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**PROCEDURE IN THEORY v. PRACTICE AND VISIT TO CIVIL
COURTS & CONSUMER REDRESSAL FORUM**- Rohit Raj Chittigala¹**ABSTRACT**

The Consumer Protection Act, 2019 (hereinafter alluded to as 'the Act') is a social government legislation enactment and has been set up to ensure and defend the interest of the buyer. Currently, with the appearance of online business, it was felt important to set up an enactment which augments the extent of assurance and widens the significance of the word consume. The fundamental target of the Act is to protect the consumers. The 2019 Act included in its ambit the advertising claims, endorsement and product liability.

ABOUT THE TOPIC

In any case, prior to abiding profoundly into the Act, it is critical to address the main inquiry, which is, "Who/What is a buyer?" "Consumer" signifies any individual 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 service 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 service 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

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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 service for any commercial purpose.²

Explanation For the purposes of this clause:

(a) The expression “commercial purpose” does not include use by a person of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self-employment;

(b) The expressions “buys any goods” and “hires or avails any services” includes offline or online transactions through electronic means or by teleshopping or direct selling or multi-level marketing;

The act characterizes a consumer as an individual who purchases products and ventures for a thought which is paid or incompletely paid or vowed to be paid. Further it additionally incorporates words 'hire and avail any assistance' which incorporates online exchanges made by electronic methods. Adding on the web transactions in its domain was vital due to the coming of innovation and the broad internet business. It was fundamental to shield individuals from online frauds and deceitful exchanges. Another significant change that can be featured is that the Act characterizes the word online business as purchasing and selling of merchandise and ventures including computerized items over advanced or electronic organizations, it characterizes internet business sites as an individual giving vital innovations to buyers and sellers.

In the wake of understanding the significance of consumers and why there is a need to ensure them. It is critical to investigate the wide range of various parts of the Act, for example, how it covers advertisements, underwriting, item obligation, out of line contracts and unmerited exchange practices.

The Act defines “*advertisement as any audio or visual publicity, representation, endorsement or pronouncement made by means of light, sound, smoke, gas, print, electronic media, internet or website and includes any notice, circular, label, wrapper, invoice or such other documents.*”

Advertisements are a gimmick that creates consumerist desires in people. The aim of the

²Consumer Protection Act, 2019, www.indiacode.nic.in (2019), https://www.indiacode.nic.in/handle/123456789/15256?view_type=browse&sam_handle=123456789/1362 (last visited Apr 10, 2021).

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consumer protection act is to prevent such misleading advertisements.

The Act, further defines *endorsements*, according to the Act, the term endorsement includes the message verbal or demonstrated, the depiction of name, signature, likeness and other personally identifiable characteristic of an individual, etc. this provision could be used against anyone who promotes the sale of products and services by false and misleading advertisement. Currently, many celebrities endorse a variety of products and they have to ensure that they are complying all the guidelines of Advertising Standards Council of India on celebrity advertising, if they are found in contravention to any of the guidelines they can be sued and therefore, it is very crucial for them to stay extra vigilant before recommending and endorsing a product and similar is the case with e-commerce websites³

Commercials are a trick that make consumerist desires in individuals. The point of the consumer protection act is to forestall such deceptive commercials.

The Act, further characterizes supports, as indicated by the Act, the term endorsement incorporates the message verbal or illustrated, the portrayal of name, mark, resemblance and other by and by recognizable trait of an individual, and so on this arrangement could be utilized against any individual who advances the offer of items and administrations by bogus and deluding commercial. At present, numerous celebrities underwrite an assortment of items and they need to guarantee that they are going along every one of the rules of Advertising Standards Council of India on VIP publicizing, in the event that they are found in contradiction to any of the rules they can be sued and subsequently, it is extremely critical for them to remain extra watchful prior to suggesting and supporting an item and comparable is the situation with internet business sites.

The motivation behind keeping a mind supports is to ensure that the item is really addressed, the tributes, supports or assessment in such notice should reflect certified and sensible and

³False Or Misleading Advertisements: Francis Vadakkan V The Propreitor, A-One Medicals & Ors - Consumer Protection - India, www.mondaq.com, <https://www.mondaq.com/india/dodd-frank-consumer-protection-act/1028526/false-or-misleading-advertisements-francis-vadakkan-v-the-propreitor-a-one-medicals-ors> (last visited Apr 10, 2021).

The New Consumer Protection Act 2019: Provision for heavy fines and even jail terms for misleadings ads, Business Insider, <https://www.businessinsider.in/advertising/brands/news/the-new-consumer-protection-act-2019-provision-for-heavy-fines-and-even-jail-terms-for-misleadings-ads/articleshow/77065225.cms> (last visited Apr 10, 2021).<https://indiankanoon.org/doc/334666/>

current assessment of people embracing the item and one significant viewpoint worth referencing is that there ought to be no supports of items/treatment/cures that are precluded under the Drugs and Magic Remedies and Drugs and Cosmetics Act.

There have been many cases where the endorsement of a product was false. Like-

In *Hero MotoCorp (Hero Xtreme 200r)*, cricketer Virat Kohli was seen driving thoughtlessly and disregarding many traffic rules. The Advertisement shows negligence for security and shows damaging practices. The ad showed reckless driving which would harm the public at large and the driver also. The ad was in negation of Section III of the ASCI code and ASCI rules for ad portraying Automotive Vehicle.

In another case of *Frankfinn Aviation Services Pvt. Ltd.*, the advertisement's case "the world's no. 1" was not validated with credible cases and couldn't be maintained on the grounds that there was no considerable information to think about and shown that they are no. 1 preparing organization. Their grants, for example, Gold Awards-2016 were not sponsored by a duplicate of the honor testaments, subtleties and references.

