
COMPARATIVE ANALYSIS OF CONSUMER PROTECTION ACT, 1986 WITH THE 2019 ACT

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INTRODUCTION

The new Consumer Protection Act was passed in 2019 mainly with the objective of overcoming the shortcomings of the previous 1986 Act. The 1986 Act, undoubtedly, is one of the greatest pieces of legislation in India that revolutionized a new era of consumer rights and consumer protection. Although it stands the test of time effectively, it is not devoid of shortcomings, just like any other piece of legislation. This led to the need for formulation of a new bill namely the Consumer Protection Bill, 2018 which eventually got passed in the year 2019. The 2019 Act varies from the 1986 in multiple ways viz., widening the scope by dealing with 3 more unfair trade practices, E-commerce, Product liability, Unfair Contracts ; by introducing a new regulatory body named Central Consumer Protection Authority and by making the already existing penalties more stricter. This article makes an attempt to compare both the 1986 as well as the 2019 acts, mainly with regard to three aspects, namely Misleading Advertisements, Rights of the Consumers and Dispute Redressal Commissions at different levels and explore how far the latter strives to reach where the former couldn't.

MISLEADING ADVERTISEMENTS

	Consumer Protection Act, 1986	Consumer Protection Act, 2019
Definition	No exclusive definition. Section 2(1)(r) → Misleading advertisements can also be brought under this definition and can be treated as an unfair trade practice.	Section 2(28) provides an exclusive and comprehensive definition for the term. According to this definition, misleading advertisement means an advertisement which gives a false description or a false guarantee or a misrepresentation or concealment of an information

<p>Elements</p>	<ol style="list-style-type: none"> 1. False statement 2. Misrepresentation 	<ol style="list-style-type: none"> 1. False description 2. False guarantee 3. Misrepresentation 4. Deliberate concealment of important information
<p>Powers of respective bodies</p>	<p>Section 14 empowers the court to issue directions including discontinuation of such advertisement.</p>	<ol style="list-style-type: none"> 1. Section 21 empowers the Central Authority to issue directions and penalties against false or misleading advertisements. A penalty of rupees 10 lakh is imposed on the advertiser. (Subsequent contravention – 50 lakh rupees); An endorser can be punished by prohibiting him from making any endorsement for the next twelve months (Subsequent contravention – 3 years) Unless such an endorsement was made with due diligence; A penalty of Rupees 10 Lakhs is imposed for publishing the advertisement, unless such an act is done in ordinary course. 2. Section 89 is a penal provision that deals with the punishment to be awarded to the manufacturer for misleading advertisement which is up to a term of 2 years and fine up to 10 lakh rupees. (Subsequent contravention: Imprisonment upto a term of 5 years and fine upto 50 lakh rupees)

RIGHTS OF CONSUMER

Section 6 of the Consumer Protection Act 1986 provides for the rights of a consumer that are to be considered as the objectives of the Council. Section 2(9) of the 2019 Act also includes the following rights under the definition of “consumer rights”. The rights mentioned are:

1) Protection against hazardous goods:

Every consumer has a right to be protected against marketing of goods and services which are hazardous to life and property.

Achla Dalvi v. Lipton India¹: Adulterated food was held to be dangerous to life and hence a violation of consumer’s right to be protected against hazardous goods.

Consumer Expectation Test: The test requires identification of expectations of a reasonably prudent consumer in the context and circumstance of use of that product in order to assess the degree of safety of that product. The test got evolved in **Fanning v. Le May²**.

2) Right to Consumer information:

The right to be informed about quality, quantity, potency, purity, standard and prices of goods is intended to save the consumer from unfair trade practices including misleading advertisements.

Standard automobiles v. Syed Ashrat³: When an article showed the price of Rupees 75 inclusive of taxes but was actually sold at Rupees 88, it was held to be a violation of right to be informed about the price of the good. Hence a compensation of Rupees 500 was awarded.

Consumer Protection Council v. National Dairy Development Board⁴: Consumer wanted to know in what way the Board was using Palmolein oil. The Board refused to provide the information. Court held that consumer had the right to know.

3) Right of access to variety and competitive prices

¹ (1992) CPJ 105 148

² 230 N.E.2d 182 (111. 1967)

³ (1991) 11 CPJ 626 Ker

⁴ 1992 (23) DRJ 92

This right is also known as the right of choice. Unless a consumer is not provided with an excess to a variety of goods at competitive prices, he can't exercise his right to choose to consume whichever good/service that he likes to. It is the duty of the Council to bring about organization of market and market practices in such a way that all dealers are supplied with a variety of goods for benefit of consumer at competitive prices. Wider choice could be provided only through free competition. Thus, unfair trade practices are curtailed by this act.

