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AN ANALYTICAL OVERVIEW OF CONSUMER PROTECTION LAWS IN INDIASanjana Prajapati¹ & Kashish Pandey²**ABSTRACT**

A consumer is someone who makes purchases of products and services; producers are also consumers. Since consumer protection is a socioeconomic function of the government, the CPA¹ was passed in 1986 in order to facilitate the speedier and easier resolution of consumer complaints. The CPA's goal is to defend consumer rights and prevent unfair business practices by establishing a three-tiered quasi-judicial redressal system at the district, state, and federal levels as well as the MRTP² Commission. However, the rural market expands, customers are being taken advantage of due to their lack of awareness of their rights, education, and ability to make informed decisions. This is done through deceptive advertising, the sale of tainted or flawed goods, and exorbitant prices. In this case, the customer should be protected from unfair commercial practices by having access to information about the items' quality, quantity, purity, and price. It should be legal to obtain accurate information and understanding to prevent complaints by using high-quality items with labels like AGMARK, ISI, and so on. If there is a shortage, the customer should be given a refund for the items, a replacement for any damaged goods, and payment for the services rendered. A few non-governmental organisations (NGOs) and volunteer groups advocate for consumer protection (Consumer Protection Council, or CPC). The implementation of an Alternative Dispute Resolution system to accelerate consumer disputes in a more accessible, affordable, and timely manner is a recent important advance in the field of CPA. The passage of the CPA also results in the repeal and strengthening of existing laws, particularly in the context of globalisation, internet platforms, and e-commerce industries. As a result, the Act's provisions for e-filing complaints and e-consumers demonstrate the legislature's progressive nature. Additionally, it expanded the protection of consumer rights by introducing new phrases such "unfair contracts," "product liability," and "etc." This allowed customers to submit complaints under the Act when they felt their rights had been infringed. In conclusion, the

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(CPA) is a noteworthy piece of law that aims to protect the rights and interests of Indian consumers. Customers can use it to learn more about their rights and establish a procedure for obtaining justice in the case that producers, distributors, or merchants take unfair

¹ CPA- Consumer Protection Act

² MRTP- Monopolies and Restrictive Trade Practices

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advantage of them. The legislation includes measures for penalising suppliers and service providers involved in consumer exploitation or dishonest business activities.

Keywords:-E-commerce, Digital Age, Consumer Protection, Online, Redressal, Goods, and Unfair.

INTRODUCTION

A Consumer is a person who purchases goods and services from the producer in some sense even the producer is a consumer. Due to globalization and pandemic, the growth of e-commerce is emerged and the consumer started to involve in digital platforms for buying and purchasing of goods and services. There are various factors behind this transformation such as technological advancement, social media influence, smartphones connectivity, online payment transaction, and convenience. Consumer Protection laws plays a pivotal role in today's economic and dynamic generation. Digital platforms also lead to various challenges in online agreement, not having existing laws to safeguard consumer from any damages. As it ensure to safeguard the right of an individual who is a consumer against defective products, any unfair trade practices and fraudulent activities by producer. The concept of Consumer Protection law has again necessity due to growing economy and modernized world. Without this law there will be increased number of frauds, deception, market manipulation, etc. which will have its terrible adverse effects upon the consumers leading a way to their exploitation and deterioration.

One of the main laws that provide protection to the consumer in India was introduced in the year 1986 and then amended in the year 2002 as well as two bills was introduced in the year 2016 and

2019. The CPA 2019 explicitly focus on digital complaint redressal of consumer.³

ANALYSIS OF CHALLENGES AND ITS LAWS IN DIGITAL ERA

1. Unfair Contract Terms:-

In the world of e-commerce, consumer often faces the problem with terms of contract which is unfair and inauspicious. These contract mainly designed with over convoluted, one-sided modified clauses, no liability exemptions. For example, intricate and elongated agreements which may demolish the essential clauses, rigorous for consumer to totally understand their rights and compulsion. In India, the CPA 2019 acknowledges such unfair contract terms and conditions, which authorize consumer to question such unfair contracts and look up relevant remedies.

