

FLAWS IN THE CONSUMER PROTECTION ACT 1986

Presently, the position is that only those services come within this Act for which specific payment is made, such as electricity, telephones, banking, etc. Thus the doctors as well as hospitals including those where treatment is given free such as government hospitals do not come within the ambit of the Act. Also, the mandatory civil services, such as sanitation, water supply, etc. provided by the State or local authorities are not covered by the Act.

Further, the consumer Protection Act, 1986, does not give any definition of safety requirements and permitted hazard levels. Whatever safety regulations are prescribed under some law or the other would have to go into as to whether they have been violated or not. In fact, the Act itself should incorporate certain product safety requirements.

Absence of regulatory mechanism:-The Act does not empower the Consumer Redressal Forums to take up cases suo motto.

Delays:- The Act specifies a time frame within which the dispute is to be disposed of. The period specified is 90 days, but the actual time taken is much longer. In some cases, the complainants waited for about two years, attended the Consumer Courts several times before they were formed that the Courts would not be able to handle their cases.

Dismal performance of Consumer Courts:-

- Complex Procedure
- Slow process of justice
- Delays in appointment of members
- No capacity building for newly recruited

Not suitable for rapid advances in digital technology:-

- ATM card skimming :- ATM skimming is like identity theft for debit cards: Thieves use hidden electronics to steal the personal information stored on your card and record your PIN number to access all that hard-earned cash in your account.
- Credit card cloning :- Credit card cloning, or "skimming" as it is sometimes called, is a technique whereby someone obtains your credit card details, copies them onto a bogus card and begins using the credit card. While credit card theft itself is not new, the manner in which the information is stolen is still not clear to many people.
- Online frauds
- Identity thefts

The Consumer Protection Bill, 2018

The Consumer Protection Bill, 2018 was introduced in Lok Sabha by the Minister of Consumer Affairs, Food and Public Distribution, Mr. Ram Vilas Paswan on January 5, 2018. The Bill replaces the Consumer Protection Act, 1986. A Consumer Protection Bill to replace the Act was introduced in 2015, but has been withdrawn post the introduction of the 2018 Bill.

Key features of the 2018 Bill include:

♣ **Central Consumer Protection Authority:** The central government will set up a Central Consumer Protection Authority (CCPA) to promote, protect and enforce the rights of consumers. It will regulate matters related to violation of consumer rights, unfair trade practices, and misleading advertisements. The CCPA will have an investigation wing, headed by a Director-General, which may conduct inquiry or investigation into such violations.

♣ CCPA will carry out the following functions, including: (i) inquiring into violations of consumer rights, investigating and launching prosecution at the appropriate forum; (ii) passing orders to recall goods or withdraw services that are hazardous, reimbursement of the price paid, and discontinuation of the unfair trade practices, as defined in the Bill; (iii) issuing directions to the concerned trader/ manufacturer/ endorser/ advertiser/ publisher to either discontinue a false or misleading advertisement, or modify it; (iv) imposing penalties, and; (v) issuing safety notices to consumers against dangerous or unsafe goods and services.

♣ **Penalties for misleading advertisement:** The CCPA may impose a penalty on a manufacturer or an endorser of up to Rs 10 lakh for a false or misleading advertisement. In case of a subsequent offence, the fine may extend to Rs 50 lakh. The manufacturer can also be punished with imprisonment of up to two years which may extend to five years for every subsequent offence.

♣ CCPA can also prohibit the endorser of a misleading advertisement from endorsing that particular product or service for a period of up to one year. For every subsequent offence, the period of prohibition may extend to three years. However, there are certain exceptions when an endorser will not be held liable for such a penalty.

♣ **Consumer Disputes Redressal Commission:** Consumer Disputes Redressal Commissions (CDRCs) will be set up at the district, state, and national levels. A consumer can file a complaint with CDRCs in relation to: (i) unfair or restrictive trade practices; (ii) defective goods or services; (iii) overcharging or deceptive charging; and (iv) the offering of goods or services for sale which may be hazardous to life and safety. Complaints against an unfair contract can be filed with only the State and National

CDRCs. 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.

♣ **Jurisdiction of CDRCs:** The District CDRC will entertain complaints where value of goods and services does not exceed Rs one crore. The State CDRC will entertain complaints when the value is more than Rs one crore but does not exceed Rs 10 crore. Complaints with value of goods and services over Rs 10 crore will be entertained by the National CDRC.

♣ **Product liability:** Product liability means the liability of a product manufacturer, service provider or seller to compensate a consumer for any harm or injury caused by a defective good or deficient service. To claim compensation, a consumer has to prove any one of the conditions for defect or deficiency, as specified in the Bill.