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**CONSUMER PROTECTION AND ITS RELATION TO ADR
MECHANISMS**- Aditi Kaushik¹**ABSTRACT**

It is more appropriate to think of consumer protection as a duty or obligation that the government must fulfill for the benefit of satisfied customers. All people are "Consumers" in one form or another. Consumer satisfaction levels have a direct or indirect impact on a country's ability to develop. Even before independence, India's rulers were responsible for protecting the interests of its citizens. In 1986, a consumer protection law was passed with the sole purpose of protecting consumers. The 1986 Consumer Protection Act (CPA 1986) was regarded as one of the best consumer protection laws when it was introduced by Parliament. However, in order to make excessive profits and disregard for the rights and interests of customers, dishonest sellers and manufacturers have made it common practice to cheat by overcharging, using black marketing, creating false advertisements, engaging in unfair trade practices on e-commerce platforms, etc. Therefore, by presenting the revised Consumer Protection Act, 2019, the government has made several significant amendments to the Consumer Protection Act. This act describes the different steps that are taken to educate customers about their policies and rights. The Consumer Protection Act of 2019 is a significant legislative measure that aims to protect customers from unfair business practices and other forms of exploitation by emphasizing compensation measures above punitive ones. The Consumer Protection Act established an Alternative Dispute Resolution (ADR) method for resolving consumer disputes and constructed a well-organized system at the federal, state, and local levels for the purpose of addressing customer grievances.

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and promoting standards for goods and services, among other things. One such method that has grown in acceptance over time and been successful in settling market-related disputes is mediation. This paper aims to explain various aspects of consumer protection and the ADR mechanisms which help in resolving conflicts in a much more efficient manner.

INTRODUCTION

Mediation has been a really powerful way of resolving disputes since a long time now. But it is only recent i.e. in 2019 that mediation has found its place officially in a legal text i.e. in the consumer protection act 2019. This addition was required as since the last draft of consumer protection act which was passed in 1986, a lot has changed in reference to consumer mindset, availability of resources, seller's mindset, technology and specially after the advent of e-commerce at a global market level. A mediator is an impartial third party who helps disputing parties reach a mutually agreeable conclusion. Mediation is a dispute resolution process. The Consumer Protection Act of 2019 promotes mediation as a rapid, simple, and cost-effective means of resolving conflicts between consumers. Mediation is listed as a form of conflict resolution under the Consumer Protection Act. A consumer or a business may file an application for mediation, and the relevant Consumer Commission or Authority will forward the matter to a Mediation Cell established in compliance with the Act. The Mediation Cell is required to attempt mediating a settlement of the dispute within three months of receiving the application. If the dispute is resolved through mediation, a documented settlement agreement that has been signed by each party and submitted to the appropriate Commission or Authority is required. The settlement agreement will operate similarly to an order from the Commission or Authority. If the parties cannot resolve the dispute through mediation, it will be returned to the relevant Commission or Authority for resolution in accordance with the requirements of the Act. Since mediation is an optional practice, each party may end it at any time. The mediator's duties include helping the parties to a resolution, being impartial, and keeping the proceedings private. On July 1, 2002, mediation became possible in India following the addition of Section 89 to the Code of Civil Procedure, 1908. The advantages and applications of mediation in conflict resolution were unknown until then. It was asserted in 2002 that mediation represented a fresh

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concept for the dispensing of justice and for settling disputes outside of the traditional court system. In the case of Spice Jet Ltd. v. Ranju Aery, the client was required to litigate the service contract via the internet and the cause of action for the complaint from the district forum to the State Commission to the National Commission, and finally to the supreme court. In order to expedite the adjudication process, the Consumer Protection Bill, 2019 proposes the establishment of a Central Consumer Protection Authority (CCPA), mediation, product liability, and expedited settlement by consumer commissioners. Due to the protracted adjudication process in consumer courts, the installation of mediation facilities at District, State, and National Commissions annexed to consumer courts can be extremely helpful in delivering justice.

