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**Study Notes**

**CONSUMER PROTECTION  
ACT, 2019  
Part- 1**

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## Introduction

- An Act to provide for **protection of the interests of consumers** and for the said purpose,
- **to establish authorities** for timely and effective administration and settlement of consumers' disputes and for matters connected therewith or incidental thereto.
- In India, the consumer related issues are administered by the Consumer Protection Act, 2019. It has replaced the Consumer Protection Act, 1986.
- The 2019 act has the emerging delivery systems of goods and services such as e-commerce, direct selling, tele-shopping, multi-level marketing, global supply chains. It also addresses new forms of unfair trade and unethical business practices, including misleading advertising and unfair contracts.
- Significantly, the new Act provides for a regulator with extensive powers to regulate and penalise violations of the Act and product liability action for defective products/deficient services. For the first time, terms such as product liability, unfair contracts, spurious goods, consumer rights, express warranty, injury, harm, misleading advertisement, endorsement, establishment have been specifically defined.
- The new Act also provides for e-filing of complaints.
- Consumer rights have thus been overhauled in keeping with **changing economic development and commercial practices so as to empower consumers with effective remedial actions and reliefs.**

## Some Important Definitions

- “**advertisement**” means “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” **[Section 2(1)]**
- “**Central Authority**” has been defined as the Central Consumer Protection Authority established under section 10; **[Section 2(4)]**
- “**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; **[Section 2(5)]**
- “**complaint**” shall also include a claim for product liability action lies against the product manufacturer, product seller or product service provider, as the case may be **[Section 2(6)(vii)]**

- **"deficiency"** means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service and includes—
  - (i) any act of negligence or omission or commission by such person which causes loss or injury to the consumer; and
  - (ii) deliberate withholding of relevant information by such person to the consumer;  
**[Section 2(11)]**
- **"design"**, in relation to a product, means "the intended or known physical and material characteristics of such product and includes any intended or known formulation or content of such product and the usual result of the intended manufacturing or other process used to produce such product" **[Section 2(12)]**
- **"direct selling"** means marketing, distribution and sale of goods or provision of services through a network of sellers, other than through a permanent retail location; **[Section 2(13)]**
- **"Director-General"** means the Director-General appointed under sub-section (2) of section 15; **[Section 2(14)]**
- **"District Commission" means a District Consumer Disputes Redressal Commission established under sub-section (1) of section 28; [Section 2(15)]**
- **"e-commerce"** means buying or selling of goods or services including digital products over digital or electronic network. **[Section 2(16)]**
- **"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 **[Section 2(17)]**
- **"endorsement"**, in relation to an advertisement, 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 **[Section 2(18)]**

- **“establishment”** includes an advertising agency, commission agent, manufacturing, trading or any other commercial agency which carries on any business, trade or profession or any work in connection with or incidental or ancillary to any commercial activity, trade or profession, or such other class or classes of persons including public utility entities in the manner as may be prescribed **[Section 2(19)]**
- **“express warranty”** means any material statement, affirmation of fact, promise or description relating to a product or service warranting that it conforms to such material statement, affirmation, promise or description and includes any sample or model of a product warranting that the whole of such product conforms to such sample or model; **[Section 2(20)]**
- **“goods”** means every kind of movable property and includes “food” as defined in clause (j) of sub-section (1) of section 3 of the Food Safety and Standards Act, 2006. **[Section 2(21)]**
- **“harm”**, in relation to a product liability, 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) or sub-clause (ii) or sub-clause (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 or any commercial or economic loss, including any direct, incidental or consequential loss relating thereto. **[Section 2(22)]**
- **“injury”** means any harm whatever illegally caused to any person, in body, mind or property **[Section 2(23)]**
- **“mediation”** means the process by which a mediator mediates the consumer disputes **[Section 2(25)]**
- **“mediator”** means a mediator referred to in section 75 **[Section 2(26)]**

- **“misleading advertisement”** in relation to any product or service, 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 **[Section 2(28)]**
- **Person** includes-
  - (i) an individual
  - (ii) any corporation, company or a body of individuals whether incorporated or not;
  - (iii) any artificial juridical person, not falling within any of the preceding sub-clauses **[Section 2(31)]**
- **“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 **[Section 2(33)]**
- **“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 **[Section 2(34)]**
- **“product liability action”** means a complaint filed by a person before a District Commission or State Commission or National Commission, as the case may be, for claiming compensation for the harm caused to him; **[Section 2(35)]**
- **“product manufacturer”** means a person who—
  - (i) makes any product or parts thereof; or
  - (ii) assembles parts thereof made by others; or
  - (iii) puts or causes to be put his own mark on any products made by any other person; or
  - (iv) makes a product and sells, distributes, leases, installs, prepares, packages, labels, markets, repairs, maintains such product or is otherwise involved in placing such product for commercial purpose; or
  - (v) designs, produces, fabricates, constructs or re-manufactures any product before its sale; or

