

Introduction

Every human being buy a variety of goods and services in their day-to-day life. Whatever they buy have to pay for it and derive satisfaction from its consumption and use.

But sometimes they do not feel satisfied with the product they buy. This may be on account of **poor quality** of the product, **overcharging** by the shopkeeper, **lower quantity** of contents, **misleading advertisement**, and so on.

Who is a Consumer?

- Consumer is a person who **consumes or uses** any goods or services.
- Goods may be consumables like wheat flour, salt, sugar, fruit etc. or durable items like television, refrigerator, toaster, mixer, bicycle etc.
- Services refer to items like electricity, cooking gas, telephone, transportation, film show etc.
- Normally, it is the consumption or use of goods and services that makes the person to be called as 'consumer'. But in the eyes of **law**, both the person **who buys** any goods or hires any service for consideration(price) and the one **who uses** such goods and services with the approval of the buyer are termed as consumers.

Meaning of Consumerism

- ▶ It is a **social movement** initiated by the public and voluntary consumer organizations.
- ▶ Consumerism may be described as the **collecting endeavors of the consumers** to protect their interests.
- ▶ Consumerism is a **force** through which they can **exert their rights** against the **sellers** and can also pressurize the **Government** to adopt necessary legal measures to protect their interests.

Need for Consumerism

The most common business malpractices leading to consumer exploitation are given below.

- (a) Sale of **adulterated** goods.
- (b) Sale of **spurious** goods
- (c) Sale of **sub-standard** goods
- (d) Sale of **duplicate** goods
- (e) Use of **false weights** and measures leading to **underweight**.
- (f) **Hoarding** and **black-marketing**
- (g) Charging more than the **Maximum Retail Price** (MRP)
- (h) Supply of **defective** goods.
- (i) **Misleading** advertisements

Concept of Consumer Protection

Consumer protection means **safeguarding the interest and rights** of consumers. In other words, it refers to the measures adopted for the protection of consumers from **unscrupulous and unethical malpractices** by the business and to provide them **speedy Redressal** of their grievances.

Ways and Means of Consumer Protections

- Lok Adalat
- Public Interest Litigation (**PIL**)
- Redressal Forums and Councils
- **Awareness** Program
- Consumer Organisations
- Consumer Welfare **Fund**
- **Legislative** Measures

Consumer Organisations

- ▶ **CERC** (Consumer Education and Research Centre), Ahmedabad
- ▶ **CUTS** (Consumer Unity and Trust Society), Jaipur
- **VOICE** (Voluntary Organisation in the Interest of Consumer Education), New Delhi
- **Common Cause**, New Delhi
- **Consumer Education Centre**, Hyderabad
- **Karnataka Consumer Service Society**, Bangalore
- **CGSI** (Consumer Guidance Society of India), Mumbai
- **Kerela State Consumers Coordination Committee**, Cochin
- **CAG** (Consumer Action Group), Chennai

Legislative Measures to Consumer Protection

A number of laws have been enacted in India to safeguard the interest of consumers and protect them .Some of these Acts are as follows:

- | | |
|--|--|
| (i) Drug Control Act, 1950 | (vi) The Standards of Weights and Measures Act, 1956 |
| (ii) Agricultural Products (Grading and Marketing) Act, 1937 | (vii) Monopolies and Restrictive Trade Practices Act, 1969 |
| (iii) Industries (Development and Regulation) Act, 1951 | (viii) Prevention of Black-marketing and Maintenance of Essential Supplies Act, 1980 |
| (iv) Prevention of Food Adulteration Act, 1954 | (ix) Bureau of Indian Standards Act, 1986 |
| (v) Essential Commodities Act, 1955 | |

The Consumer Protection Act, 2019

The digitization has provided easy **access**, a large variety of **choice**, convenient **payment** mechanisms, improved **services** and shopping as per convenience. However, along the growth path it also brought in challenges related to consumer protection.

To address the new set of challenges faced by consumers in the digital age, the Indian Parliament passed **Consumer Protection Act, 2019** to provide the timely and effective administration and settlement of consumer disputes.


