

# Challenges of Consumer Rights

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## Abstract

In the modern day the internet has become an integral part of our daily life. The consumer has witnessed a huge conversion from being ordinary consumers to being cyber consumers. In the midst of a cyber-legal-commercial revolution and in order to provide a smooth adoption to e-governance and e-commerce, the Information Technology Act 2000 was enacted to provide a legal framework and enforce legal discipline. Cyber consumerism has revolutionized the way of doing business and has shrieked the consumer market to the computer screen and thus the subject of legal protection available to the consumers under the Indian law and the issues which arise for them in the cyber market, deserves attention. This paper deals with the concept of cyber consumer and protection of cyber consumers in India and the related law. This paper tries to make its reader aware of the various aspects associated with cyber consumers, the ways to redress them, the various redressal agencies and their jurisdictions and the reliefs available to the aggrieved under protection of cyber consumer. the provisions of this Act are compensatory in nature. The Act is also intended to provide simple, speedy and inexpensive redressal to the consumers' grievances, and relief of a pecific nature and award of compensation wherever appropriate to the consumer. The act has been amended in 1993 both to extend its coverage and scope and to enhance the powers of the redressal machinery.

**Key Words: Consumer, Cyber Consumer, jurisdiction, redressal,.**

## Introduction

The consumer movement arose out of dissatisfaction of the consumers as many unfair practices were being indulged in by the sellers. There was no legal system available to consumers to protect them from exploitation in the marketplace. For a long time, when a consumer was not happy with a particular brand product or shop, he or she generally avoided buying that brand product, or would stop purchasing from that shop. It was presumed that it was the responsibility of consumers to be careful while buying a commodity or service. It took many years for organizations in India, and around the world, to create awareness amongst people. This has also shifted the responsibility of ensuring quality of goods and services on the sellers. In India, the consumer movement as a 'social force' originated with the necessity of protecting and promoting the interests of consumers against unethical and unfair trade practices. Rampant food shortages, hoarding, black marketing, adulteration of food and edible oil gave birth to the consumer movement in an organized form in the 1960s. Till the 1970s, consumer organizations were largely engaged in writing articles and holding exhibitions. They formed consumer groups to look into the malpractices in ration shops and overcrowding in the road passenger transport. More recently, India witnessed an upsurge in the number of consumer groups.

In 1985 United Nations adopted the UN Guidelines for Consumer Protection. This was a tool for nations to adopt measures to protect consumers and for consumer advocacy groups to press their governments to do so. At the international level, this has become the foundation for consumer movement. Today, Consumers International has become an umbrella body to over 200 member organizations from over 100 countries. Because of all these efforts, the movement succeeded in bringing pressure on business firms as well as government to correct business conduct which may be unfair and against the interests of consumers at large. A major step taken in 1986 by the

Indian government was the enactment of the Consumer Protection Act 1986, popularly known as COPRA. You will learn more about COPRA later.

## **Safety is Everyone's Right**

Reji Mathew, a healthy boy studying in Class IX, was admitted in a private clinic in Kerala for removal of tonsils. An ENT surgeon performed the tonsillectomy operation under general anesthesia. As a result of improper anesthesia Reji showed symptoms of some brain abnormalities because of which he was crippled for life. His father filed a complaint in the State Consumer Disputes Redressed Commission claiming compensation of Rs 5,00,000 for medical negligence and deficiency, in service. The State Commission, saying that the evidence was not sufficient, dismissed it. Reji's father appealed again in the National Consumer Disputes Redressed Commission located in New Delhi. The National Commission after looking into the complaint, held the hospital responsible for medical negligence and directed it to pay the compensation. Reji's suffering shows how a hospital, due to negligence by the doctors and staff in giving anesthesia, crippled a student for life. While using many goods and services, we as consumers, have the right to be protected against the marketing of goods and delivery of services that are hazardous to life and property. Producers need to strictly follow the required safety rules and regulations. There are many goods and services that we purchase that require special attention to safety. For example, pressure cookers have a safety valve which, if it is defective, can cause a serious accident. The manufacturers of the safety valve have to ensure high quality. You also need public or government action to see that this quality is maintained. However, we do find bad quality products in the market because the supervision of these rules is weak and the consumer movement is also not strong enough.