- (vi) being a product seller of a product, is also a manufacturer of such product  
**[Section 2(36)]**
- “**product seller**”, in relation to a product, means a person who, in the course of business, imports, sells, distributes, leases, installs, prepares, packages, labels, markets, repairs, maintains, or otherwise is involved in placing such product for commercial purpose and includes—
    - (i) a manufacturer who is also a product seller; or
    - (ii) a service provider, but does not include—
      - (a) a seller of immovable property, unless such person is engaged in the sale of constructed house or in the construction of homes or flats;
      - (b) a provider of professional services in any transaction in which, the sale or use of a product is only incidental thereto, but furnishing of opinion, skill or services being the essence of such transaction;
      - (c) a person who—
        - (I) acts only in a financial capacity with respect to the sale of the product;
        - (II) is not a manufacturer, wholesaler, distributor, retailer, direct seller or an electronic service provider;
        - (III) leases a product, without having a reasonable opportunity to inspect and discover defects in the product, under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor [Section 2(37)]
  - “**product service provider**”, in relation to a product, means a person who provides any service in respect of such product [Section 2(38)]
  - “**Regulator**” means a body or any authority established under any other law for the time being in force **[Section 2(40)]**
  - “**unfair contract**” means a contract between a manufacturer or trader or service provider on one hand, and a consumer on the other, having such terms which cause significant change in the rights of such consumer, including the following, namely:—
    - (i) requiring manifestly excessive security deposits to be given by a consumer for the performance of contractual obligations; or
    - (ii) imposing any penalty on the consumer, for the breach of contract thereof which is wholly disproportionate to the loss occurred due to such breach to the other party to the contract; or
    - (iii) refusing to accept early repayment of debts on payment of applicable penalty; or
    - (iv) entitling a party to the contract to terminate such contract unilaterally, without reasonable cause; or

- (v) permitting or has the effect of permitting one party to assign the contract to the detriment of the other party who is a consumer, without his consent; or
- (vi) imposing on the consumer any unreasonable charge, obligation or condition which puts such consumer to disadvantage [Section 2(46)]
- (vii) Unfair trade practice now includes not issuing bill or cash memo or receipt for the goods sold or services rendered in such manner as may be prescribed;
- (viii) refusing, after selling goods or rendering services, to take back or withdraw defective goods or to withdraw or discontinue deficient services and to refund the consideration thereof, if paid, within the period stipulated in the bill or cash memo or receipt or in the absence of such stipulation, within a period of thirty days;
- (ix) disclosing to other person any personal information given in confidence by the consumer unless such disclosure is made in accordance with the provisions of any law for the time being in force. [Section 2(47)]

#### **CENTRAL CONSUMER PROTECTION AUTHORITY**

- **As per Section 10, The Central Government shall, by notification, establish with effect from such date as it may specify in that notification, a *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.
- The headquarters of the Central Authority shall be at such place in the National Capital Region of Delhi, and it shall have regional and other offices in any other place in India as the Central Government may decide. 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.
- No act or proceeding of the Central Authority shall be invalid merely by reason of any vacancy in, or any defect in the constitution of, the Central Authority; or any defect in the appointment of a person acting as the Chief Commissioner or as a Commissioner; or any irregularity in the procedure of the Central Authority not affecting the merits of the case under Section 12.



- As per **Section 15**, **The Central Authority shall have an Investigation Wing headed by a Director General for the purpose of conducting inquiry or investigation under this Act as may be directed by the Central Authority.** The Central Government may appoint a Director-General and such number of Additional Director-General, Director, Joint Director, Deputy Director and Assistant Director, from amongst persons who have experience in investigation and possess such qualifications, in such manner, as may be prescribed. Every Additional Director-General, Director, Joint Director, Deputy Director and Assistant Director shall exercise his powers, and discharge his functions, subject to the general control, supervision and direction of the Director-General. The inquiries or the investigations made by the Director- General shall be submitted to the Central Authority in such form, in such manner and within such time, as may be specified by regulations.
- **As per Section 16**, The District Collector (by whatever name called) may, on a complaint or on a reference made to him by the Central Authority or the Commissioner of a regional office, inquire into or investigate complaints regarding violation of rights of consumers as a class, on matters relating to violations of consumer rights, unfair trade practices and false or misleading advertisements, within his jurisdiction and submit his report to the Central Authority or to the Commissioner of a regional office, as the case may be.
- **As per Section 17**. 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, to any one of the authorities, namely, the District Collector or the Commissioner of regional office or the Central Authority.