It extends to the **whole of India** except the State of **Jammu and Kashmir**.

The Consumer Protection Act, 2019 (New Act) **replaced** the more than 3 decades old Consumer Protection Act, 1986.

Consumer Protection Act, 2019

It includes some new provisions as to ...

1. **New definition of consumer** include online purchasing.
2. Definition of goods include **food**.
3. Provisions covering '**endorsement**' of goods and services.
4. Definition of '**electronic service provider**'.
5. Provisions for '**product liability**' and '**product liability action**' for goods and services.
6. Wide definition of '**unfair trade practice**'.

7. New definition of **'harm'**.
 8. **Central Consumer Protection Authority (CCPA)**.
 9. Changes in **pecuniary jurisdiction**.
 10. **Electronically** filing of complaint.
 11. **Mediation**
 12. **Offences** and **Penalties**.
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Definitions

“Advertisement” means –

any audio or visual publicity, representation, endorsement or pronouncement made by means of light, sound, print, electronic media, internet or website and includes any notice, circular, label, wrapper, invoice or such other documents;

“Consumer” means any person who—

- (i) **buys** any goods for a **consideration** which has been paid and includes **any user** of such goods other than the person who buys such goods for consideration paid, but **does not include a person** who obtains such goods for **resale or for any commercial purpose**; or
- (ii) **hires or avails** of any **service** for a consideration which has been paid and includes any beneficiary of such service other than the person who hires or avails of the services for consideration paid but **does not include a person** who avails of such service for any **commercial purpose**.

Explanation- For the purposes of this clause,—

- (a) the expression "commercial purpose" does not include use by a person of goods bought and used by him exclusively for the purpose of **earning his livelihood**, by means of self-employment;
- (b) the 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**;

“Complainant” means—

- (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
- (v) **one or more consumers**, where there are numerous consumers having the same interest; or
- (vi) in case of death of a consumer, **his legal heir** or legal representative; or
- (vii) in case of a consumer being a minor, his **parent or legal guardian**

“Complaint” means –

any **allegation** in **writing**, made by a complainant for obtaining any relief provided by or under this Act, that—

- (i) an unfair **contract** or unfair **trade practice** or a **restrictive trade practice** has been adopted by any trader or service provider;
- (ii) the goods bought by him or agreed to be bought by him suffer from **one or more defects**;
- (iii) the services hired or availed of or agreed to be hired or availed of by him suffer from any **deficiency**;
- (iv) a trader or a service provider, as the case may be, has charged for the goods or for the services mentioned in the complaint, **a price in excess of the price.**

“**Consumer Rights**” includes,—

- (i) the right to be **protected** against the marketing of goods, products or services which are hazardous to life and property;
- (ii) the right to be **informed** about the quality, quantity, potency, purity, standard and price of goods, products or services;
- (iii) the right to be **assured**, wherever possible, access to a variety of goods, products or services at competitive prices;
- (iv) the right to be **heard** and to be assured that consumer's interests will receive due consideration at appropriate forum;
- (v) the right to **seek Redressal** against unfair trade practice or restrictive trade practices or exploitation of consumers; and
- (vi) the right to **consumer awareness**;

“Person” includes—

(i) an **individual**;

(ii) a **firm** whether registered or not;

(iii) a **Hindu undivided family**;

(iv) a **co-operative society**;

(v) an **association of persons** whether registered under the Societies Registration Act, 1860 or not;

(vi) any **corporation, company or a body of individuals** whether incorporated or not;

(vii) any **artificial juridical person**, not falling within any of the preceding sub-clauses;

“Electronic Service Provider”

means a person who provides **technologies or processes** to enable a product seller to engage in advertising or selling goods or services to a consumer and includes any **online market place** or **online auction sites**;

“Endorsement”

means—

- (i) any message, verbal statement, demonstration; or
 - (ii) depiction of the name, signature, likeness or other identifiable personal characteristics of an individual; or
 - (iii) depiction of the name or seal of any institution or organisation,
- which makes the consumer to believe that it reflects the **opinion, finding or experience** of the person making such endorsement

"harm"

includes—

- (i) damage to **any property**, other than the product itself;
- (ii) **personal injury**, illness or death;
- (iii) **mental agony or emotional distress** attendant to personal injury or illness or damage to property; or
- (iv) any loss of consortium or services or **other loss** resulting from a harm referred to in sub-clause (i), (ii) or (iii).

but shall not include any harm caused to a **product itself** or any damage to the property on account of breach of **warranty conditions**.