To understand the problem of unfair contract terms, we can allude with the case of Makemytrip (India) Pvt. Ltd. v. Roshan Lal Gupta, the decision of (NCDRC) ⁶was held that the some clauses in the airline's contract is unfair and inoperative in terms of law. From this particular case precedent it sets the precedent for the protection of consumer from unjust contract terms in India.⁷

Examples:

- Unilateral modification clauses: In this scenario, the clauses permits the seller to modify the clauses from one-sided to alter the terms of the contract after the approval and signature of the opposite party.
- Liability disclaimers: These particular clauses help the seller to restrict their damages in case of breach of contract.
- Choice of law clauses: The clauses which is used by seller in the contract defines which law going to govern the contractual terms and eventually used to inconvenience of consumers. ⁸

2. Consumer Rights in Digital Era:-

Consumer rights has crucial part in maintaining accountable e-commerce transactions. Three

important consumer rights such as the right to accurate information, the right of cooling-off period and the right to redress for damaged goods. But these challenges are restricted the consumer to exercise these rights in digital age. Consumer are been hinder to access in customer support, complicated return policy and inappropriate dispute resolution which hinder them to seek the access for redressal in complaints. In India, CPA 2019 provide consumer to safeguard their rights in e-commerce.

Examples:-

- The right to accurate information: Consumer have the right to know about the goods and services before purchasing.
- The right of cooling-off period: After ordering any goods or services consumer have the right to cancel the purchasing in certain period of time.
- The right to redress for damage products: Consumer can seek for remedy if they receive any damage product.

3. Electronic Signature and Digital Contract Formation:-

The incoming of electronic signatures have initiated the formation of contact in digital era. On the other hand, it increase the concern for the legal credibility and statutory; it covers from simple typed names to advanced cryptographic system. In India, after the enactment of IT⁹2000, it has provided legal framework for enforceability and legal validity on electronic signatures.

Examples:-

- Simple electronic signatures: This is the most basic type of electronic signature which can be created by typing the name in designated signature field of area.¹⁰
- Advanced electronic signatures: These type of signature are more safeguarded than simple electronic signature and specifically generated through digital signature certificate.
- Qualified electronic signatures: These is most protected than other two and it is typically created with the use of high-value transactions.

Redress Mechanism:-

The below figure deals with various aspects of consumer grievances redressal system. The CCPA¹¹ Act has changed the district consumer disputes redressal forum and terminated to the district consumer dispute redressal commission. The jurisdiction for filing complaints are in three-tier consumer court at district, state, and national level has increased.¹²¹³