4) Right to seek redressal against unfair or restrictive trade practices or unscrupulous exploitation of consumers and 5) Right to be heard and to be assured that consumers' interests will receive due consideration at appropriate forums

Both the Acts contain provisions for the creation of Consumer dispute redressal mechanism at various levels by establishing District forums, State Consumer Dispute Redressal Commissions and the National Consumer Dispute Redressal Commission. These bodies help the consumers in seeing redressal against unfair or restrictive trade practices or unscrupulous exploitation of consumers or any other similar complaints regarding the goods or services consumed. The procedure is stipulated in such a way that the consumers are given a fair opportunity to be heard and to present their contentions regarding their interests. A detailed tabulation of differences between the three forums under both the acts is provided in the next chapter.

5) Right to consumer education

Only when the consumers are aware of their rights, they would step forward in asserting them. Hence they must be educated and awareness has to be created among the public in this regard. It is with this purpose, the commissions have established consumer cells in universities and other educational institutions. Also, camps, seminars and workshops are also held to promote the same.

CONSUMER DISPUTE REDRESSAL COMMISSIONS

The 1986 Act:

	National Consumer Dispute Redressal Commission	State Consumer Dispute	District Forum
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		Redressal Commission	
Establishment	S.9	S.9	S.28
Composition	S.20 – President + 4 more members	S.16 – President + 2 more members	S.10 – President + 2 more members
Qualification (President)	Is/had been/is qualified to be a Supreme Court Judge	Is/had been/ is qualified to be a High Court Judge	Is/had been/is qualified to be a District Judge
Qualification (Other members)		Same as National Commission	Same as National Commission
Woman member	One	One	One
Term of Office	70 OR 5 YEAR TERM	67	65
Salary or honorarium and allowances	Prescribed by the Central Government	Prescribed by the State Government	Prescribed by the State Government
Jurisdiction	(Section 21) Complaints exceeding one crore rupees and appeals against State commission	(Section 17) Complaints between 20 lakh and one crore rupees and appeals against	(Section 11) Complaints below 20 lakh rupees.

		orders of District forums	
Procedure	Procedure is prescribed by the Central Government	(Section 18) Sections 12,13,14 would apply with necessary modifications	(Sections 12,13 and 14) The complaint can be made by the consumer(/s) or any recognized consumer association or by the State or Central Government. On receipt of the complaint, the District forum, shall CONDUCT NECESSARY TESTS. AND receive evidence if necessary, after conducting the proceeding, if the forum is satisfied that the goods suffer from defects or the services suffer from deficiency, it pass an order ordering the opposite party to do one or more of the things under section 14
Appeal	(Section 23) To the Supreme Court within 30 days	(Section 19) To the National Commission within 30 days	(Section 15) To the State Commission within 30 days

The 2019 Act:

	National Consumer Dispute Redressal Commission	State Consumer Dispute	District Consumer Dispute Redressal Commission
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		Redressal Commission	
Establishment	S. 53	S. 42	S. 28
Composition	S.54 President + 4 members	S.42 President + 4 members	S.28 President + 2members
Term of Office	5 year term OR 70 years of age/65 for others	CG to make rules	CG to make rules
Salary or honorarium and allowances	Prescribed by the Central Government	Prescribed by the State Government	Prescribed by the State Government
Jurisdiction	S.58 complaints exceeding 10cr and appeals	S.47 Complaints > 1 cr and < 10 cr ; appeals	S.34 Complaints < 1cr
Procedure	S.59 Provisions relating to complaints under section 35,36,37,38 and 39 shall be applicable	S.49 Provisions relating to complaints under section 35,36,37,38 and 39 shall be applicable	Sections 35,36,37,38 and 39 Complaints can be made by the consumer(/s)/recognized consumer association/CG. The district commission determines the admissibility of the complaint made, after hearing the complainant. After admission, if it occurs to the commission that there are elements of settlement occurring in the case, it will refer the case to mediation (with the parties' consent) If the mediation fails, the commission follows the

			usual procedure under Section 38 and 39.
Appeal	S.62 To the Supreme Court	S.51 To the National Commission	S.41 To the State Commission

CONCLUSION

One of the major achievements of the 2019 Act is its emphasis on the amicable settlement of disputes through mediation, which helps in speedy and effective disposal of cases. This would ensure that the law keeps in pace with the ever-growing changes in the contemporary society and result in a better protection of the rights of consumers and ensuring timely justice.