"manufacturer"

means a person who—

- (i) **makes** any goods or parts thereof; or
- (ii) **assembles** any goods or parts thereof made by others; or
- (iii) puts or causes to be **put his own mark** on any goods made by any other person;

"mediation"

means the **process** by which a mediator **mediates** the consumer disputes


"misleading advertisement"

means an advertisement, which—

- (i) **falsely describes** such product or service; or
- (ii) Gives a **false guarantee** to, or is likely to **mislead** the consumers as to the nature, substance, quantity or quality of such product or service; or
- (iii) Conveys an express or implied representation which, if made by the manufacturer or seller or service provider thereof, would constitute an **unfair trade practice**; or
- (iv) deliberately **conceals** important information;

"product liability"

means the responsibility of a product manufacturer or product seller, of any product or service, to **compensate for any harm** caused to a consumer by such defective product manufactured or sold or by deficiency in services relating thereto;



Unfair Trade Practices

falsely represents that the goods are of a particular standard

makes a false or misleading representation

manufacturing of spurious goods or offering such goods for sale

not issuing bill or cash memo or receipt for the goods sold or services rendered

refusing, after selling goods to take back or withdraw defective goods

permitting the hoarding or destruction of goods to raise their cost

“Restrictive Trade Practice”

means a trade practice which tends to bring about manipulation of price or its conditions of **delivery** or to **affect flow of supplies** in the market relating to goods or services in such a manner as to impose on the consumers unjustified costs.

E-filing of complaints

The New Act provides **flexibility to the consumer to file complaints with the jurisdictional consumer forum located at the place of residence or work of the consumer.**

This is **unlike the current practice of filing it at the place of purchase or where the seller has its registered office address.**

The New Act also **contains enabling provisions for consumers to file complaints electronically and for hearing and/or examining parties through video-conferencing.**

This is aimed to provide **procedural ease and reduce inconvenience and harassment for the consumers.**

“Product”

means any **article** or **goods** or substance or **raw material** or any extended cycle of such product, which may be in gaseous, liquid, or solid state possessing intrinsic value which is capable of delivery either as wholly assembled or as a component part and is produced for introduction to trade or commerce, but does not include human tissues, blood, blood products and organs;

Consumer Dispute Redressal Commission



Consumer Redressal commissions

Consumer redressal commissions, aka consumer courts, are present at the **district, state and national levels to address consumer complaints.**

The Act has **increased the pecuniary jurisdiction**, which means ability of courts to take up cases depending on the value of the case, of the consumer courts.

Appeals from a District CDRC will be heard by the State CDRC. Appeals from the State CDRC will be heard by the National CDRC. Final appeal will lie before the **Supreme Court.**

Consumer Dispute Redressal Commission at **District level**

- (1) The State Government shall, by notification, establish a **District Consumer Disputes Redressal Commission**, to be known as the **District Commission**, in each district of the State: Provided that the State Government may, if it deems fit, establish more than one District Commission in a district.
- (2) Each District Commission shall consist of—
 - (a) **a President**; and
 - (b) **not less than two** and not more than such number of members as may be prescribed, in consultation with the Central Government.

Jurisdiction of District Commission

The District Commission shall have jurisdiction to entertain complaints where the value of the goods or services paid as consideration **does not exceed 1 crore rupees**: Provided that where the Central Government deems it necessary so to do, it may prescribe such other value, as it deems fit.

Mediation

At the first hearing of the complaint after its admission, or at any later stage, if it appears to the District Commission that there exists elements of a settlement which may be acceptable to the parties, it may direct the parties to give in writing, **within five days**, consent to have their dispute settled by mediation.

Where the parties agree for settlement by mediation and give their **consent in writing**, the District Commission shall, **within five days of receipt of such consent**, refer the matter for mediation.

