

## Consumer Protection Act, 2019 - UPSC Notes

The Consumer Protection Act, 2019 is an important topic for the UPSC exam. This is a part of the polity and governance segments in the UPSC syllabus. In this article, we give you a brief description of the details of the newly-passed Act, salient provisions of the Act, its importance and associated concerns, for the IAS exam.

### Consumer Protection Act, 2019

The new Consumer Protection Act was passed by Parliament in 2019. It replaces the Consumer Protection Act, 1986.

#### **Need for the new act:**

- The Digital Age has ushered in a new era of commerce and digital branding, as well as a new set of customer expectations. Digitisation has provided easy access, a large variety of choices, convenient payment mechanisms, improved services and shopping as per convenience. However, there are also associated challenges related to consumer protection.
- To help address the new set of challenges faced by consumers in the digital age, the Indian Parliament passed the landmark Consumer Protection Bill, 2019 which aims to provide timely and effective administration and settlement of consumer disputes.

#### **Details:**

- Consumer Protection Act, 2019 is a law to protect the interests of the consumers. This Act provides safety to consumers regarding defective products, dissatisfactory services, and unfair trade practices.
- The basic aim of the Consumer Protection Act, 2019 is to save the rights of the consumers by establishing authorities for timely and effective administration and settlement of consumers' disputes.

#### **Rights of the consumers:**

- Consumers have the right to information on various aspects of goods and services. This could be information about the quantity, quality, purity, potency, price, and standard of goods or services.
- To be protected from hazardous goods and services. Right to protection against goods and services that can be dangerous to life and property.
- To be protected from unfair or restrictive trade practices.
- Consumers have the right to access a variety of goods and services at competitive prices.
- Consumers should have the right to redressal.

### Salient Provisions of Consumer Protection Act

#### **New definition of consumer:**

- The new Act has widened the definition of 'consumer'.

#### **Definition of consumer:**

- As per the Act, a person is called a consumer who avails the services and buys any good for self-use. Worth to mention that if a person buys any good or avails any service for resale or commercial purposes, he/she is not considered a consumer. This definition covers all types of transactions i.e. offline and online through teleshopping, direct selling or multi-level marketing.

### **Central Consumer Protection Authority:**

- The Act proposes the establishment of the Central Consumer Protection Authority (CCPA) as a regulatory authority.
- The CCPA will protect, promote and enforce the rights of consumers and regulate cases related to unfair trade practices, misleading advertisements, and violation of consumer rights.
- CCPA would be given wide-ranging powers.
  - The CCPA will have the right to take suo-moto actions, recall products, order reimbursement of the price of goods/services, cancel licenses, impose penalties and file class action suits.
  - The CCPA will have an investigation wing to conduct independent inquiry or investigation into consumer law violations.

### **Consumer Disputes Redressal Commission:**

- The Act has the provision of the establishment of Consumer Disputes Redressal Commissions (CDRCs) at the national, state and district levels to entertain consumer complaints.
- As per the notified Rules, the State Commissions will furnish information to the Central Government on a quarterly basis on vacancies, disposal, the pendency of cases and other matters.
- The CDRCs will entertain complaints related to:
  - Overcharging or deceptive charging
  - Unfair or restrictive trade practices
  - Sale of hazardous goods and services which may be hazardous to life.
  - Sale of defective goods or services
- As per the Consumer Disputes Redressal Commission Rules, there will be no fee for filing cases up to Rs. 5 lakh.

### **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 earlier condition where the consumer had to file a complaint 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.
- Consumers will also not need to hire a lawyer to represent their cases.

### **Product Liability & Penal Consequences:**

- The Act has introduced the concept of product liability.
  - A manufacturer or product service provider or product seller will now be responsible to compensate for injury or damage caused by defective products or deficiency in services.
- This provision brings within its scope, the product manufacturer, product service provider and product seller, for any claim for compensation. The term 'product seller' would also include e-commerce platforms.

### **Penalties for Misleading Advertisement:**

- The CCPA may impose a penalty on a manufacturer or an endorser, for a false or misleading advertisement. The CCPA may also sentence them to imprisonment.

### **Provision for Alternate Dispute Resolution:**

- The new Act provides for mediation as an Alternate Dispute Resolution mechanism. For mediation, there will be a strict timeline fixed in the rules.
- As per the recently notified rules, a complaint will be referred by a Consumer Commission for mediation, wherever scope for early settlement exists and parties agree for it. The mediation will be held in the Mediation Cells to be established under the aegis of the Consumer Commissions. There will be no appeal against settlement through mediation.

### **Unfair Trade Practices:**

- The new Act has armed the authorities to take action against unfair trade practices too.
- The Act introduces a broad definition of Unfair Trade Practices, which also includes the sharing of personal information given by the consumer in confidence unless such disclosure is made in accordance with the provisions of any other law.