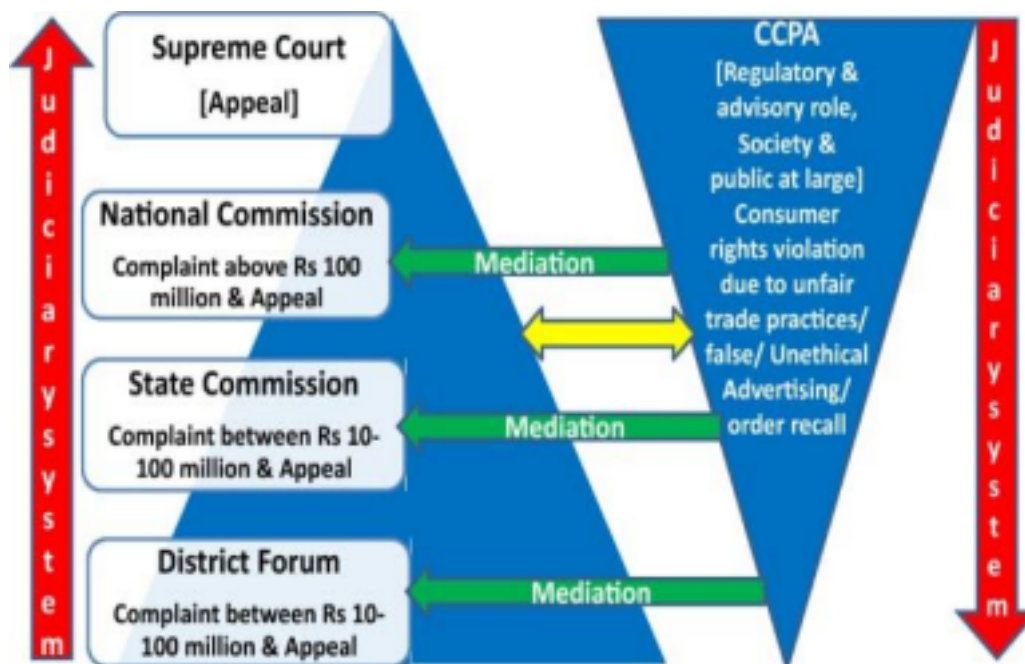


Fig ¹⁴¹. Grievance Redressal System

Data on Increased Transaction on E-commerce:-

This below pie chart shows the financial year online transaction from 2017-2024 which shows that strengthen consumer laws should be enforced to safeguard consumer rights from complex return policy of products, redressal from complaints, and cancellation of purchasing order. This essential to make sure the consumer rights in Digital Age is implemented because India is on the path of “Digitalisation”.

LANDMARK JUDGEMENT ON DIGITAL PLATFORMS:-***Amazon Seller Services Pvt. Ltd. v. Amway India Entreprises Pvt. Ltd. & Ors.***

In this case plaintiff was Amazon Seller Pvt. Ltd. and defendants was Amway Enterprises over the dispute arose because of the sale of DSEs' products without the authorization from the e-commerce platform such as Amazon, Cloudbail, Snapdeal, etc. The issue revolves around three topics: whether sale of DSEs¹⁷ goods on e-commerce platforms without authority breach trademark infringement, does DSEs is legally binding on e-commerce platform, and is e-commerce is liable if unauthorized DSEs' goods by third-party seller? And the Delhi High Court was in favour of e

commerce and held that selling of goods without the authority of DSEs' is doing any infringement of trademark, further DSEs' rules and regulation is not binding on e-platforms, thereafter according to the IT 2000, section of 79 e-commerce platform act as a intermediaries and not responsible of third-party seller of DSEs'. The previous judgement was in favour of DSEs' and has restricted the e-commerce platforms. This case is also stated the debate over DSEs' control on distribution platforms and e-commerce is embracing for open market places for selling.¹⁸

Spicejet Limited v. Ranju Aery

In this case, Ranju Aery, the Complainant has booked online air tickets on Yatra.com for her and her family from Kolkata to New Delhi on 30.06.2015 from Air Company Spicejet Ltd. on amount of Rs.70,900/- through online transaction. When the Complainant reached the airport of Kolkata for flight but she was shocked because the flight was cancelled and they did not provide with other alternative option and refund the amount for tickets but forced her to buy another tickets for the flight which is going to board by Jet Airways. She spend the amount of Rs. 80,885/- for tickets. She then filed complaint, and addressing the rights to get the refunded amount of Rs.20,000/- with the interest rate of 12% for the cancelled flights of her and also directed to other amount such as Rs. 1.5 lakhs for mental agony and with the litigation charges of Rs.22,000/-.¹⁹ The District court held to pass ex-parte against the Airlines to refund an amount of Rs.80,885/- along the interest rate of 9% from the date of cancellation till realisation.

Airlines also paid the amount of mental agony of Rs.1.25 lakhs and litigation charges of Rs. 10,000/-. From the decision of (NCDRC) ²⁰did not accept the Airlines disagreement and held them guilty for the deficiency in their service for cancelling the flight without any proper notice or credible reason behind it. The SC²¹ also held that consumer can file their complaint for any kind of deficiency in services is occurred through online products purchase through websites. ²² In the above figure, it is clearly depicting the boost in e-commerce, as there is rapid economic advancement the market size kept on surging from financial year 2009-2023. Through the analysis we see more growth in our economy as the world is shifting more towards globalization due to which there is fall in traditional business method.²⁴

Comparative Analysis of BRICS Jurisdiction in E-commerce:

This comparative analysis draws attention of consumer protection law in e-commerce platforms and online grievances redressal mechanisms.

It includes BRICS²⁵ countries that how they learn from one another's efforts at consumer protection in digital age.

Brazil:-

In 2013, Brazil introduced the Consumer Protection Code (CDC), the Federal Decree No. 7962/2013 (the Brazil E-Commerce Decree), and CDC functions in rights for the consumers ²⁶as well as the producers, in order to prevent the consumer being harmed by the supplier. Due to upgradation in technology there are a number of bills that are currently being discussed in Brazil in terms of regulating the behavioral pattern of e-commerce activities especially after Covid-19 pandemic they include regulations on online advertisements, data protection and privacy requirements, labeling and standardization obligations. CDC has an extraterritorial application which complies with the law which exceeds the geographical limits and it applies to foreign entities as well likewise it includes online relationship and transaction in Brazilian market irrespective of their physical presence in Brazil.