Procedure on admission of complaint

The District Commission shall, on admission of a complaint, or in respect of cases referred for mediation on failure of settlement by mediation, proceed with such complaint.

The District Commission shall,

- (a) refer a copy, within **21 days** from the date of its admission to the opposite party mentioned in the complaint directing him to give his version of the case within a period of **30 days** or such extended period not exceeding 15 days as may be granted by it;

- (b) if the opposite party **denies**, or **omits** or **fails to take any action** to represent his case within the time, proceed to settle the consumer dispute in the manner specified in clauses (c) to (g);
- (c) if the complaint alleges a **defect in the goods** which cannot be determined without proper analysis or test of the goods, **obtain a sample** of the goods from the complainant, **seal it** and refer the sample so sealed to the **appropriate laboratory** and to report its findings thereon to the District Commission within a period of **45 days** of the receipt.

- d) before any sample of the goods is referred to any appropriate laboratory under clause (c), require the **complainant to deposit** to the credit of the Commission **such fees** as may be specified, for payment to the appropriate laboratory for carrying out the necessary analysis or test in relation to the goods in question;
- (e) if any of the **parties disputes the correctness** of the findings of the appropriate laboratory, require the opposite party or the **complainant to submit in writing** his objections with regard to the report made by the appropriate laboratory;
- (f) give a **reasonable opportunity** to the **complainant** as well as the **opposite party** of being heard as to the correctness or otherwise of the report made by the appropriate laboratory and also as to the **objection** made and **issue an appropriate order** under section 39.

Every complaint shall be heard by the District Commission on the basis of **affidavit and documentary evidence** placed on record:

Provided that where an application is made for **hearing** or for examination of parties in **person or through video conferencing**, the District Commission may, on sufficient cause being shown, and after recording its reasons in writing, **allow** the same.

Every complaint shall be **disposed of as expeditiously as possible** and endeavor shall be made to decide the complaint within a **period of 3 months** from the date of receipt of notice by opposite party where the complaint does not require analysis or testing of commodities and within **5 months** if it requires analysis or testing of commodities:

Finding of District Commission

The commission shall **issue an order** to the opposite party directing him to do one or more of the following, namely:—

- (a) to **remove the defect**;
- (b) to **replace the goods**;
- (c) to **return** to the complainant the **price**, or, as the case may be,;
- (d) to **pay such** amount as may be awarded by it **as compensation** to the consumer for any loss or injury suffered by the consumer ;
- (e) to **pay such** amount as may be awarded by it as compensation in a **product liability**;
- (f) to **remove the defects** in goods or deficiencies in the services in question;

- (g) to **discontinue** the **unfair trade practice or restrictive trade practice** and not to repeat them;
- (h) **not to offer** the hazardous or unsafe goods for sale;
- (i) **to withdraw** the hazardous goods from being offered for sale;
- (j) **to cease** and **to desist** manufacture of hazardous goods from offering services which are hazardous in nature;
- (k) **to pay such** sum as may be determined by it, if it is of the opinion that **loss or injury** has been suffered by a **large number of consumers** who are not identifiable conveniently.

Appeal Against District Commission

Any person aggrieved by an order made by the District Commission may prefer an appeal against such order to the State Commission on the grounds of facts or law within a period of **45 days** from the date of the order, in such form and manner, as may be prescribed:

Provided that the State Commission may entertain an appeal after the expiry of the said period of forty-five days, if it is satisfied that there was sufficient cause for not filing it within that period:

Consumer Dispute Redressal Commission at **State level**

- (1) The State Government shall, by notification, establish a **State Consumer Disputes Redressal Commission**, to be known as the **State Commission**, in the State.
- (2) Each State Commission shall consist of—
 - (a) a **President**; and
 - (b) **not less than four** or not more than such number of members as may be prescribed in consultation with the Central Government.

