



A Review Of Consumer Protection Act 1986 & 2019 With Reference Of Medical Professionals

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ARTICLE INFO	ABSTRACT
	<p>It should go without saying that the main reason this legislation was passed was to protect customers from unethical business practices. A comprehensive consumer protection statute that solely dealt with consumer protection was passed in 1986. This act is largely regarded as perhaps the most forward-looking, all-inclusive, and singular piece of regulation ever passed, marking a turning point in the evolution of social-economic policy. In India, no amending acts were passed after 2019, although international consumer laws were created in 2020. Numerous developing nations, such as India, have included consumer protection laws and practices based on suggestions from the UN. Thus, the review paper discusses the relevance of the Consumer Protection Act globally and in relation to the Indian environment.</p> <p>Keywords—Consumerism, Consumer Protection Act, Amendments, Grievances, Forum</p>

INTRODUCTION

"Consumerism" is the term used to describe the voluntary actions of customers to implement suitable laws, rules, and administrative procedures. To protect consumers, a number of Acts and Laws are being passed. But the Consumer Protection Agency defends itself. The outcome of market forces taking advantage of and harming customers is consumerism. Customers must thus be informed of their legal entitlements prior to, during, and following transactions (Pattnaik, 2016). Concern for protecting customers has grown recently as a result of the detrimental effects that immoral corporate practices have on the welfare of the country (Rajanikanth, 2017). The legislation applies to all providers of products and services, whether they are in the cooperative, public, or private sectors (Singh et al., 2013). In order to safeguard themselves from being taken advantage of, the consumer has to be informed of his legal rights and alternatives (Ibarra, 2014). Customers are those who buy products or services, deal with suppliers, purchase specific things, or get services provided to them. Under this law, separate consumer tribunals have been formed in every district of India. A consumer can submit a basic paper complaint with one of these tribunals without having to pay any court fees, and the Presiding Officer of the District Level would rule on the complaint (Gupta and Kashyap, 2016).

This legislation's main objective is to enable consumers who have been taken advantage of in the market with easy and speedy justice, in contrast to other laws that are punitive and preventative in character. In order to guarantee customer satisfaction, companies and the government collaborate on consumer protection, which is a socioeconomic endeavour. The Act of 1986, which established the government's main duty to safeguard consumers' rights and interests, is seen as a turning point in India's long tradition of consumer protection (Singh et al., 2014).

CONSUMER PROTECTION ACT IN INDIA

This legislation was signed into effect on July 1, 1987. Stronger and more thorough consumer protection as well as efficient defences against different types of being exploited, such as subpar products, subpar services, and unfair business practices, are the main objectives of the Act. It also contains guidelines for handling client complaints in an easy, fast, and affordable way (Dey, 2023).

AMENDMENTS

There have been four revisions to the 1986 Consumer Protection Act: in 1991, 1993, 2002, and 2010, and a fifth modification is now being worked on. The 2002 amendment was enacted by the Rajya Sabha on April 11, 2002, and the Lok Sabha amended it and passed it on July 30, 2002. The Rajya Sabha approved it once more on November 22, 2002, and the Indian President gave his consent on December 17, 2002. The Act's provisions are scheduled to take effect on March 15, 2003 (Ibarra, 2014). One amendment bill called for companies and the government to collaborate in order to guarantee the satisfaction of customers.

The government's principal duty is to protect the rights and interests of consumers. This measure was first proposed in Parliament in 2011, but it expired. Amendments were made in 2015, and the bill is currently for approval. The government has implemented several measures to strengthen consumer protection laws in the era of e-commerce. To handle complaints against deceptive ads, rules have been released, while a web-based case surveillance system in the Consumer Forum has been established. This platform is called Grievance Against Misleading Commercials (GAMA). The government is also considering the option to electronically file grievances in Consumer Forum (Ibarra, 2014).

CONSUMER PROTECTION ACT OF 2019

In relation to this emerging and dynamic industry, the Indian Parliament approved the Consumer Protection Bill, 2019 on August 6, 2019. The Consumer Protection Act, 2019 ("CPA 2019") was signed into law by the President of India on August 9, 2019, and it was then published in the Official Gazette by the Indian government. The Ministry of Consumer Affairs, Food, and Public Distribution disclosed important provisions of CPA 2019 by an announcement dated July 15, 2020. The law was scheduled to go into effect on July 20, 2020 (Hussaini and Singh, 2020).