NEED

The consumer market for goods and services has seen a substantial change since the 1986 Consumer Protection Act was implemented. The way that marketing is conducted, technology, consumer preferences, the availability of goods and services, and, of course, the rise of "E-Commerce Operators" in the global marketplace are just a few of the many factors that have changed. Customers now have more options and opportunities due to the expansion of international trade, the creation of a global supply chain, and the rapid growth of e-commerce. Various forms of injustice, immorality, dishonesty, deceit, etc. which has resulted in commercial activity. Customers are misled by inefficient advertising and the promotion of phony products and services of poor quality. The buyer-seller agreement favors the seller, and there are too many cases ongoing in the consumer courts. In addition, the surgeries are becoming more expensive and time-consuming. Therefore, it's time to embrace ADR and the mediation process.

STEPS

1. A third party who is impartial is chosen by the Online Consumer Mediation Centre (OCMC) to act as the mediator in the event that it chooses to mediate the conflict.
2. A mediator, an impartial third party, assists the parties in reaching a mutually acceptable resolution of their dispute via the use of skilled communication and negotiating techniques.

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3. Mediation is an optional, party-centered, structured process.
4. Generally speaking, from the moment the parties started the negotiation process, you have 30 days to use this platform to settle your dispute.
5. If both parties consent, there may be a single, fifteen-day extension granted to the process. If the terms are accepted by both parties, they can be formalized in a Settlement Agreement.

MERITS

- **Timely and Cost-Effective:** Compared to going to court, mediation may be a quicker and less expensive alternative to settle conflicts. It can assist the parties in reaching a mutually beneficial resolution without using a great deal of time and money on litigation because it is frequently less formal and combative.
- **Informal and Flexible:** In consumer disputes, mediation might be more advantageous than going to court because it is a more informal and flexible method. It removes the barriers of conventional legal processes and enables parties to voice their complaints, offer solutions, and negotiate settlements.
- **Confidentiality:** Parties can communicate more openly and negotiate without fear of unfavorable outcomes during mediation sessions because they are private and cannot be used as evidence in court.
- **Win-Win Result:** The goal of mediation is to resolve conflicts in a way that meets the needs and interests of both parties in a way that is acceptable to both. It can support preserving connections and avert the hostility that litigation may bring.

DEMERITS

- **Non-binding:** Since mediation is not legally binding, there is no need on the part of the parties to abide by the mediator's suggestions or come to a settlement. This may lead to circumstances in which neither party accepts the terms put forward, leaving the disagreement unresolved.
- **Unequal Bargaining Power:** When it comes to consumer conflicts, there is typically an unequal power dynamic where customers are disadvantaged when compared to huge

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firms. If the mediator is not qualified or has insufficient experience to level the playing field, mediation may worsen this power disparity.

- **Restricted Remedies:** Not all remedies that could be available in court, like punitive damages, injunctions, or court orders, may be awarded during mediation. Customers can believe that they haven't gotten enough justice or recompense as a result of this.
- **Lack of Transparency:** Because mediation sessions are private, the public's ability to see the conflict settlement procedure may be restricted. When there is a dispute involving a matter of public interest or when there may be doubts about the parties' sincerity, this can be cause for concern.

CONCLUSION

In case, the involved parties fail to reach a mutual understanding, the case would be sent back to the referral body with the brief annotation "not settled." The report will not provide a reason for the non-settlement, and no one will be held responsible. A social act, the Consumer Protection Act of 2019 was passed with the general welfare of the consumer community in mind. It has altered how consumer concerns are addressed.

In addition to providing customers with a three-tiered dispute resolution process, the Act also offers an alternate dispute resolution method. Rapid and economical settlement is made possible by the Consumer Mediation Commission Cells included in these DCDRC/SCDRC/NCDRC Forums. All things considered, the government acted wisely when it decided to replace the 1986 Act with the 2019 Act to address the issues brought about by advancements in technology and the emergence of e-commerce platforms for marketing. In conclusion, parties should think about mediation as an alternative to formal legal processes since it is a successful method of settling consumer disputes.

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