Jurisdiction of State Commission

The State Commission shall have jurisdiction to entertain—

- (i) **complaints** where the value of the goods or services paid as consideration, **exceeds rupees 1 crore**, but does **not exceed rupees 10 crore**:

Provided that where the Central Government deems it necessary so to do, it may prescribe such other value, as it deems fit;

- (ii) **appeals** against the orders of any District Commission within the State;
and

Appeal Against State Commission

Any person aggrieved by an order made by the State Commission may prefer an appeal against such order to the **National Commission** within a period of **30 days** from the date of the order in such form and manner as may be prescribed:

Provided that the National Commission can entertain the appeal after the **expiry** of the said period if it is satisfied that there was sufficient cause.

Provided further that no appeal by a person, who is required to pay any amount, shall be entertained by the National Commission unless the appellant has **deposited** **50 %** of that amount in the manner as may be prescribed.

Consumer Dispute Redressal Commission at **National level**

- (1) The Central Government shall, by notification, establish a **National Consumer Disputes Redressal Commission**, to be known as the **National Commission**.

The National Commission shall consist of—

- (a) a **President**; and
 - (b) not **less than four** and not more than such number of members as may be prescribed.
- ▶ Term - **5 years**:
 - ▶ Age Limit- For president **70** and for others **67** years.

Jurisdiction of National Commission

The National Commission shall have jurisdiction to entertain-

- (i) complaints where the value of the goods or services paid as consideration **exceeds rupees ten crore.**
- (ii) **appeals** against the orders of any **State Commission**;
- (iv) **appeals** against the orders of the **Central Authority**; and

Appeal Against National Commission

Any person, aggrieved by an order made by the National Commission, may prefer an appeal against such order to the **Supreme Court** within a period of 30 days from the date of the order:

Provided that the Supreme Court may entertain an **appeal** if it is satisfied that there was sufficient cause for not filing it within that period:

Provided further that no appeal by a person who is required to pay any amount, be entertained by the Supreme Court unless that person has deposited 50 % of that amount in the manner as may be prescribed.

Pecuniary Jurisdiction of Old and New Act

1986

District: up to ₹20 lakh
State: ₹20 lakh to ₹1 cr
National: above ₹1 cr

Pecuniary
jurisdiction

2019

District: up to ₹1 cr
State: ₹1 cr to ₹10 cr
National: Above ₹10 cr

Penalty by the Commission

Penalty by the Commission

Whoever fails to comply with any order made by the District Commission or the State Commission or the National Commission, as the case may be, shall be punishable with imprisonment for a term which shall not be less than one month, but which may extend to three years, or with fine, which shall not be less than 25,000 rupees, but which may extend to 1 lakh rupees, or with both.

Central Consumer Protection Authority (CCPA)

Central Consumer Protection Authority (CCPA)

Central Consumer Protection Authority to be known as the Central 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.

Central Consumer Protection Authority (CCPA)

The said Authority would also have a **dedicated Investigation wing** which will be responsible for conducting various investigations and it will also have the power of **search and seizure**.

CCPA has been granted wide powers to take **suo-moto actions, recall products, order reimbursement** of the price of goods/services, **cancel licenses and file class action suits**, if a consumer complaint affects more than 1 (one) individual.

Appointment of of Central Authority

The Central Authority shall consist of a **Chief Commissioner** and such number of **other Commissioners** as may be prescribed, to be appointed by the **Central Government** to exercise the powers and discharge the functions under this Act.

The Central Government may, **by notification**, make rules to provide for the **qualifications** for appointment, **method** of recruitment, **procedure** for appointment, **term of office**, **salaries and allowances**, **resignation**, **removal** and **other terms and conditions** of the service of the Chief Commissioner and Commissioners of the Central Authority.

Penalty by CCPA for misleading advertisement

The CCPA may impose a penalty of up to **INR 10,00,000** (Indian Rupees One Million) on a manufacturer or an endorser, for a false or misleading advertisement.

The CCPA may also sentence them to imprisonment for up to **2 years** for the same.

In case of a subsequent offence, the fine may extend to **INR 50,00,000** (Indian Rupees Five Million) and imprisonment of up to **5 years**.

Prohibition of the Endorsement by CCPA

The CCPA can also prohibit the endorser of a misleading advertisement from endorsing that particular product or service for a period of up to **1 year**. For every subsequent offence, the period of prohibition may extend to **3 years**.