In *Lenskart.com (LenskartBlu Smartphone lenses)*. The promotion's case was not validated with dependable proof that computerized screens emanate blue light and its openness is hurtful to clients. There was no similar information given to demonstrate the value and adequacy of the lenskartBlu lenses contrasted with standard focal points and Katrina Kaif embraced the item was found related in the previously mentioned case.

In 2015, Maggi was restricted due to wellbeing reasons after an assessment done by FSSAI which presumed that Maggi contains hurtful degrees of MSG. The then ministers of Maggi- Amitabh Bachchan, Preity Zinta and Madhuri Dixit were slammed for embracing the item.

In one more case, actor Anoop Menon was approached to repay a buyer for an item that guaranteed him quicker hair development. The hair cream organization guaranteed "hair development in only a month and a half" and the actor supported something very similar and the purchaser got it on account of such support and couldn't see successful outcomes and lastly sued the organization and the actor underwriting something similar. The Kerala redressal commission requested the organization just as Malayalam actors to pay rupees 10,000 each to the purchaser.

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To add further to the applicability of the Act, the term 'Goods' was also redefined and it means- *"every kind of movable property and includes "food" as defined in clause (j) of sub-section (1) of section 3 of the Food Safety and Standards Act, 2006 (34 of 2006)."*

The Act also gave a new meaning to the word 'Services' which means *"service of any description which is made available to potential users and includes, but not limited to, the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, telecom, boarding or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service."*

From the above two meanings and definitions it is clear that the meaning of both goods and services was broadened by the Consumer Protection Act. Goods were to now include food and Telecom was inserted in the meaning of the word services.

From the above two implications and definitions obviously the significance of the two goods and services was expanded by the Consumer Protection Act. Products were to now incorporate food and Telecom was embedded in the importance of the word 'services'.

Further, the Consumer Protection Act, 2019 presented the idea of "Product Liability" wherein the customers can straightforwardly move toward the item merchant, maker, specialist organization and furthermore included e-commerce sites for their complaints. This idea obliges the requirements for guaranteeing damages against any flawed item. This was invited with extraordinary satisfaction by the online customers as they can just see the item and the real item may shift based on what is found in pictures on a computerized stage. For instance A shopper purchases a T-shirt from Amazon which in pictures is appeared as of red tone yet when it really shows up it isn't of a similar portrayal as given on the online business site, this is the place where item responsibility arrangements come into picture and assist the buyer with bringing claims against internet business site that is amazon.

The Consumer Protection Act safeguards the consumers from Unfair Contracts and Unfair Trade practices which are defines in the act as follows-

"Unfair contract" means a contract between a manufacturer or trader or service provider on one hand, and a consumer on the other, having such terms which cause significant change in the rights of such consumer, including the following, namely:--

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- (i) Requiring manifestly excessive security deposits to be given by a consumer for the performance of contractual obligations; or
- (ii) Imposing any penalty on the consumer, for the breach of contract thereof which is wholly disproportionate to the loss occurred due to such breach to the other party to the contract; or
- (iii) Refusing to accept early repayment of debts on payment of applicable penalty; or
- (iv) Entitling a party to the contract to terminate such contract unilaterally, without reasonable cause; or
- (v) Permitting or has the effect of permitting one party to assign the contract to the detriment of the other party who is a consumer, without his consent; or
- (vi) imposing on the consumer any unreasonable charge, obligation or condition which puts such consumer to disadvantage;

As per this definition, a complaint can be enrolled concerning unreasonable agreements by a shopper. This would assist with keeping a check of organizations that exploit shoppers through these agreements.

Section 2 (47) defines **unfair trade practices** as any training which to advance the deal, use or supply of any products or for the arrangements of any help embraces any out of line technique or baseless tricky practice and gives a comprehensive rundown of such practices.

The Act additionally builds up Central Consumer Protection Authority (CCPA) as to manage, ensure and authorize the interest of buyers and matters identified with out of line trade practices. There are wide powers vested with CCPA that are to ask, examine and make a move against infringement of the 2019 Act. Another fundamental force of the CCPA is to make moves against deluding notices and against any endorser of such commercials. The Authority can force punishments of up to Rupees 10 lakhs for first infringement and up to rupees 50 lakhs for subsequent violations. The CCPA can suo-moto start procedures against violators, pass mandates or review items or stop benefits and give discounts to purchasers and can likewise record class activity suits for different customers which makes it a compelling position to control and eradicate infringement and exploitation of consumer interest.

The last significant inquiry is the place where can a buyer record a complaint in the event that

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he/she is oppressed? The Act accommodates setting up of Consumer Dispute Redressal Commission which will be working in each area, state and at public level as a semi legal body. It has the power to resolve complaints with respect to unfair and restrictive trade practices, defective goods and service, overpriced products. The commission will be managed by the individuals named by the Central Government. The monetary purview of the commission has been improved from what it was in 1986. Presently, the District Commission can engage protests where the estimation of the products or administration paid as thought doesn't surpass 1 crore. The State Commission can engage complaints where the thought is more than 1 crore yet under 10 crore and the National Commission can engage protests where the thought is in excess of 10 crores. The Act also introduced mediation as an alternative way of dispute resolution in order to resolve complaints in a faster manner without approaching the court.

CONCLUSION

The Consumer Protection Act, 2019 has been drafted and carried out keeping in lieu of the necessities of the purchaser, be it on the web, offline or online shopping. There are punishments set up to lessen the harm of misuse that floats around as a result of deceiving notice and is likewise promising a fast debate goal. The endorsers currently must be more cautious about the items that they are underwriting in light of the fact that this new act has given a great deal of extension to the CCPA to punish such supports. The public authority has over and over laid emphasis on purchaser mindfulness through different gatherings and this enactment is only a component to accomplish the ideal objective of customer protection.