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The Consumer Protection Act of 2019: An Analysis

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ABSTRACT

The increasing changing character of modern Indian society in all dimensions and the growth of digital marketing of goods and services with new challenges and risks it brought to the consumer and for the enhancement of consumer rights and protection have significantly contributed to the necessity of updating the Consumer Protection Act of 1986 and replaced by the Consumer Protection Act, 2019 coming into force from 20 July 2020. Many transformative provisions have been incorporated in the Act, for example e-commerce has been brought under the provisions of the Act. The paper examined some major changes and expansion brought under the ambit of the new Act of 2019.

The increasing changing character of modern Indian society in all dimensions and the growth of digital marketing of goods and services with new challenges and risks it brought to the consumer and for the enhancement of consumer rights and protection have significantly contributed to the necessity of updating the Consumer Protection Act of 1986 and replaced by the Consumer Protection Act, 2019 coming into force from 20 July 2020.

As its objective clearly stated, “This Act of 2019 was enacted with an aim to protect the rights of consumers by establishing authorities for timely and effective administration and settlement of consumers’ disputes”.² Consumer Protection Act protects the interests of individual consumers against the unfair practices.³ Consumer Protection Act 2019 (Act 2019) also proposes establishing authorities for timely and effective administration and settlement of consumers’ dispute. Many transformative provisions have been included in the Act 2019 some major changes and expansion brought under the ambit of Act 2019 are examined in this paper:

- One of the significant additions in the new Act of 2019 is that the definition of consumer in Section 1 (7) has been expanded to include within the meaning of consumers, customers of digital marketing/e-commerce. The section explained; for the purpose of this clause “the

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² The Consumer Protection Act, 2019, Bare Act with Comments, Law and Justice Publishing Company, New Delhi, 2021, p-1

³ Rajendre Agarwal v. Shoppers Stop Limited, 2018 SCC Online CCI 62

expressions buys any goods” and “hires or avails any services” includes offline or online transactions through electronic means or by teleshopping or direct selling or multi-level marketing”.⁴ New terminology of ‘advertisement’ is also included and defined as any audio or visual publicity, representation, endorsement or pronouncement made by means of light, sound, smoke, gas, print, electronic media, internet or website and includes any notice, circular, label, wrapper, invoice or such other documents

- The meaning of goods has been widened to also include “food” as defined in Food Safety and Standards Act, 2006 (34 Of 2006). This will facilitate inclusion of food delivery and services within the ambit of consumer protection.

- Unfair Trade Practice: Unfair trade practice includes disclosing of any personal information given by the consumer in confidence, unless such disclosure is made in accordance with the provisions of any other law. Hence the Act protects customers’ privacy and their details.

- The act proposed establishment of Central Consumer Protection Authority to regulate matters relating to violation of rights of consumers, unfair trade practices and false or misleading advertisements which are prejudicial to the interests of public and consumers and to promote, protect and enforce the rights of consumers as a class and ensure that no person takes part in the publication of any advertisement which is false or misleading.

- Introduction of electronic mode in submitting complaint: Article 17 recognized making complaints in electronic mode which mentioned- A complaint relating to violation of consumer rights or unfair trade practices or false or misleading advertisements which are prejudicial to the interests of consumers as a class, may be forwarded either in writing or in electronic mode. Hence, ‘e-filing’ of complaint has been provided and recognized.

- In the new Act pecuniary jurisdiction of District Commission has been enhanced to one crore rupees. State Commission can entertain complaints where the value of goods or services paid as consideration, exceed rupees one crore, but does not exceed rupees ten crore value above ten crore to be decided by the National Commission.

- The customer have the ease to institute complaints at the jurisdiction of the Consumer Commission where the complainant resides or personally works for gain as provided in Section 34 (2) (d). This is an enabling provision that will allow prospective complainant to have easy access to the appropriate forum for grievance redressal.

⁴ Section 1 (7) (ii) Explanation (b) of Consumer Protection Act, 2019.

- Another very relevant provision incorporated in tune with the changing technological advancement is that after admission of complaint, provision is provided for hearing or for examination of parties through video-conferencing.

- Establishment of consumer mediation cell under Section 74: As alternate dispute resolution system becomes an alternative to protracted disputes between parties the Act provided for establishment of consumer mediation cell with an aim to settle consumer disputes through mediation between the parties if consented.

- **Product Liability:** Product liability has been included in the Act under Chapter VI which empower a consumer to bring a product liability action against a product manufacturer or a product service provider or a product seller, as the case may be, for any harm caused to him on account of a defective product with the exception provided that an action cannot be brought against the product seller if, at the time of harm, the product was misused, altered or modified.

- Action against false or misleading advertisement: Any manufacturer or service provider who causes a false or misleading advertisement to be made which is prejudicial to the interest of consumers shall be punished with imprisonment for a term which may extend to two years and with fine which may extend to ten lakh rupees; and for every subsequent offence, be punished with imprisonment for a term which may extend to five years and with fine which may extend to fifty lakh rupees.

- Punishment for manufacturing for sale or stores or sells or distributes or imports any product containing an adulterant or any spurious goods punishment extends from six months with fine which may extend to one lakh rupees to seven years and with fine which may extend to five lakh rupees; severe punishment is accorded for resulting in the death of a consumer, with imprisonment for a term which shall not be less than seven years, but which may extend to imprisonment for life and with fine which shall not be less than ten lakh rupees. Offences causing injury resulting in grievous hurt to the consumer and results in the death of a consumer are cognizable and non-bailable.

In an age of technological advancement in different spheres of life including in marketing of goods and services and the booming e-commerce industry with customer increasingly bombarded with varied endorsement and choices through different modes of online and offline channels. The preservation and protection of Consumer rights becomes a challenge. With an objective to meet this growing challenge the enactment of The Consumer Protection Act 2019 is a positive step towards protecting the rights of consumers from unfair trade and unethical

business practices and redressal of their disputes in the appropriate forum with ease and simplifying the consumer dispute adjudication.

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