### **The Central Consumer Protection Council:**

- The Consumer Protection Act empowers the Central Government to establish a Central Consumer Protection Council. It will act as an advisory body on consumer issues.
  - As per the notified Central Consumer Protection Council Rules, the Central Consumer Protection Council would be headed by the Union Minister of Consumer Affairs, Food and Public Distribution with the Minister of State as Vice Chairperson and 34 other members from different fields.
  - The Council, which has a three-year tenure, will have a Minister-in-charge of consumer affairs from two States from each region - North, South, East, West, and NER. There is also a provision for having working groups from amongst the members for specific tasks.

### **Applicability:**

- This Act is applicable to all the products and services, until or unless any product or service is especially debarred out of the scope of this Act by the Central Government.

### **Significance of the Act:**

#### **Empowering the consumers:**

- The new Act will empower consumers and help them in protecting their rights through its various rules and provisions. The new Act will help in safeguarding consumer interests and rights.
  - Consumer-driven businesses such as retail, e-commerce would need to have robust policies dealing with consumer redressal in place.
  - The new Act will also push the consumer-driven businesses to take extra precautions against unfair trade practices and unethical business practices.

#### **Inclusion of e-commerce sector:**

- The earlier Act did not specifically include e-commerce transactions, and this lacuna has been addressed by the new Act.
  - E-commerce has been witnessing tremendous growth in recent times. The Indian e-commerce market is expected to grow to US\$ 200 billion by 2026.
- The Act also enables regulations to be notified on e-commerce and direct selling with a focus on the protection of interest of consumers. This would involve rules for the prevention of unfair trade practices by e-commerce platforms.
  - As per the notified rules, every e-commerce entity is required to provide information relating to return, refund, exchange, warranty and guarantee, delivery and shipment, modes of payment,

grievance redressal mechanism, payment methods, the security of payment methods, charge-back options, etc. including country of origin which are necessary for enabling the consumer to make an informed decision at the pre-purchase stage on its platform.

- The e-commerce platforms will have to acknowledge the receipt of any consumer complaint within forty-eight hours and redress the complaint within one month from the date of receipt under this Act. This will bring e-commerce companies under the ambit of a structured consumer redressal mechanism.
- E-commerce entities that do not comply will face penal action.

#### **Time-bound redressal:**

- A large number of pending consumer complaints in consumer courts have been common across the country. The new Act by simplifying the resolution process can help solve the consumer grievances speedily.
- A main feature of the Act is that under this, the cases are decided in a limited time period.

#### **Responsible endorsement:**

- The new Act fixes liability on endorsers considering that there have been numerous instances in the recent past where consumers have fallen prey to unfair trade practices under the influence of celebrities acting as brand ambassadors.
- This will make all stakeholders - brands, agencies, celebrities, influencers and e-commerce players - a lot more responsible. The new Act would force the endorser to take the onus and exercise due diligence to verify the veracity of the claims made in the advertisement to refute liability claims.

#### **Upholding consumer interests:**

- For the first time, there will be an exclusive law dealing with Product Liability.
- Product liability provision will deter manufacturers and service providers from delivering defective products or deficient services.
- The new legislation empowers the National Consumers Dispute Redressal Committee as well as the State Commission to declare null and void any terms of a contract while purchasing a product. This will go a long way in protecting consumers, who are often subject to contract conditions that favour a seller or manufacturer.

#### **Alternate dispute redressal mechanism:**

- The provision of Mediation will make the process of dispute adjudication simpler and quicker.
- This will provide a better mechanism to dispose of consumer complaints in a speedy manner and will help in the disposal of a large number of pending cases in consumer courts across the nation.

#### **Simplified process for grievance redressal:**

- The new Act would ease the overall process of consumer grievance redressal and dispute resolution process. This will help reduce inconvenience and harassment for the consumers.
- The enhanced pecuniary jurisdiction and provisions providing statutory recognition to mediation processes, enabling filing of complaints from any jurisdiction and for hearing parties through video-conferencing will increase accessibility to judicial forums and afford crucial protection in times when international e-commerce giants are expanding their base.

#### **Concerns:**

#### **State regulation:**

- As part of the Consumer Protection Act, 2019, the Ministry of Consumer Affairs will compile a code of conduct for advertisers and agencies, a move designed to curb unfair practices and misleading claims. The planned code will detail penalties for advertisers and their agencies and publishers if misleading advertising and false claims are found.
- There have been concerns that this approach would mark a move from self-regulation to a more federated oversight.

**Implementational challenges:**

- The existing vacancies at the district commission level would undermine the effective implementation of the new Act.

**Lack of differentiated approach:**

- As per the proposed rules for the e-commerce businesses, companies are not allowed to “manipulate the price” of goods and services offered on their platforms to gain unreasonable profit or discriminate between consumers of the same class or make any arbitrary classification of consumers affecting their rights under the Act.
- The clause on manipulation of price by e-commerce companies appears irrelevant as sometimes, the e-commerce companies would want to reduce the price to enhance sales volume. For a country with market size of around \$25 billion, the guidelines should have taken a deeper view of the e-commerce ecosystem, covering all prevailing business models between consumers, marketplaces and sellers.