MODIFICATIONS OF 2019

The CPA has broadened the definition of "customer" in 2019 to encompass technologically mediated retail and online transactions, teleshopping, direct selling, and multi-level marketing. Important features of the new system include the establishment of an e-complaints process, the enactment of "Product Liability," the expansion of consumer courts' financial jurisdiction, the establishment of a Consumer Protection Council, and mechanisms for alternative conflict settlement (Hussaini and Singh, 2020).

One of the main elements of the new law is the establishment of Consumer Protection Councils and a Central Consumer Protection Authority. Under Section 18, the authority may take steps to look into or inquire into infringements of rights of consumers or unlawful conduct by businesses. Additionally, the Act's Section 2(9) provides a comprehensive description of "consumer rights," which was conspicuously missing from the previous Act but was covered in several rulings by the Hon'ble Supreme Court of India. Additionally, a new kind of flaw known as dishonest and fraudulent marketing is defined under the Act of 2019 (Durovic, 2020).

CONSUMER PROTECTION ACT INTERNATIONALLY

In a globally connected world with a highly internationalised economy, law continues to be among the least interconnected areas of society. On the other hand, even law is growing more international and transcending national borders. The development of supranational norms, or at a minimum of globally acknowledged consumer law concepts, is evident in the field of consumer law as well (Durovic, 2020).

INTERNATIONAL CONSUMER LAW'S TWO GOALS

The basic goal of internationalising consumer law is to provide a universally recognised "floor" level for consumer protection. International benchmarking is being used more and more by policymakers and consumer law agencies in their work. Establishing a universally applicable minimal level of consumer protection that transcends national boundaries is the primary objective of international consumer law. The evolution of consumer laws may be seen as a component of the procedure of democratisation of nations, governments, and communities. Consumer protection is now an issue of democracy and core democratic principles in any community.

The second objective is to lower trade obstacles so that a single worldwide consumer law may be established. Establishing comparable requirements in the protection of consumers governing structures is the main goal of international consumer law, which aims to enhance the efficiency of cross-border consumer transactions. In this scenario, it is evident that the focus of rule internationalisation is not on protecting consumers, but rather on simplifying compliance requirements for dealers who are willing to engage in cross-border or international trading. In order to accomplish the second objective of internationalising consumer law, the World Trade Organisation (WTO) is anticipated to take the lead. Remarkably, the World Trade Organisation (WTO) has not done anything up to this point to defend consumers throughout the world (Durovic, 2020).

LAWS PROTECTING DENTIST IN INDIA

People who work in dentistry learn how to use their knowledge and abilities to benefit others. A dentist has obligations to both society and their patients. The core of a dentist's ethical behaviour should be this duty. But as commercialization permeates every part of life, this profession has drawn criticism (Saharay, 2019). Because they are essential services, medical services are occasionally mired in legal complexities, which leads to disproportion harassing of the medical sector. In this regard, it seems that the Consumer Protection Act of 2019 is a positive development for mediating disputes. This enables a settlement on mutually agreeable terms between the parties at the complaint admission stage. Each district, state, National Commission, and its regional benches were required to establish a mediation cell for the expeditious settlement of disputes (Saharay, 2019). On June 18, 1993, the Consumer Protection (Amendment) Act, 1993, which amended the Act, went into force. We shall limit our discussion to the Act's sections that pertain to the medical field in its current form. Only definitions of legal terms relevant to the medical profession are provided. The Consumer Protection Act did not allow for the prosecution of doctors until 1995 (Hiremath, 2012).

SUPREME COURT DECISION ON SERVICE AS RELATED TO MEDICAL PROFESSION

Service provided in a government hospital, health centre, pharmacy, or non-government nursing home where fees are demanded to be paid by those who can afford them and services are provided free of charge to those who cannot afford them would be included in the definition of "service," irrespective of whether or not the services are provided free of charge to those who cannot afford them. Under the Act, free services rendered by these physicians and hospitals would likewise be regarded as "services," with the receiver being referred to as a "customer." If the individual obtaining the service has bought a medical insurance policy, whereby the insurance provider bears the expenses of consultation, evaluation, and medical treatment, then the service would be included within the definition of "service" and could not be looked at provided without charge (Hiremath, 2012).