In order to resolve the redressal of grievances that affect consumers through digitalization the Brazilian government has launched an online portal named 'consumidor.gov.br' in June 2014.

This online portal grants the consumers a freedom to raise their complaint against the producer by providing all the data that shows the loss suffered by them and enough proof to the complaint.

This portal has been managed by Senacon and they have reported that this portal has aided 2 million complaints between 2014 and 2019, against 538 companies.

Russia:-

Russia introduced “On the Protection of the Consumers’ Rights”, 1992 (the “Russia Consumer Law”), supported by the rules prescribed in Resolution no. 2463 (“Russia E-Commerce Rules”), notified on 1 January 2021.

It serves remedies for consumers having received defective products, including replacement, refund, repair, or exchanging for another brand or model at no cost to the consumer.

India:-

The Consumer Protection Act, 2019 (the “Indian CPA”), primarily deals with the Consumer Protection (E-Commerce) Rules, 2020 (the “India E-Commerce Rules”) which regulates the consumer rights in the digital economy in India.

The reason behind this up gradation in laws is due to advancement in technology which leads to economic development. It includes the right of a consumer to be informed about the features of the product or service being offered.

China:-

The consumer protection in China is The Protection of the Rights and Interests of Consumers, 1993 (“China Consumer Law”), in addition with the E-Commerce Law of the People’s Republic of China, 2018 (“China E-Commerce Law”). China market is the largest marketplace which serves the consumers with complaint redressal and protects them from fraudulent malpractices. The ecommerce operators are mandated to set up ratings or reviewing systems to allow feedback from consumers, and cannot delete any reviews on goods or services sold on their platform.

South Africa:-

Consumer protection in South Africa is governed by the Consumer Protection Act, 2008 (“South Africa Consumer Law” or “SACL”) and the Electronic Communications and Transactions Act, 2002 (“South Africa E-commerce Act” or “SEA”). South Africa has also recently passed the Cybercrimes Act, 2020, which regulates cybercrimes.³⁰It protects the deterioration of consumers through online frauds and provides them with some rights and resolves the consumer’s grievances. It safeguards the interest of consumers so that they would comfortably practice the trade related activities in their marketplace

RECOMMENDATION

- In the light of the research findings it is recommended that in e-commerce businesses the manufacturer of the product should provide an in-depth and accurate descriptions about their product. They should also give clarity about the refund and return policy of the product.
- There should be an option made for selection of regional language so that it will become quite accessible for the people in rural areas to be aware about the product.
- There should be campaigns available for consumer awareness in rural areas.
- Businesses should show the pictures of the product which is true in nature (they should avoid showing the picture which is contrary to the product).
- Algorithms are increasingly used to make decisions about consumers, such as pricing, product recommendations, and even loan approvals. There needs to be more transparency about how these algorithms work to ensure that they are fair and unbiased.
- Many businesses add fake reviews of their company in order to gain more customers for this Consumer protection laws need to identify and address these emerging online frauds and work upon them.
- Despite a bundle of laws and regulations there are many people who commit online frauds, to reduce these fraudulent activities the government should make more stringent laws.
- Businesses should make contracts which are easy to understand and concise in nature in order to avoid misunderstanding by the consumers.
- Stricter laws on data collection, storage, and usage are needed. Consumers should have clear

rights to access, rectify, and erase their data.

CONCLUSION

In this paper, we took digital era as the subject of research in consumer protection laws in India. From the past pandemic issue and widespread use of internet the use of online platform has increased and due to which there is rise of online transaction. CPA 2019 was enacted with respect to this, it provides consumer to safeguard their rights from fraud and legal framework for redressal of complaints. From the figures we try to define the existing data to make the reader understand about their rights. “The Consumer is the King”. Still there is some lack of implementation of laws and we need to take lessons from world jurisdiction to get speedy resolution to the complaints. Use of technological techniques will help the authority to make this platform more reliable and accountable to the consumer.