#### **FUNCTIONS OF CENTRAL AUTHORITY**

- As per Section 18, The Central Authority shall:
  - a) protect, promote and enforce the rights of consumers as a class, and prevent violation of consumers rights under the Act;
  - b) prevent unfair trade practices and ensure that no person engages himself in unfair trade practices;
  - c) ensure that no false or misleading advertisement is made of any goods or services which contravenes the provisions of the Act or the rules or regulations made thereunder;
  - d) ensure that no person takes part in the publication of any advertisement with is false or misleading.



## **POWERS OF CENTRAL AUTHORITY**

- Without prejudice to the generality of the provisions contained in **Section 18(1)**, the Central Authority may, for any of the purposes aforesaid,
  - a) inquire or cause an inquiry or investigation to be made into violations of consumer rights or unfair trade practices, either suo motu or on a complaint received or on the directions from the Central Government;
  - b) file complaints before the District Commission, the State Commission or the National Commission, as the case may be, under the Act;
  - c) intervene in any proceedings before the District Commission or the State Commission or the National Commission, as the case may be, in respect of any allegation of violation of consumer rights or unfair trade practices;
  - d) review the matters relating to, and the factors inhibiting enjoyment of, consumer rights, including safeguards provided for the protection of consumers under any other law for the time being in force and recommend appropriate remedial measures for their effective implementation;
  - e) recommend adoption of international covenants and best international practices on consumer rights to ensure effective enforcement of consumer rights;
  - f) undertake and promote research in the field of consumer rights;
  - g) spread and promote awareness on consumer rights;
  - h) encourage non-Governmental organizations and other institutions working in the field of consumer rights to co-operate and work with consumer protection agencies;
  - i) mandate the use of unique and universal goods identifiers in such goods, as may be necessary, to prevent unfair trade practices and to protect consumers' interest;
  - j) issue safety notices to alert consumers against dangerous or hazardous or unsafe goods or services;
  - k) advise the Ministries and Departments of the Central and State Governments on consumer welfare measures;
  - l) issue necessary guidelines to prevent unfair trade practices and protect consumers' interest.

#### PRELIMINARY INQUIRY BY CENTRAL AUTHORITY:

- **As per Section 19**, The Central Authority may, after receiving any information or complaint or directions from the Central Government or of its own motion,

- ***conduct or cause to be conducted a preliminary inquiry as to whether there exists a prima facie case of violation of consumer rights or any unfair trade practice or any false or misleading advertisement, by any person, which is prejudicial to the public interest or to the interests of consumers and if it is satisfied that there exists a prima facie case, it shall cause investigation to be made by the Director General or by the District Collector.***

- Where, after preliminary inquiry, the Central Authority is of the opinion that the matter is to be dealt with by a Regulator established under any other law for the time being in force, it may refer such matter to the concerned Regulator along with its report. For the purposes of such investigation, the Central Authority, the Director General or the District Collector may call upon such person referred to hereinabove and also direct him to produce any document or record in his possession. Where the Central Authority is satisfied on the basis of investigation that there is sufficient evidence to show violation of consumer rights or unfair trade practice by a person, it may pass such order as may be necessary, including

- a) recalling of goods or withdrawal of services which are dangerous, hazardous or unsafe;
- b) reimbursement of the prices of goods or services so recalled to purchasers of such goods or services; and
- c) discontinuation of practices which are unfair and prejudicial to consumers' interest. ***However, the Central Authority shall give the person an opportunity of being heard before passing an order under this section. [Section 20].***

#### NON-COMPLIANCE OF DIRECTIONS OF CENTRAL AUTHORITY:

- ***As per Section 88, Whoever, fails to comply with any direction of the Central Authority under sections 20 and 21, shall be punished with imprisonment for a term which may extend to six months or with fine which may extend to twenty lakh rupees, or with both.***
- Offence under this section is compoundable on payment of such amount as may be prescribed.

- However, such sum shall not, in any case, exceed the maximum amount of the fine, which may be imposed under the act for the offence so compounded, but if same offence is committed within 3 years, then this condition won't apply.