers with their complaints.¹⁵

The National Consumer Redress Forum (NCRF), State commissions, and District forums make up the tier redressal system for consumer protection. An appeal from a district forum judgement can be taken to the state commission, and an appeal from a state commission order can be made to the National Forum. There are deadlines for the appeal, just as there are for any other type of lawsuit. In addition to the three-tiered consumer protection deadlines, there is a 21-day timeline for determining jurisdiction over a specific issue.¹⁶

District Forum- A person who is or has been qualified as a District judge shall be the President of each District Forum. Two more people must be at least 35 years old and hold a degree from a reputable university. Individuals must have a strong understanding of economics, trade, industry, government policy, and administration.¹⁷

The need for district forums for consumer redress arises from the fact that the majority of people who experience a violation of their consumer rights are unable to file a complaint in a state or national forum because such forums are required to consider matters pertaining to other district forums, resulting in a large number of pending cases.¹⁷

State Commission

The State Commission must have a President and two or more members, one of whom must be a woman, as determined by the State Government. According to section 16 of the Consumer Protection Act, the President must be qualified to serve as a judge of the High Court. The State Commission would have jurisdiction over complaints with a value of more than Rs. 20 lakhs but less than Rs. 1 crore. According to section 17 of the Act, the State Commission has appellate and revisional jurisdiction over orders made by the District Forum within the state. The State Commission will deal with all

concerns relevant to the state in accordance with the Commission's territorial jurisdiction.¹⁸

National Commission

The National Commission is established in accordance with section 20 of the Act, headed by the President and four or more members as prescribed by the Central Government and one of whom shall be a woman.¹⁸

Section 21(a)(i) of the Consumer Protection Act of 1986 provides for consumer complaints. Complaints can be filed at Ground Floor Upphokta Nyay Bhawan', F' Block, General Pool Office Complex, INA, New Delhi 110 023 on all working days (Monday to Friday) between 10:00 a.m. and 4:30 p.m. A consumer complaint must be signed by the complainant and accompanied by a notarized affidavit including 1+3 sets + the number of opposing parties. (including the cover of the file).¹⁹

CONCLUSION

The Consumer Protection Act of 1986 legitimises consumer rights by creating forums at the district, state, and national levels to augment and give prompt relief in addition to the Indian Judicial System's existing legislation. As a result, it is clear that consumer rights are being acknowledged, and effective procedures are being developed to resolve consumer issues and concerns, taking into account the right to defence by defaulters, such as manufacturers, dealers, or providers of goods and services, as the case may be. Every effort should be taken to recognise and safeguard the rights of customers in accordance with the law as soon as possible, with appropriate compensation if necessary.

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