Consumer Protection Councils



Central Council

- (1) The **Central Government** shall, by notification, establish the **Central Consumer Protection Council** to be known as the *Central Council*.
- (2) The Central Council shall be an advisory council and consist of the following members, namely:—
 - (a) the **Minister-in-charge** of the Department of Consumer Affairs in the Central Government, who shall be the **Chairperson**; and
 - (b) **such number of other official** or non-official members representing such interests as may be prescribed.

Meeting and objective of Central Council

Meeting –

The Central Council shall meet as and when necessary, but at least one meeting of the Council shall be held **every year**.

Objective -

The objects of the Central Council shall be to render advice on promotion and protection of the consumers' rights under this Act.

State Council

- (1) Every State Government shall, by notification, establish a **State Consumer Protection Council** for such State to be known as the *State Council*.
- (2) The State Council shall be an advisory council and consist of the following members, namely-
 - (a) **the Minister-in-charge** of Consumer Affairs in the State Government who shall be the **Chairperson**;
 - (b) **such number of other official** or non-official members representing such interests as may be prescribed;
 - (c) **such number of other official** or non-official members, not exceeding 10, as may be nominated by the Central Government.

Meeting and objective of State Council

Meeting-

The State Council shall meet as and when necessary but **not less than two meetings** shall be held **every year**.

Objective-

The objects of every State Council shall be **to render advice on promotion and protection of consumer rights** under this Act within the State.

District Council

- (1) The State Government shall, by notification, establish a **District Consumer Protection Council** to be known as the *District Council*.
- (2) The District Council shall be an advisory council and consist of the following members, namely:—
 - (a) the **Collector of the district** (by whatever name called), who shall be the **Chairperson**; and
 - (b) **such number of other official** and non-official members representing such interests as may be prescribed.

Meeting and objective of District Council

Meeting-

The District Council shall meet as and when necessary but not less than two meetings shall be held **every year**.

Objective-

The objects of every District Council shall be to **render advice on promotion and protection of consumer rights** under this Act within the district.

Alternative Dispute Resolution

The New Act provides for **mediation as an Alternate Dispute Resolution mechanism**, making the process of dispute adjudication simpler and quicker.

This will help with the **speedier resolution of disputes and reduce pressure on consumer courts**, who already have numerous cases pending before them.

Difference b/w CPA 1986 and CPA 2019

	1986 Act	2019 Act
Ambit of law	All goods and services for consideration, while free and personal services are excluded	All goods and services, including telecom and housing construction, and all modes of transactions (online, teleshopping, etc.) for consideration. Free and personal services are excluded.
Unfair trade practices	Includes six types of such practices, like false representation, misleading advertisements.	The Act adds three types of practices to the list, namely: <ul style="list-style-type: none">• failure to issue a bill or receipt;• refusal to accept a good returned within 30 days; and• disclosure of personal information given in confidence, unless required by law or in public interest. Contests/ lotteries may be notified as not falling under the ambit of unfair trade practices.
Product liability	No provision. Consumer could approach civil court but not consumer court	Claim for product liability can be made against manufacturer, service provider, and seller
Unfair contracts	No provision.	The Act recognizes and addresses the menace of unilateral and unfair contracts .
Regulator	No separate regulator	Establishes the Central Consumer Protection Authority

Difference b/w CPA 1986 and CPA 2019

Pecuniary jurisdiction of Commissions	District: Up to Rs 20 lakh; State: Between Rs 20 lakh and up to Rs one crore; National: Above Rs one crore.	District: Up to Rs one crore; State: Between Rs one crore and up to Rs 10 crore; National: above Rs 10 crore.
Consumer court	Complaints could be filed in a consumer court where sellers (defendant) office is located	Complaints can be filed in a consumer court where consumer resides or work.
E-commerce	No provision	Defines direct selling, e-commerce and electronic service provider. The central government may prescribe rules for preventing unfair trade practices in e-commerce and direct selling.
Mediation Cells	No legal Provision	Court can refer settlement through mediation

Thank you