DUTY ON THE PART OF A HOSPITAL AND DOCTOR TO OBTAIN PRIOR CONSENT OF A PATIENT

Prior consent (from live patients) is legally required for diagnosis, treatment, organ transplant, research, medical information dissemination, and educational and medico-legal goals. For pathological post mortem, medico-legal post mortem, organ transplant (for legal heirs), and medical record disclosure in the event of the death, obtaining informed consent from the patient is essential. One can provide consent in a number of ways: Agreement in writing, implicit consent, tacit consent, and surrogacy (Punnen et al., 2019).

DOCTORS AND HOSPITAL COVERAGE UNDER THE CONSUMER PROTECTION ACT

In the end, the issue of the Indian Medical Association vs. V.P. Shanta and Ors., III (1995) CPJ 1 (SC) resolved any doubt on the topic of medical profession coverage under the Consumer Protection Act, 1986, as decided by the Supreme Court. Hospitals and physicians understood that even in cases where care is given for free, people are still customers as long as they have been paid. Despite the fact that the highest court's ruling acknowledges that a tiny proportion of patients could not react to treatment, medical literature documents instances in which this has happened in spite of physicians' and hospitals' best efforts (Punnen et al., 2019).

CONSUMER GRIEVANCE RESOLUTION

Enacted by the Consumer Protection Act of 1986, a three-tier quasi-judicial process is in place to handle consumer disputes. State Consumer Disputes Redressal Commissions are found in states, District Foras are found in districts, and the National Consumer Disputes Redressal Commission is situated at the federal level. As a substitute to bringing a lawsuit, customers can instead register concerns through the National Consumer Helplines (NCH). Approximately 250 companies have partnered with NCH to assist customers with their grievances (Hussaini and Singh, 2020).

The tier resolution mechanism for consumer protection is composed of the National Consumer Redress Forum (NCRF), State commissions, and District forums. A state commission ruling may be appealed to the National Forum, while a district forum decision may be appealed to the state commission. The appeal is subject to deadlines, much like any other kind of case. Apart from the tripartite consumer protection deadlines, there exists a 21-day window for ascertaining jurisdiction with respect to a particular matter (Dey, 2023).

District Forum- Each District Forum's President shall be a person who is or has been eligible to serve as a District judge. A minimum of two more individuals must be 35 years old and possess a degree from an accredited university. People need to be well-versed in administration, policies of the government, economics, commerce, and industry. Since state and national forums must take into account matters associated to other district forums, leading to a large number of pending cases, the majority of individuals who encounter an infringement of their rights as consumers lack the ability to file a complaint there. This is why district forums are necessary for consumer redress (Gupta and Kashyap, 2016).

STATE COMMISSION

The State Government shall designate the number of members of the State Commission, at least two of whom shall be women, in addition to the President. The President needs to meet the requirements outlined in Section 16 of the Consumer Protection Act in order to be appointed as a High Court judge. Complaints worth more than Rs. 20 lakhs however less than Rs. 1 crore will fall within the purview of the State Commission. Section 17 of the Act grants the State Commission the authority to review and appeal decisions made by the District Forum throughout the state. In compliance with its geographical jurisdiction, the State Commission shall address any issues pertinent to the state (Rajanikanth, 2017).

NATIONAL COMMISSION

Section 20 of the Act establishes the National Commission, which is presided over by the President and has no fewer than four participants, one of whom must be a woman, as determined by the Central Government. [18] Customer complaints are handled under Section 21(a)(i) of the Consumer Protection Act of 1986. On all working days (Monday through Friday), from 10:00 a.m. to 4:30 p.m., grievances can be lodged at the Ground Floor Upbhokta Nyay Bhawan', F' Block, General Pool Office Complex, INA, New Delhi 110 023. The complainant needs to sign a consumer complaint and provide a notarized declaration with the information on the total number of competing parties and the first three pieces of data. (including the file's cover) (Saharay, 2019).

CONCLUSION

By establishing forums at the district, state, and federal levels to supplement and provide swift remedies alongside to the Indian Judicial System's existing legislation, the Consumer Protection Act of 1986 legitimises consumer rights. Consequently, it is evident that consumer rights are currently being recognised, and efficient processes are being designed to address customer grievances and concerns, including the right of defaulters, such producers, distributors, or suppliers of products and services, to defend themselves. As quickly as practicable, every attempt should be made to identify and protect consumers' legal rights, providing appropriate compensation as needed.

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