## **Statement of the Problem**

### **ISI and Agmark**

There are many problems which are faced by consumers such as illiteracy, wrong or lack of information, adulteration, no fair return etc. While buying many commodities, on the cover, you might have seen a logo with the letters ISI, Agmark, Hallmark or +F. These logos and certification help consumers get assured of quality while purchasing the goods and services. The organisations that monitor and issue these certificates allow producers to use their logos provided they follow certain quality standards. Though these organisations develop quality standards for many products, it is not compulsory for all the producers to follow standards. However, for some products that affect the health and safety of consumers or of products of mass consumption like LPG cylinders, food colours and additives, cement, packaged drinking water, it is mandatory on the part of the producers to get certified by these organizations

### **A Cyber Consumer**

There is no special statute regarding protection of cyber consumers in India. For the protection of consumers our parliament has enacted Consumer Protection Act, 1986. Sub-section (d) of section 2 of the Consumer Protection Act, 1986 defines consumer which says "consumer" means any person who— (i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or (ii) hires or avails of any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires or avails of the services for

consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person but does not include a person who avails of such services for any commercial purposes; Explanation — For the purposes of this clause, “commercial purpose” does not include use by a person of goods bought and used by him and services availed by him exclusively for the purposes of earning his livelihood by means of self-employment. This section applies to cyber consumers also because there is no basic difference between cyber consumer and ordinary consumer. Differences occur in the medium of availing and hiring goods and services. Ordinary consumer goes to market for purchasing goods and availing services but in later case it is done via computer. Thus cyber consumer is a consumer who hires goods and avail

### **Delivery and logistics**

One predicament that constantly turns up while shopping online is when the order will be delivered. While all e-commerce sites have order tracking systems for their customers, they aren't always accurate. Delivery personnel often turn up at our homes when we're at work or out somewhere as there's no way to fix a particular time slot for the delivery to take place. This same issue exists while returning products. Another problem is that the vast majority of the Indian population which lives in rural areas and Tier-III cities is unable to shop online because not all e-commerce sites provide delivery services to their locations.

### **Digital payment failures**

Whether a customer is paying by credit/debit card, netbanking, or one of the several digital wallets that exist today, the failure of digital payments always looms overhead while making online transactions. A faltering internet connection or a technical glitch often results in the payable amount being debited from a customer's account without being credited to the selling party. And retrieving this amount is anything but a quick process; one has to inform the site and then wait around 7-10 days before the amount is refunded to their bank accounts. But this situation is steadily improving as the sector is focusing more on cashless transactions and customers are getting more informed about making payments online.

### **Review of Literature**

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## Objectives of the study

1. The main objective of the Consumer Protection Act is to provide a mechanism for prompt action on complaints, protect customers, etc.
2. The Consumer Protection Act (CPA) was enacted in 1986 to protect the rights and interests of consumers against any fraud or unfairness.
3. The Consumer Protection Act of 2019 replaced it.

## Methodology

The Study is based on the books and Document analysis method. Further There are two main research methods of studying consumer behavior: quantitative and qualitative. Quantitative methods gather insights with numerical data. Qualitative techniques get insights on consumers' behavior and interactions with a product. Surveys are used to collect both types of data.

## Source of Data

As the study is based on Document analysis. It depends on Primary data and secondary data source.

The source will also include the relevant material available in books, Journals and relevant articles.

## Conclusion

A cyber consumer in law is no different from an ordinary consumer. It is only the modus –operandi for purchasing a product or hiring a service, which is different. A cyber consumer purchases goods or hires services using the Internet whereas an ordinary customer uses traditional methods of going to the market physically. Since cyber consumer also comes under the definition of consumer given under Consumer Protection Act, 1986, therefore there is no dilemma, but sometimes problem may arise regarding territorial jurisdiction of the court. For combating this problem amendment should be made in Consumer Protection Act, 1986 by our parliament because consumers and computers have no concern with boundaries of the nations. In the age of globalization boundaries of the countries have no meaning, especially when we are living in the age of cyber domination. At last consumers themselves should be alert and conscious while dealing with distant goods and service providers because prevention is better than cure.

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